

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



COMMONWEALTH REGISTER

VOLUME 44

NUMBER 04

April 28, 2022

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COMMONWEALTH REGISTER

**VOLUME 44
NUMBER 04
APRIL 28, 2022**

ADOPTION

Public Notice and Certification of Adoption of the Amendments to the Health Care Professions Licensing Board for Addiction Professionals Health Care Professions Licensing Board	048305
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PROPOSED

Public Notice of Proposed Amendments to the Commonwealth Utilities Corporation Board of Directors Meetings Regulations Commonwealth Utilities Corporation	048323
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Public Notice of Proposed Amendments to the Submerged Land Regulations Department of Lands & Natural Resources	048358
Public Notice of Proposed Amendments to the Water Quality Standards to Regulate Certain Per- and Polyfluoroalkyl Substances (PFAS) Bureau of Environmental and Coastal Quality	048390
Public Notice of Proposed Amendments to the CHCC Chargemaster for Various Fees Commonwealth Healthcare Corporation	048397
Public Notice of Proposed Amendments to the Board of Directors' By-Laws Commonwealth Economic Development Authority	048406

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Commonwealth of the Northern Mariana Islands
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**PUBLIC NOTICE AND CERTIFICATION OF ADOPTION OF THE AMENDMENT TO THE
HEALTH CARE PROFESSIONS LICENSING BOARD FOR
ADDICTION PROFESSIONALS**

**PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER AS PROPOSED
AMENDMENTS TO REGULATIONS**

VOLUME 43, NUMBER 10, PP 047689 – 047701 I OF OCTOBER 28, 2021

ACTION TO ADOPT PROPOSED REGULATIONS: The Health Care Professions Licensing Board, 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 Health Care Professions Licensing Board announced that it intended to adopt them as permanent, and now does so.

PRIOR PUBLICATION: The prior publication was as stated above. The Health Care Professions Licensing Board adopted the attached regulations as final as of the date of signing below.

MODIFICATIONS FROM PRIOR PUBLISHED PROPOSED REGULATIONS, IF ANY: One comment received and Board approved.

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

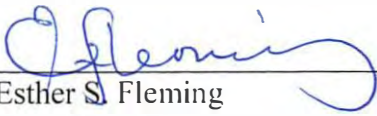
EFFECTIVE DATE: Pursuant to the APA, 1 CMC § 9105(b), these adopted amendments to the Regulations for Addiction Professionals are effective 10 days after compliance with the APA, 1 CMC §§9102 and 9104(a) or (b), which in this instance, is 10 days after publication in the Commonwealth Register.

COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to the APA, 1 CMC § 9104(a)(2), the agency received one comment on the proposed amendment to the regulation for Addiction Professionals and Board approved. Upon this adoption of the amendment, the agency, if requested to do so by an interested person within 30 days of publication, will issue a concise statement of the principal reasons for accepting or rejecting any comments.

ATTORNEY GENERAL APPROVAL: The adopted regulations for Addiction Professionals were approved for promulgation by the CNMI Attorney General in the above cited pages of the Commonwealth Register, pursuant to 1 CMC § 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 copy and that this declaration was executed on the 07th day of April, 2022, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:

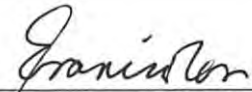


Esther S. Fleming
Executive Director

04/07/2022

Date

Filed and recorded by:



Esther San Nicolas
Commonwealth Register Registrar

04.18.2022

Date

**SUBCHAPTER 185-10
COMMONWEALTH HEALTH CARE PROFESSIONS LICENSING
BOARD REGULATIONS**

Part 4800- Addiction Professionals

§ 185-10-4801.	Definitions.
§ 185-10-4805.	Licensing.
§ 185-10-4810.	Requirements.
§ 185-10-4815.	Scope of Work
§ 185-10-4820.	Exemptions.
§ 185-10-4825.	Examination.
§ 185-10-4830.	Fees.
§ 185-10-4835.	Continuing Education.
§ 185-10-4840.	Restrictions.
§ 185-10-4845.	Privileged Communication.
§ 185-10-4850.	Disciplinary Action

§ 185-10-4801. Definitions.

- (1) **“Act”** refers to the Board’s enabling legislation, codified at 3 CMC §§ 2201–2236.
- (2) **“ADC”** means Addiction Disorder Counselor
- (3) **“Addiction counseling”** means a process involving a therapeutic relationship between a client who is experiencing addiction, dependence or abuse of alcohol or other drugs and a counselor or therapist trained to provide that assistance to address addiction, dependence, or abuse. Addiction counseling includes understanding and application of the limits of the counselor’s own qualifications and scope of practice, including, but not limited to, screening and, as indicated, referral to or consultation with an appropriately licensed healthcare practitioner consistent with the client’s needs. Addiction counseling includes all the following:
 - (a) Clinical intake, assessment, and evaluation
 - (b) Treatment planning
 - (c) Referral
 - (d) Service coordination/case management
 - (e) Counseling, including individual, group, family, and couples counseling
 - (f) Client, family, and community education
 - (g) Documentation
 - (h) Professional and ethical responsibilities
- (4) **“Advertise”** includes, but is not limited to, the issuance of any card, sign or device to any person, or the causing, permitting, or allowing of any sign or marking on or in any building or structure, or in any newspaper or magazine or in any directory, or any printed matter, with or without any limiting qualification. It also includes business solicitations communicated by radio or television broadcasting, the Internet, or any other electronic medium.
- (5) **“Board”** refers to the Healthcare Professions Licensing Board.
- (6) **“Certified Addiction Counselor”** means an individual who meets the requirements of these regulations and is licensed as a certified addiction counselor by the Board.
- (7) **“Clinical supervision”** means the ongoing process in which the supervisor participates with one or more supervisees to ensure high quality service delivery across domains of counselor development, professional and ethical standards, program development, quality assurance, performance evaluation and administration, as described in “Competencies for Substance Abuse Treatment Clinical Supervisors,” Technical Assistance Publication Series No. 21-A, published by the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration Center for Substance Abuse Treatment, or other sources as the Board may specify by regulation.

- (8) **"Continuing education"** means an orderly process of instruction that is approved by an organization or the Board for addiction professionals and designed to directly enhance the practitioner's knowledge, competence, and skill in providing services relevant to his or her occupation.
- (9) **"Counseling"** means techniques and methods used to help individuals learn how to solve problems and make decisions related to personal growth, vocational, environmental, family, social, financial, and other interpersonal concerns.
- (10) **"EMAC"** means Examination for Master Addiction Counselor.
- (11) **"IC&RC"** means International Certification & Reciprocity Consortium
- (12) **"Independent practice of addiction counseling"** means a person who renders for compensation, addiction counseling-related services to an individual, group, organization, corporation, institution, or the public, and who is licensed, trained, or experienced in addiction counseling, and who holds a license issued under this chapter to engage in such services.
- (13) **"Master Addiction Counselor"** means an individual who meets the requirements of these regulations and is licensed as a master addiction counselor by the Board.
- (14) **"NAADAC"** means National Association for Alcoholism and Drug Abuse Counselors
- (15) **"NBCC"** means National Board of Certified Counselors.
- (16) **"NCAC"** means National Certified Addiction Counselor
- (17) **"NCC AP"** means National Certification Commission for Addiction Professionals.
- (18) **"Practice of addiction counseling"** means the providing of professional services that are delivered by a licensed addiction professional, that are designed to change substance use or addictive behavior, and that involve specialized knowledge, competence, and skill related to addictions and addictive behaviors, including understanding addiction, knowledge of the treatment process, application to practice and professional readiness. The term includes:
 - (a) gathering information through structured interview screens using routine protocols;
 - (b) reviewing assessment findings to assist in the development of a plan individualized for treatment services and to coordinate services;
 - (c) referring for assessment, diagnosis, evaluation, and mental health therapy;
 - (d) providing client and family education related to addictions;
 - (e) providing information on social networks and community systems for referrals and discharge planning;
 - (f) participating in multidisciplinary treatment team meetings or consulting with clinical addiction professionals;

- (g) counseling, through individual and group counseling, as well as group and family education, to treat addiction and substance use disorders in a variety of settings, including but not limited to:
 - (i) mental and physical health facilities; and
 - (ii) child and family service agencies; and
 - (h) maintaining the highest level of professionalism and ethical responsibility.
- (19) **"Practitioner"** means an individual who holds an unlimited license, certificate, or registration; a limited or probationary license, certificate, or registration; a temporary license, certificate, registration, or permit; an intern permit; or a provisional license.
- (20) **"Professional Addiction Counselor"** means a person who renders for compensation, addiction counseling-related services to an individual, group, organization, corporation, institution, or the public, and who is licensed, trained, or experienced in addiction counseling, and who holds a license issued under this Part to engage in the professional practice of addiction counseling.
- (21) **"Registrant"** means an uncertified or unlicensed person who is while completing the requirements for certification or licensure under these regulations, who has completed no less than 12 semester units, or 18 quarter units of the education required under these regulations and who is registered with the Board.
- (22) **"Supervised work experience"** refers to a time during which an applicant provides addiction counseling services directly to clients diagnosed with a substance use disorder, including treatment of clients, and at least fifty percent (50%) of the time consists of providing addiction counseling services directly to clients diagnosed with a substance use disorder. The supervisor(s) must be approved by the Board in advance of applicant providing any addiction counseling services.
- (23) **"Supervisee"** means a registrant or certified or licensed addiction counselor under these regulations who is seeking to meet the supervised experience requirements of these regulations.

§ 185-10-4805. Licensing.

An individual may not engage in the practice of professional addiction counseling unless the person is licensed as a Certified Addiction Counselor (Level I/NCAC I), Certified Addiction Counselor (Level II/NCAC II), or Master Addiction Counselor under these Regulations.

§ 185-10-4810. Requirements.

- (1) The Board shall certify or license, at the appropriate level, as applicable, everyone who the Board determines to meet the criteria outlined below.
- (2) **Certified Addiction Counselor (Level I/NCAC I) licensing requirements.** An individual who applies for licensure as an Addiction Counselor Level I must meet the following requirements:
 - (a) Furnish satisfactory evidence to the Board that the individual has:

- (i) AA Degree or higher with a clinical application, including at least 270 clock hours of substance use disorder related topics, six (6) hours of which must be related to ethics education and training within the last six (6) years and six (6) hours related to HIV/AIDS/Other pathogens education and training within the last six (6) years. If not received with degree, these hours can be obtained as advanced coursework outside of the school setting.
 - (ii) Completed 6,000 hours of supervised work experience or three (3) years full time work in substance use disorders training, with 600 hours being direct client work, prior to taking the examination. Supervisor and supervisee must keep records of the experience and supervision hours. At the end of the supervision period, the supervisor must prepare and forward to the board a written evaluation, including a written evaluation for this credential including written certification of successfully completed supervised hours of substance use disorder training and any hours not successfully completed.
- (b) Furnish satisfactory evidence to the Board via a state and federal level criminal offender record information search that the individual does not have:
 - (i) convictions of five (5) or more criminal offenses within a 30-month period ending two (2) years or less prior to the date of the Board's determination.
 - (ii) a conviction of a violent felony within three (3) years prior to the date of the Board's determination.
 - (iii) a conviction related to a controlled substance within three (3) years prior to the date of the Board's determination.
- (c) Furnish satisfactory evidence to the Board that the individual has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the individual was not able to practice without endangering the public.
- (d) A passing score on one (1) of the following exams:
 - (i) NCAC Level One (1) exam through National Certification Commission for Addiction Professionals (NCCAP).
 - (ii) ADC exam through the International Certification & Reciprocity Consortium (IC& RC).
- (e) Submit a completed application to the Board for review.
- (f) Pay the fee established by the Board.
- (3) Certified Addiction Counselor (Level II/NCAC II) licensing requirements. An individual who applies for licensure as an Addiction Disorder Counselor Level II must meet the following requirements:
 - (a) Furnish satisfactory evidence to the Board that the individual has:

- (i) received a bachelor's degree or higher in addiction counseling or other allied mental health profession (social work, mental health counseling, psychology), including at least 450 clock hours of substance use disorder related topics, six (6) hours of which must be related to ethics education and training within the last six (6) years and six (6) hours related to HIV/AIDS/Other pathogens education and training within the last six (6) years. If not received with degree, these hours can be obtained as advanced coursework outside of the school setting.
 - (ii) completed 6,000 hours of supervised work experience or three (3) years full time work in substance use disorders training, with 600 hours being direct client work, prior to taking the examination for this credential.
- (b) Furnish satisfactory evidence to the Board via a state and federal level criminal offender record information search that the individual does not have:
 - (i) convictions of five (5) or more criminal offenses within a 30-month period ending two (2) years or less prior to the date of the Board's determination.
 - (ii) a conviction of a violent felony within three (3) years prior to the date of the Board's determination.
 - (iii) a conviction related to a controlled substance within three (3) years prior to the date of the Board's determination.
- (c) Furnish satisfactory evidence to the Board that the individual has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the individual was not able to practice without endangering the public.
- (d) A passing score on one (1) of the following exams:
 - (i) National Certified Addiction Counselor Level II exam through National Certification Commission for Addiction Professionals (NCC AP).
 - (ii) EMAC exam through the National Board of Certified Counselors (NBCC).
 - (iii) AADC exam through the International Certification & Reciprocity Consortium (IC & RC).
- (e) Submit a completed application to the Board for review.
- (f) Pay the fee established by the Board.
- (4) Master Addiction Counselor (Level III) licensing requirements. An individual who applies for a license as a Master Addiction Disorder Counselor Level III must meet the following requirements:
 - (a) Furnish satisfactory evidence to the Board that the individual has:
 - (i) received a master's degree or higher in addiction counseling or other allied mental health profession (social work, mental health counseling, marriage and family counseling, psychology), including at least 500 hours of substance use disorder

related topics, six (6) hours of which must be related to ethics education and training within the last six (6) years and six (6) hours related to HIV/AIDS/Other pathogens education and training within the last six (6) years. If not received with degree, these hours can be obtained as advanced coursework outside of the school setting.

- (ii) completed 6,000 hours of supervised work experience in substance use disorders, with 2, 000 hours being direct client work, prior to taking the examination for this credential but after obtaining the master's (or higher) degree.
 - (b) Furnish satisfactory evidence to the Board via a state and federal level criminal offender record information search that the individual does not have:
 - (i) convictions of five (5) or more criminal offenses within a 30-month period ending two (2) years or less prior to the date of the Board's determination.
 - (ii) a conviction of a violent felony within three (3) years prior to the date of the Board's determination.
 - (iii) a conviction related to a controlled substance within three (3) years prior to the date of the Board's determination.
 - (c) Furnish satisfactory evidence to the Board that the individual has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the individual was not able to practice without endangering the public.
 - (d) A passing score on one (1) of the following exams:
 - (i) Master Addiction Counselor (MAC) exam through National Certification Commission for Addiction Professionals (NCC AP).
 - (ii) EMAC exam through the National Board of Certified Counselors (NBCC).
 - (iii) AADC exam through the International Certification & Reciprocity Consortium (IC & RC).
 - (e) Submit a completed application to the Board for review.
 - (f) Pay the fee established by the Board.
- (5) Licensure education requirements
- (a) All substance use disorders related education accepted for purposes of licensure must be from one of the "Addiction Counseling Competencies" outlined in the Technical Assistance Publication Series No. 21, published by the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment.
 - (b) All clinical supervisor related education accepted for purposes of licensure must be from one of the "Competencies for Substance Abuse Treatment Clinical Supervisors" outlined in the Technical Assistance Publication Series No. 21A, published by the United States

Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment.

- (c) All degrees accepted for purposes of licensure must be from one of the following:
 - (i) a higher learning institution located in the United States or a territory of the United States that was accredited on the date of graduation by a regional or national accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation or the U.S. Department of Education.
 - (ii) a higher learning institution located in Canada that was in good standing on the date of graduation with the Association of Universities and Colleges of Canada.
 - (iii) a foreign higher learning institution that on the date of graduation was recognized by the government of the country where the school was located as a program to train in the practice of addiction counseling and has maintained a standard of training substantially equivalent to the standards of institutions accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation or the U.S. Department of Education.
 - (d) Applicants with a master's degree (or higher) that did not emphasize substance use disorders or mental health counseling may complete the course work requirement from an institution that is:
 - (i) accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP);
 - (ii) recognized by NAADAC, the Association of Addiction Professionals (NAADAC) – National Certification Commission for Addiction Professionals (NCC AP);
 - (iii) recognized by the International Certification and Reciprocity Consortium (IC & RC);
 - (iv) accredited by the Commission on Accreditation of Marriage and Family Therapy Education (CAMFTE);
 - (v) accredited by the American Psychological Association's Commission on Accreditation (APA); or
 - (vi) accredited by the Council on Social Work Board (ASWB); or
 - (vii) accredited by the National Addiction Studies Accreditation Commission (NASAC).
 - (e) Education and supervised work experience gained outside of the state may be accepted toward the licensure or certification requirements.
- (6) Licensure supervised work experience requirements

- (a) The supervised work experience required must be provided by a qualified and licensed supervisor, as determined by the Board. Prior to the commencement of clinical supervision, a supervisor must comply with all requirements for supervisors as established by the Board by regulation.
- (b) A doctoral internship may be applied toward the supervised work experience requirement.
- (c) The supervised work experience requirement may be met by work performed at or away from the premises of the qualified supervisor. However, the supervised work experience requirement may not be performed away from the qualified supervisor's premises if:
 - (i) the work is the independent private practice of addiction counseling; or
 - (ii) the work is not performed at a place that has the supervision of a qualified supervisor.
- (d) Experience shall be gained only in a setting that meets all the following:
 - (i) Lawfully and regularly provides alcohol and other drug counseling.
 - (ii) Provides oversight to ensure that the supervisee's work at the setting meets the experience and clinical supervision requirements set forth in these regulations and is within the scope of practice for the profession.
 - (iii) Work experience shall not be gained as an independent contractor.
- (e) The required hours of supervised experience shall be obtained over a period of not less than two (2) years and shall have been gained within the six (6) years immediately preceding the date on which the application for certification or licensure was filed.
- (f) Experience shall not be credited for more than forty (40) hours in any week.
- (g) The supervisor and the supervisee shall develop a supervisory plan that describes the goals and objectives of clinical supervision. These goals shall include the ongoing assessment of strengths and limitations and the assurance of practice in accordance with the laws and regulations. The supervisee shall submit to the Board the initial original supervisory plan upon application for licensure or certification.
- (h) A supervisee must receive an average of at least one (1) hour of direct supervisor contact for every week in which more than ten (10) hours of face-to-face or group counseling is performed in each setting where experience is gained. (No more than five (5) hours of clinical supervision, whether individual or group, shall be credited during any single week.) For purposes of this section, "direct supervisor contact" means one (1) hour of face-to-face contact on an individual basis or two (2) hours of face-to-face contact in a group, of not more than eight (8) persons receiving clinical supervision, addressing the substance of the supervisory plan. The face-to-face contact may also be conducted using a telehealth service provider.
- (i) A supervisee may be either a paid employee or a volunteer. Employers are encouraged to provide fair remuneration to supervisees.

- (j) A supervisee shall not receive any remuneration from patients or clients and shall be paid only by his or her employer. A supervisee shall not have any proprietary interest in the employer's business.
- (k) A supervisee may receive clinical supervision from a person not employed by the supervisee's employer if that person has signed a written agreement with the employer to take supervisory responsibility for the supervisee's substance use disorder counseling and hours of clinical supervision are formally recorded.
- (l) The Board may limit, by regulation, the number of registrants that anyone (1) supervisor may supervise, the number of registrants that may be supervised in any given program or setting, and the proportion of the workforce in any given program or setting, which may be comprised of registrants, or any of these.
- (m) A supervisor must be licensed in the CNMI to oversee the work of a supervisee.

§ 185-10-4815. Scope of Work

(1) Certified Addiction Counselor (Level I/NCAC I)

The Scope of Practice for the category of those with an AA degree include the following activities with clinical supervision from a Master Addiction Counselor/Supervisor (Level III or higher), licensed psychiatrist, clinical psychologist, licensed social worker, or other qualified provider approved by the board. The Certified Addiction Counselor I cannot provide clinical or administrative supervision of staff but can supervise community and social activities.

- (a) Diagnostic impression and Screening, Brief Intervention, Referral to Treatment of SUD
- (b) (SBIRT).
- (c) Monitor treatment plan/compliance
- (d) Referral
- (e) Service Coordination and case management for SUD
- (f) Psycho-educational counseling of individuals and groups
- (g) Client, Family, and Community Education
- (h) Documentation
- (i) Professional and Ethical Responsibilities

(2) Certified Addiction Disorder Counselor (Level II/NCAC II)

The Scope of Practice for the category of those with a bachelor's degree includes the following activities with clinical supervision of a Master Addiction Counselor/Supervisor (Level III or higher), licensed psychiatrist, licensed clinical psychologist, licensed social worker, or other

qualified licensed provider approved by the board. The Certified Addiction Counselor (Level II/NCAC II) may provide administrative supervision of the Level I Addiction Counselor.

- (a) Screening, Brief Intervention, and Referral to Treatment Referral (SBIRT), Clinical evaluation, including diagnostic impression, screening, and assessment of SUD.
- (b) Treatment Planning for Substance Use Disorders (SUDs) and Co-Occurring Disorders (COD), including initial, ongoing, continuity of care, discharge, and planning for relapse prevention
- (c) Referral
- (d) Service Coordination and case management for SUDs and CODs
- (e) Counseling, therapy, trauma informed care, and psycho-education with individuals, families, and groups
- (f) Client, Family, and Community Education
- (g) Documentation
- (h) Professional and Ethical Responsibilities
- (i) Provide administrative supervision of Category 1 Substance Use Counselor.

(3) Master Addiction Counselor (Level III)

The Master Addiction Counselor typically has a Master or other post graduate degree. The following activities of an unlicensed Master Addiction Counselor will require clinical supervision under a licensed Master Addiction Counselor (Level III or higher), licensed psychiatrist, licensed clinical psychologist, licensed social worker, or other qualified licensed provider approved by the board.

- (a) Clinical evaluation, including screening, assessment, and diagnosis of Substance Use Disorders (SUDs) and Co-Occurring Disorders (CODs)
- (b) Treatment Planning for SUDs and CODs, including initial, ongoing, continuity of care, discharge, and planning for relapse prevention
- (c) Referral
- (d) Service Coordination and case management in the areas of SUDs and CODs
- (e) Counseling, therapy, trauma informed care, and psycho-education with individuals, families and groups in the areas of SUDs and CODs
- (f) Client, Family, and Community Education
- (g) Documentation

- (h) Professional and Ethical Responsibilities
- (i) Clinical supervisory responsibilities for all categories SUD counselors.

§ 185-10-4820. Exemptions.

The Board shall exempt an individual from the requirements set forth in these regulations and grant the individual an applicable license if the individual meets the following requirements:

- (1) Federal or state government employees in job classification of addiction counselor position providing rehabilitation and support services to individuals in mental health, alcohol, or drug abuse facilities, state hospital and treatment facility, division of state mental health services for family and children, or state prison facility. Individuals in this category shall be exempt from having an active license to provide addictions services provided the individual has the training experience and academic degree commensurate with the appropriate scope of work in addiction services (noted in § 185-10-4810) and must be under the supervision of a Licensed Psychiatrist, Licensed Clinical Psychologist, Licensed Social Worker, or other qualified licensed provider approved by the Board; and does not represent himself/herself to be a licensed mental health or professional counselor or associate;
- (2) Individuals working as clinical addictions counselors who possess the minimal training and education commensurate with the appropriate scope of work in addictions services (noted in § 185-10-4810) who are practicing under the supervision of a Licensed Psychiatrist, Licensed Clinical Psychologist, Licensed Social Worker, or other qualified licensed provider approved by the Board; and does not represent himself/herself to be a licensed mental health or professional counselor or associate;
- (3) Individuals providing instructions and/or research in educational institutions;
- (4) Any person who is a duly recognized member of the clergy, provided that the person functions only within the scope of the performance of the ministerial duties of an established and legally recognizable church or denomination and the person performing the services remains accountable to the established authority of the Church or denomination and provided further, that the person does not represent himself/herself to be a licensed mental health or professional counselor or mental health counselor associate;
- (5) Individuals responding to a state emergency declaration.
- (6) Holds a valid certification/licensure as an addiction counselor or addiction therapist from a credentialing agency that is approved by the Board. (e.g. NAADAC or IC & RC).
- (7) Furnishes satisfactory evidence to the Board via a state and federal level criminal offender record information search that the individual does not have:
 - (a) convictions of five (5) or more criminal offenses within a 30-month period ending two (2) years or less prior to the date of the Board's determination.
 - (b) a conviction of a violent felony within three (3) years prior to the date of the Board's determination.

- (c) a conviction related to a controlled substance within three (3) years prior to the date of the Board's determination.
 - (d) Submit a completed application to the Board for review.
 - (e) Pay the fee established by the Board.
- (8) These regulations do not apply to the activities or services of a licensed physician, licensed psychiatrist or a licensed psychologist, or religious leader providing pastoral counseling (remove as this is redundant?) trained in addictions counseling provided that such counseling is within the scope of their duties. These regulations do not apply to school counselors certified by the state education agency providing school counseling within the scope of school counselors.
- (9) The criteria for licensed clinical social workers, marriage & family therapists, or licensed professional counselors require 180 clock hours of substance abuse specific education to include any course with a specific substance abuse/chemical dependence focus. No more than ninety (90) of these hours may be counseling courses without a substance abuse focus. Also required are six (6) hours in confidentiality for substance abuse programs and six (6) hours of substance abuse ethics.
- (10) Nothing in these regulations shall be construed to limit the activities and services of a student, intern, or resident in professional addiction counseling seeking to fulfill educational requirements in order to qualify for a license under these regulations, or an individual seeking to fulfill the post-degree experience requirements in order to qualify for a license under these regulations, if the activities or services are supervised as specified in these regulations, and that the student, intern, or resident is designated by the term "intern" or "resident" or other designation of trainee status. Nothing in this section shall be construed to permit students, interns, or residents to offer their services as professional addiction counselors to any person and to accept remuneration for such professional addiction counseling services other than as specifically exempted in this section, unless they have been licensed under these regulations.
- (11) Nothing in these regulations shall prohibit individuals not licensed under the provisions of these regulations who work in self-help or mutual support groups or programs or not-for profit organizations from providing services in those groups, programs, organizations, or healthcare financing agencies, as long as those persons are not in any manner held out to the public as practicing professional addiction counseling, or do not hold themselves out to the public by any title or designation stating or implying that they are professional addiction counselors.

§ 185-10-4825. Examination.

- (1) The written examinations the Commonwealth of the Northern Marianas Islands recognizes are sponsored by the National Association of Alcohol and Drug Abuse Counselors (NAADAC) and the International Certification and Reciprocity Consortium (IC&RC). The board recognized National and Regional certification boards; National Certification Commission for Addiction Professionals (NCC AP) and the National Boards for Certified Counselors (NBCC).
- (2) An individual who wishes to apply for licensure as an addiction professional must take the corresponding examination.

- (3) An applicant's identity will be kept confidential and test scores are held by the testing board.
- (4) An applicant who fails the examination may take a subsequent examination on payment of the required examination fee. However, an applicant may only take two (2) subsequent examinations within a one (1) year period for a total of three (3) exam in a one-year period.
- (5) An individual who applies for an addiction counselor license under this article may be exempted by the Board from the examination requirement if the individual has met all the following:
 - (a) is licensed or certified as an addiction counselor in another state and has passed a licensing or certifying examination substantially equivalent to the licensing examination required under these regulations;
 - (b) has engaged in the practice of addiction counseling and/or supervision for at least three of the previous five (5) years;
 - (c) has not committed a crime of moral turpitude and has not had any adverse actions taken against them by any licensing board of any jurisdiction and is not under investigation for any act that constitutes a violation of these regulations.

§ 185-10-4830. Fees.

PROFESSION	APPLICATION FEE	INITIAL LICENSE	RENEWAL LICENSE	LATE FEE/LICENSE VERIFICATION
Certified Addiction Counselor (Level I/NCAC I)	\$100	\$100	\$200	\$25
Certified Addiction Counselor (Level II/NCAC II)	\$100	\$100	\$200	\$25
Master Addiction Counselor	\$100	\$100	\$200	\$25

§ 185-10-4835. Continuing Education.

The Board shall prepare or approve the preparation and administration of continuing education programs for licensed addiction counselors under this Act. The Board shall provide by rule for the administration of the continuing education requirements for license renewal under these regulations.

- (1) A person licensed under these regulations must complete at least forty (45) hours of continuing education within the two (2) year period in which the person holds a license as a requirement for the renewal of the license.
- (2) The practitioner shall provide the Board with a sworn statement executed by the practitioner that the practitioner has fulfilled the continuing education requirements required by the Board.
- (3) The practitioner shall retain copies of certificates of completion for continuing education courses for three (3) years from the end of the licensing period for which the continuing education applied. The practitioner shall provide the Board with copies of the certificates of completion upon the Board's request for a compliance audit.

- (4) Following every license renewal period, the Board shall randomly audit for compliance more than one percent (1%) but less than ten percent (10%) of the practitioners required to take continuing education courses.

§ 185-10-4840. Restrictions.

- (1) An individual licensed, registered, or certified under these regulations may engage in the practice of addiction counseling.
- (2) A person who has received a certificate, registration or license under these regulations may use the title "Licensed Addiction Counselor", or "Licensed Master Addiction Counselor" in accordance with the type of certificate, registration or license possessed.
- (3) Unlicensed individuals may not:
 - (a) profess to be a licensed addiction professional;
 - (b) use the title(s):
 - (i) "Licensed Addiction Counselor";
 - (ii) "Licensed Clinical Addiction Counselor";
 - (iii) "Licensed Clinical Addiction Therapist";
 - (iv) "Licensed Addiction Therapist";
 - (v) "Addiction Counselor";
 - (vi) "Addiction Therapist";
 - (vii) "Clinical Addiction Counselor";
 - (viii) "Clinical Addiction Therapist";
 - (ix) "Substance Abuse Counselor";
 - (x) "Substance Abuse Therapist";
 - (xi) "Clinical Substance Abuse Counselor";
 - (xii) "Clinical Substance Abuse Therapist"; or
 - (xiii) Any other title containing the words mentioned in (A) – (L).
 - (c) use any other:
 - (i) words;

- (ii) letters;
- (iii) abbreviations; or
- (iv) insignia; indicating or implying that the individual is a Licensed Addiction Counselor or Licensed Clinical Addiction Counselor; or
- (v) practice as an addiction counselor or clinical addiction counselor for compensation, unless the individual is licensed under this article.

§ 185-10-4845. Privileged Communication.

Breach of a privileged communication, except as provided for in this Article is considered unprofessional conduct and grounds for revocation or suspension of a license.

§ 185-10-4850. Disciplinary Action

The Board shall have the power to impose administrative penalties and/or reprimands; revoke or suspend; refuse to issue, restore, or renew, the license of any person who is found to have violated one or more of the provisions enumerated in § 2224 of P.L. 15-105 and sections 185-10-901 through 185-10-1301.



Commonwealth Utilities Corporation

P. O. Box 501220, Third Floor, Joeten Dandan Building, Saipan, MP 96950

Tel: (670) 664-4282 • Fax: (670) 235-5131

CUC is an Equal Opportunity Provider and Employer.



PUBLIC NOTICE

PROPOSED AMENDMENTS TO THE COMMONWEALTH UTILITIES CORPORATION BOARD OF DIRECTORS MEETINGS REGULATIONS

The Executive Director and the Chairperson of the Board of Directors of the Commonwealth Utilities Corporation (“CUC”) hereby notify the public that CUC intends to promulgate amendments to its Board of Directors Meetings Regulations under Northern Mariana Islands Administrative Code (“NMIAC”) Title 50-50.

INTENDED ACTION TO ADOPT THESE PROPOSED AMENDMENTS TO THE CUC BOARD OF DIRECTORS MEETINGS REGULATIONS. Notice is hereby given pursuant to 1 CMC § 9104(a) of the Administrative Procedure Act that the Commonwealth Utilities Corporation intends to promulgate the following additional provisions and revisions to its Board of Directors Meetings Regulations. The new Board of Directors Meetings Regulations will become effective ten (10) days after adoption and publication in the Commonwealth Register. 1 CMC § 9105(b).

TERMS, SUBSTANCE, AND DESCRIPTION OF THE SUBJECTS AND ISSUES INVOLVED.

The proposed revision shall amend 4 CMC § 8132 to permit CUC to allow for meeting appearances of its Board of Directors via the internet or online video conference, teleconferencing, or other electronic means of communication in the event that a member is in the Commonwealth of the Northern Mariana Islands (“CNMI”) but unable to attend a meeting in person at the meeting place. A member’s appearance by electronic means shall be considered as present for purposes of a quorum.

AUTHORITY. The Commonwealth Utilities Corporation Board of Directors is authorized to promulgate rules and regulations necessary to carry out the purposes of this chapter. 4 CMC § 8157.

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 government offices in each senatorial district, both in English and in the principal vernacular.

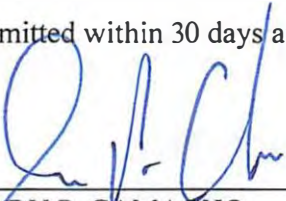
1 CMC § 9104(a)(1).

TO PROVIDE COMMENTS. Persons or entities wishing to submit comments must do so in writing to Mr. Gary P. Camacho, Executive Director of CUC, and Ms. Miranda V. Manglona, Chairperson of the CUC Board of Directors, by means of one of the following: email, fax, mail, or hand-delivery to the CUC Office of the Executive Director and to the CUC Board of Directors Administrative Office located on the Third Floor of the Joeten Dandan Commercial Building with the subject line “Comments on Proposed Amendments to the CUC Board of Directors Meetings Regulations”.

Commonwealth Utilities Corporation
Third Floor, Joeten Dandan Commercial Bldg., P.O. Box 501220 CK
Saipan, MP 96950
Fax: (670) 235-5131
Email: gary.camacho@cucgov.org

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

Submitted by:


GARY P. CAMACHO
Executive Director, CUC

1/27/2022
Date


MIRANDA V. MANGLONA
Chairperson, Board of Directors

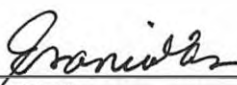
01/28/2022
Date

Received by:


MATHILDA A. ROSARIO
Special Assistant for Administration

03/25/22
Date

Filed and Recorded by:


ESTHER R.M. SAN NICOLAS
Commonwealth Registrar

04.13.2022
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

3/29/2022
Date



Commonwealth Utilities Corporation

P. O. Box 501220, Third Floor, Joeten Dandan Building, Saipan, MP 96950

Tel: (670) 664-4282 • Fax: (670) 235-5131

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NUTISIAN PUBLIKU

MANMAPROPONI NA AMENDA GI REGULASION HENTAN KUETPUN DIREKTOT I COMMONWEALTH UTILITIES CORPORATION

I Eksakatibun Direktot yan i Kabesiyun i Kuetpun Direktot i Commonwealth Utilities Corporation (i “CUC”) manmanafanungu’ guini i publiku na i CUC ha intensiona para u cho’gui i amenda siha para i iyon-ñiha Regulasion Hentan Kuetpun Direktot gi pãpa’ i Administrative Code i Sangkattan na Islas Mariãnas (“NMIAC”) Titulu 50-50.

I AKSION NI MA’INTENSIONA PARA U ADAPTA ESTI SIHA I MANMAPROPONI NA AMENDA GI REGULASION HENTAN KUETPUN DIREKTOT GI CUC: Manã’i guini i nutisia sigun para i 1 CMC § 9104(a) gi Åkton Administrative Procedure nai i Commonwealth Utilities Corporation ha intension para u cho’gui i mantinattiya na provisions yan tinilaika siha gi iyon-ñiha Regulasion Hentan Kuetpun Direktot. I nuebu na Regulasion Hentan Kuetpun Direktot siempri umifektibu gi halum dies (10) dihas dispues di adaptasion yan publikasion gi halum Rehistran Commonwealth. 1 CMC § 9105(b).

TEMA, SUSTANSIAN I PALABRA SIHA, DISKRIPSION NU I SUHETU NI MASUMARIA YAN ASUNTU NI TINEKKA: I manmaproponi na tinilaika para u inamenda i 4 CMC § 8132 para u petmiti i CUC para u sedi otu klãsi na inannuk henta siha gi iyon-ñiha Kuetpun Direktot ginen i “internet” osino konfirensian “online video, teleconferencing, pat otu siha na maneran kumbetsasion ginen ilektronik siakãsu na i membru ni gaigi gi halum iya Commonwealth gi Sangkattan na Islas Mariãnas (i “CNMI”) lão ti siña ma’atendi i hunta gi lugãt ni magogotti i hunta. I inannuk nu i membru ginen i maneran ilektronik debi na u makunsidera na gaigi ha’ para rason nu i “quorum.”

ÅTURIDÅT: I Kuetpun Direktot i Commonwealth Utilities Corporation ma’aturisa para u cho’gui i areklamentu yan regulasion siha nisisãriu para u kãtga huyung i puntu nu esti siha i pãtti. 4 CMC § 8157.

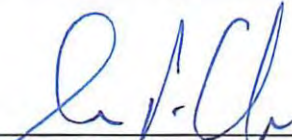
DIREKSION SIHA PARA U MAPO’LU YAN MAPUPBLIKA: Esti i manmaproponi na regulasion siha debi na u mapupblika gi halum Rehistran Commonwealth gi halum seksiona gi Manmaproponi yan Nuebu na Ma’adãpta na Regulasion siha, 1 CMC § 9102(a)(1), yan u mapega gi kumbinienti na lugãt gi halum civic center yan i ufisinan gubietnamentu gi kada’ distritun senadot, parehu gi finu’ Inglis yan i prinsipãt na lingguãhi natibu. 1 CMC § 9104(a)(1).

PARA U MAPRIBENIYI UPIÑON SIHA: I petsona siha pat hãyi malagu’ muna’halum upiñon debi na u macho’gui gi tinigi’ para guatu as Siñot Gary P. Camacho, i Eksakatibun Direktot nu CUC, yan para as Siñorita Miranda V. Manglona, i Kabesiyun i Kuetpun Direktot i CUC gi unu na tinattiya na manera: email, fax, kãtta, osino intrega hãlum gi Ufisinan i Eksakatibun Direktot i CUC yan para i Ufisinan Atministradot i Kuetpun Direktot i CUC ni gaigi gi Mina’tres na bibienda gi Joeten Dandan Commercial Building yan i suhetu na rãya “Upiñon gi Manmaproponi na Amenda siha gi Regulasion Hentan i Kuetpun Direktot i CUC”.

Commonwealth Utilities Corporation
Third Floor, Joeten Dandan Commercial Bldg., P.O. Box 501220 CK
Saipan, MP 96950
Fax: (670) 235-5131
Email: gary.camacho@cucgov.org

Todu i tinigi' na upiñon siha debi na u mana'hålum gi halum 30 dihas dispues di pupublikasion nu esti na nutisia.

Nina'hålum as:


GARY P. CAMACHO
Eksakatibun Direktot, CUC

1/27/2022
Fetcha


MIRANDA V. MANGLONA
Kabesiyu, Kuetsun Direktot

01/28/2022
Fetcha

Rinisibi as:


MATHILDA A. ROSARIO
Espisiât na Ayudanti para i Atministrasion

03/25/22
Fetcha

Pine'lu yan Ninota as:


ESTHER R.M. SAN NICOLAS
Rehistran Commonwealth

04.13.2022
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 ligât ginin i Abugâdu Henerât CNMI yan debi na u mapupblika, 1 CMC § 2153(f).


EDWARD MANIBUSAN
Abugâdu Henerât

3/29/2022
Fetcha



Commonwealth Utilities Corporation

P. O. Box 501220, Third Floor, Joeten Dandan Building, Saipan, MP 96950

Tel: (670) 664-4282 • Fax: (670) 235-5131

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ARONGORONGOL TOULAP

PPWOMWOL LIIWEL NGÁLI MWÓGHUTUGHUTÚL COMMONWEALTH UTILITIES CORPORATION BOARD-IL DIRECTORS IGHA RE YÉÉLÁGH

Executive Director-il Commonwealth Utilities Corporation (“CUC”) e aronga toulap bwe CUC re mángemángil rebwe arongawow liiwel ngáli Mwóghutughutúl Procurement faal Northern Mariana Islands Administrative Code (“NMIAC”) Title 50-50.

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI PPWOMWOL LIIWEL NGÁLI MWÓGHUTUGHUTÚL PROCUREMENT REEL COMMONWEALTH UTILITIES CORPORATION. Arongorong yeel nge sáangi 1 CMC § 9104(a) reel Administrative Procedure Act iye Commonwealth Utilities Corporation e mángemángil ebwe aronga mwiril aar aschuulong “provisions” me liiwel ngáli Mwóghutughutúl Procurement. Ffêl Mwóghutughut igha re yéélágh ebwe bwunguló seigh ráál (10) mwiril aal adóptááli me akkatééwow me llól Commonwealth Register. 1 CMC § 9105(b).

KKAPASAL, AWEEWEL, ME AUTOL: Ppwomwol siiwel ebwe liiweli 4 CMC § 8132 ebwe ayoorai angúungúl CUC reel rebwe ayoorai akkáaw tappal yéélágh reel Board-il Directors sáangi “video conference”, “teleconferencing”, ngáre akkáaw “electronic means of communication” ngáre e totto bwe eschay membro llól Commonwealth Téel Falúw kka Efáng llól Marianas ese mmwelil tuutá “in person” reel leliyál yéélágh. Rebwe ammwóoy aal lo membro bwe ebwe lo llól páápál mwiisch.

BWÁNGIL: Eyoor bwángil Commonwealth Utilities Corporation reel rebwe aronga allégh me mwóghutughut ikka e ffiil reel ebwe akkatééwow lemeleml “chapter” yeel. 4 CMC § 8157.

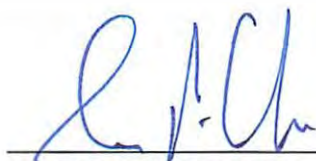
AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ppwomwol liiwel kkal ebwe akkatééwow me llól Commonwealth Register llól tánil wóol Ppwomwol me Ffêl Mwóghutughut ikka ra Adóptáánil, 1 CMC § 9102(a)(1), me ebwe appaschetá llól civic center me bwal llól bwulasiyol gobetnameento llól sentatorial district, fengál reel English me mwáliyaasch. 1 CMC § 9104(a)(1).

REEL ISIISILONGOL KKAPAS: Aramas ngáre schóó kka re tipáli rebwe isiisilong ischil kkapas rebwe isiis ngáli Mr. Gary P. Camacho, Executive Director-il CUC, me ngáli Miranda V. Manglona, Chairperson-il CUC Board-il Directors sáangi ikka e amwirimwiriti: email, afanga ngáre bwughiló Bwulasiyol Executive Director me CUC Board-il Directors Administrative imwu e lo Third Floor reel Joeten Dandan Commercial Building fengál reel subject line bwe “**Kkapas wóol Ppwomwol Liiwel ngáli aar CUC Mwóghutughutúl Board-il Directors igha re Yéélágh**”.

Commonwealth Utilities Corporation
Third Floor, Joeten Dandan Commercial Bldg., P.O. Box 501220 CK
Saipan, MP 96950
Fax: (670) 235-5131
Email: gary.camacho@cucgov.org

Alongal ischil kkapas ebwe isiisilong eliigh (30) ráál mwiril aal akkatééwow arongorong yeel.

Isáliyalong:



GARY P. CAMACHO
Executive Director, CUC

1/27/2022
Ráál



MIRANDA V. MANGLONA
Chairperson, Board of Directors

01/28/2022
Ráál

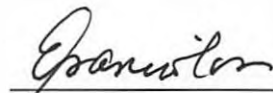
Bwughiyal:



MATHILDA A. ROSARIO
Special Assistant ngáli Administration

03/28/22
Ráál

Ammwelil:



ESTHER R.M. SAN NICOLAS
Commonwealth Registrar

04.13.2022
Ráál

Sáangi 1 CMC § 2153(e) me 1 CMC § 9104(a)(3), ppwomwol mwóghutughut ikka e appasch ra takkal amwuri físchiiy 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

3/29/2022
Ráál

TITLE 50 COMMONWEALTH UTILITIES CORPORATION

CHAPTER 50-70

MEETINGS OF THE BOARD OF DIRECTORS

Part 001 – General Provisions

§ 50-70-001 Authority

The regulations in this chapter are promulgated under the authority of 4 CMC § 8157.

§ 50-70-005 Definitions

The following terms, wherever used in this chapter, shall have the following meaning unless the context clearly indicates otherwise:

- (a) “Board” means the Board of Directors of the Commonwealth Utilities Corporation.
- (b) “Chairman” means the Chairman of the Board of Directors of the Commonwealth Utilities Corporation.
- (c) “Executive Director” means the Executive Director of the Commonwealth Utilities Corporation.

§ 50-70-010 Meetings

Members of the Board of Directors who are in the Commonwealth of the Northern Mariana Islands but unable to attend a meeting in person may appear by means of the internet or online video conferencing, teleconferencing, or other electronic means of communication.

Members who appear by means of the internet or online video conferencing, teleconferencing or other electronic means of communication shall be considered present for the purposes of a quorum.

§ 50-70-015 Notice of Intent to Attend Remotely

Members who plan to attend a meeting of the Board of Directors by means of the internet or online video conferencing, teleconferencing, or other electronic means of communication shall inform the Chairman of the Board and the Executive Director at least two (2) days prior to the meeting.



Commonwealth Ports Authority

Francisco C. Ada/Saipan International Airport
PO BOX 501055 • SAIPAN • MP • 96950
Phone: (670) 237-6500/01 Fax: (670) 234-5962
E-Mail Address: cpa.admin@pticom.com Website: <https://cnmiports.com>



PUBLIC NOTICE

Proposed Amendments to the Airport 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 Airport 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 amendments to its Airport Rules and Regulations.

TERMS, SUBSTANCE, AND DESCRIPTION OF THE SUBJECTS AND ISSUES INVOLVED: These proposed regulations amend the Airport Rules and Regulations to clarify CPA’s compensatory rate-setting methodology. Among other things, these proposed amendments define, remove, and redefine terms that are used throughout NMIAC § 40-10.1; clarify CPA’s rate methodology and adjustments, landing fees, and terminal rentals; and provide an illustrative example of the calculations of CPA’s fees, rates, and charges. These proposed regulations also repeal NMIAC §§ 40-10.1-1210, 1220, 1225, 1230, and 1257.

AUTHORITY: The substance of the following proposed amendments was approved by the CPA Board of Directors at the February 25, 2022, CPA Board of Directors Meeting. These proposed amendments are 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.

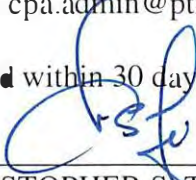
DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on Proposed and Newly Adopted Regulations, 1 CMC § 9102(a)(1), and posted in convenient places in the civic center and in local governments in each senatorial district, both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

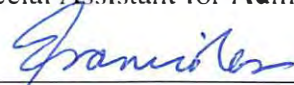
3/31/22
Date

Received by:


MATILDA ROSARIO
Special Assistant for Administration

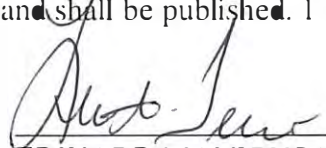
04/21/22
Date

Filed and Recorded by:


ESTHER R.M. SAN NICOLAS
Commonwealth Registrar

04.28.22
Date

Pursuant to I CMC § 2153(e) and I 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. I CMC § 2153(f).


for EDWARD MANIBUSAN
Attorney General

4/28/2022
Date



NUTISIAN PUPBLIKU

Manmaproponi na Amenda gi Areklamentu yan Regulasion Plåsan i Commonwealth Ports Authority

I Eksakatibu Direktot nu i Commonwealth Ports Authority (“i CPA”) ha infotma guini i pupbliku na i Commonwealth Ports Authority ha intensiona para u cho’gui i amenda siha gi iyon-ñiha Areklamentu yan Regulasion i Plåsa.

I AKSION NI MA’INTENSIONA PARA U ADAPTA ESTI I MANMAPROPO NI NA AMENDA SIHA GI AREKLAMENTU YAN REGULASION PERSONNEL I PLÅSAN COMMONWEALTH PORTS AUTHORITY: I nutisia guini mannâ’i sigun para i CMC § 9104(a) gi Åkton “Administrative Procedure” na i Commonwealth Ports Authority ha intensiona para u cho’gui i tinattiyi na amenda siha gi iyon-ñiha Areklamentu yan Regulasion i Plåsa.

I TEMA, SUSTANSIA, YAN I DISKRIPSION I SUHETU NI MASUMARIA YAN ASUNTU NI TINEKKA: Esti i manmaproponi na regulasion siha inamenda i Areklamentu yan Regulasion Plåsa para u klaruyi i “compensatory rate-setting methodology” i CPA. Entri otu siha, esti i manmaproponi na amenda siha dumifina, nina’ suha, yan talun dumifina i tema ni manma’usa gi todu i NMIAC § 40-10.1; klaruyi i “rate methodology” i CPA yan “adjustments,” âpas “landing”, yan atkilon “terminal”; yan pribeni eksplikao na ihemplun katkulasion nu âpas, “rates”, yan ginâogao âpas CPA siha. Esti i manmaproponi na regulasion siha lokkui’ ha apela i NMIAC §§ 40-10.1-1210, 1220, 1225, 1230, yan 1257.

ÂTURIDAT: I “substance” nu i tinattiyi na manmaproponi na amenda siha ginen maninaprueba ni i Kuetpun Direktot CPA gi Fibreru 25, 2022, gi Huntan Kuetpun Direktot CPA. Esti i manmaproponi na amenda siha para u mapupblika gi halum Rehistran Commonwealth gi Nutisia yan Upiñon sigun gi Åkton Administrative Procedure yan para u inaprueba ni Abugadu Hinirât sigun para i i CMC § 2153(e). I Commonwealth Ports Authority gai aturidat para u cho’gui esti siha na regulasion sigun para i 2 CMC § 2122.

DIREKSION PARA U MAPO’LU YAN PUPBLIKASION: Esti i Manmaproponi na Regulasion siha debi na u mapupblika gi halum Rehistran Commonwealth gi halum seksiona ni Manmaproponi yan i Mannuebu na Manma’adapta na Regulasion siha, i CMC § 9102(a)(1), ya u mapega halum gi kumbinienti na lugât gi halum civic center yan gi halum ufisinan gubietnamentu gi kada distritun senadot, parehu Inglis yan i prinsipât na lingguâhin natibu. i CMC § 9104(a)(1).

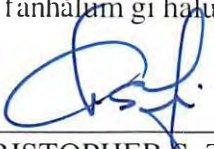
PARA U MAPRIBENIYI UPIÑON SIHA: I petsona siha pat atyu i malagu manna’halum upiñon siha debi di u macho’gui gi tinigi’ para guatu as Siñot Christopher S. Tenorio, Eksakatibun Direktot, CPA, gi unu na tinattiyi na manera: Email, fax, mail o sino intrega halum gi Ufisinan Atministradot i CPA ni gaigi gi Sigundu na Bibienda gi plåsan Francisco C. Ada/Saipan

International yan i suhetu na rāya “I Upiñon siha gi Manmaproponi na Areklamentu yan Regulasion i Plāsa.”

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 i tinigi' na upiñon siha debi na u fanhålum gi halum trenta (30) dihas dispues di pupublikasion nu esti na nutisia.

Nina'hålum as:


CHRISTOPHER S. TENORIO
Eksakatibun Direktot, CPA

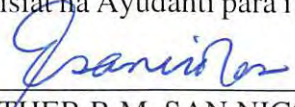
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Rinisibi as:


MATILDA ROSARIO
Ispisiat na Ayudanti para i Atministrasion

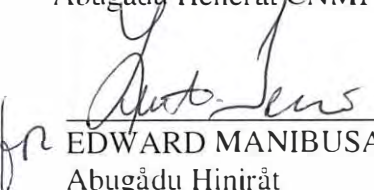
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Pine'lu yan Ninota as:


ESTHER R.M. SAN NICOLAS
Rehistran Commonwealth

04.28.2022
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Sigun i I CMC § 2153(e) yan i I CMC § 9104(a)(3) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligat ginin i Abugadu Henerat CNMI yan debi na u mapupblika, I CMC § 2153(f).


EDWARD MANIBUSAN
Abugadu Hinirat

4/25/2022
Fetcha



ARONGORONG TOULAP

Ppwomwol Liiwel ngáli Alléghúl me Mwóghutughutúl Plaasal Commonwealth Ports Authority

Executive Director-il Commonwealth Ports Authority (“CPA”) e arongaar toulap bwe Commonwealth Ports Authority re mángemángil ebwe aronga liiwel ngáli Alléghúl me Mwóghutughutúl Plaasa.

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

KKAPASAL, AWEEWEL, ME FFATTAL REEL KKPASAL ME AUTOL: Ppwomwol liiwel kkal e siiweli Alléghúl me Mwóghutughutúl Plaasa reel ebwe ffat aar “CPA compensatory rate-setting methodology”. Llól akkáaw mwóghutughut, weewel ppwomwol liiwel, siiweli, me ayoorai sefááli weewel ikka re yááyá llól NMIAC § 40-10.1; ebwe ffat aar “CPA rate methodology” me “adjustments”, “landing fees”, me “terminal rentals”; me ayoora “illustrative example of the calculation of CPA’s fees, rates, and charges”. Ppwomwol mwóghutughut ebwe atarawow NMIAC §§ 40-10.1-1210, 1220, 1225, 1230, me 1257.

BWÁNGIL: Eyoora autol ppwomwol liiwel ikka e amwirimwiritiw ikka aa átirow sáangi CPA Board-il Directors wóól Mááischigh 25, 2022, igha re yéélágh CPA Board-il Directors. Ebwe akkatééwow ppwomwol liiwel kkal me llól Commonwealth Register ngáli Arongorong me Kkapas sáangi Administrative Procedure Act me ngáli átirow sáangi Soulemelemil Allégh Lapalap sáangi 1 CMC § 2153(e). Eyoora bwángil Commonwealth Ports Authority reel rebwe aronga ppwomwol liiwel kkal sáangi 2 CMC § 2122.

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

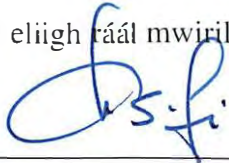
REEL ISIISILONGOL KKPAS: Aramas ngáre schóó kka re tipáli rebwe isiisilong ischil kkapas rebwe isch ngáli Mr. Christopher S. Tenorio, Executive Director, CPA, ebwe yááyá eew

meleyil ikka e amwirimwiriti: "Email", "fax", kkatta ngäre bwughiló CPA Administrative Office iye e lo "Second Floor" me Francisco C. Ada/Saipan International Airport fengál wóol "subject line" bwe **"Comments of Proposed Airport 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 toolong alongal ischil kkapas llól eliigh ráál mwiril aal akkatééwow arongorong yeel.

Isáliyalong:


CHRISTOPHER S. TENORIO
Executive Director, CPA

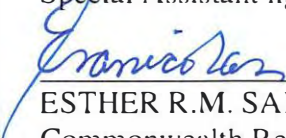
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Bwughiyal:


MATILDA ROSARIO
Special Assistant ngáli Administration

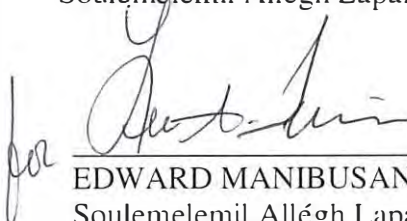
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Ammwelil:


ESTHER R.M. SAN NICOLAS
Commonwealth Registrar

04.28.2022
Ráál

Sángi 1 CMC § 2153(e) me 1 CMC § 9104(a)(3) ra takkal amwuri fischiiy ppwomwol mwóghutughut ikka e appasch me átirowa bwe aa ffil reel fféerúl me "legal sufficiency" sáangi Soulemelemil Allégh Lapalapap CNMI me ebwe akkatééwow. 1 CMC § 2153(f).


EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap

4/25/2022
Ráál

§ 40-10.1-010 Definitions

The following terms, as used in this subchapter, shall have the following meanings:

- (a) “Affiliated Airline Company” shall mean any Air Transportation Company that is regarded or appears to operate as a related entity and is now or hereafter (1) a subsidiary of Airline, (2) owned in whole or in part by Airline or its parent company, (3) owns Airline in part, or (4) so affiliated with Airline or its parent company by virtue of a code sharing agreement and in any case shall have been designated in writing by Airline as an Affiliated Airline Company. Airline shall be responsible for and unconditionally guarantees the payment of rentals, fees, and charges, including Passenger Facility Charges by its Affiliated Airline Company. An Affiliated Airline Company hosted by Airline will pay rates, fees, and charges at the rate charged to Airline.
- (b) “Air Transportation Business” shall mean that business operated by an Airline for the commercial transportation by air of persons, property, mail, parcels, and cargo at one or more of the Airports.
- (c) “Air Transportation Company” shall mean a legal entity engaged in the business of scheduled or non-scheduled commercial transportation by air of person, property, mail, parcels, and cargo and authorized by the Authority to conduct such business at one or more of the Airports.
- (d) “Aircraft” shall mean and include any and all contrivances, now or hereafter used for the navigation of or flight in air or space, including, but not limited to, airplanes, airships, dirigibles, helicopters, gliders, amphibians, and seaplanes.
- (e) “Airfield” shall mean the Landing Area and the Ramp Area of an Airport.
- (f) “Airfield Cost ~~and Revenue~~ Center” shall include ~~all the aggregate~~ Capital Charges, ~~and~~ all direct and indirect Operation and Maintenance Expenses, ~~and Revenues for an allocable to all Airfields in the Airport AirfieldSystem,~~ as ~~such Airfields~~ may be ~~revised~~changed from time to time.
- (g) “Airline” shall mean an Air Transportation Company, including any Affiliates of Airline, engaged in the business of scheduled or non-scheduled commercial transportation by air of persons, property, cargo, or mail.
- (h) “Airline Assigned Area or Assigned Area” shall mean those areas in a Terminal the Authority has licensed for use by an Airline as Preferential Use Premises or Common Use Premises, or licensed for use by Airlines on a per use basis.

~~(i)~~ —“~~Airline-Supported Areas~~” shall mean the direct and indirect Operation and Maintenance Expenses and Capital Charges charged to the Airfield Cost and Revenue Center and the Terminal Cost and Revenue Center.

~~(j)~~ —

~~(k)~~(i) “Airport” shall mean an Authority owned Airport within the Airport System, including Francisco C Ada/Saipan International Airport, Benjamin Taisacan Manglona International Airport, Tinian International Airport, Pagan Airport together with all appurtenances thereto, structures, buildings, fixtures, and all tangible personal property now or hereafter owned, leased, or operated by the Authority.

~~(h)~~(j) “Airport Rules and Regulations” shall mean the rules and regulations as set forth in Northern Mariana Islands Administrative Code (NMIAC) Subchapter 40-10.1 and subsequent amendments thereto.

~~(m)~~(k) “Airport System” shall mean all Airports owned and operated by the Authority and which includes Francisco C Ada/Saipan International Airport, Benjamin Taisacan Manglona International Airport, and Tinian International Airport, together with all appurtenances thereto, structures, buildings, fixtures, and all tangible personal property now or hereafter owned, leased, or operated by the Authority.

~~(n)~~(l) “Authority” shall mean the Commonwealth Ports Authority, a public corporation created, organized and existing under Title 2, Section 2101 et seq., Commonwealth Code, Commonwealth of the Northern Mariana Islands.

~~(o)~~(m) “Bond Resolution” shall mean Resolution No. 02-98, dated March 4, 1998, as supplemented and amended from time to time authorizing the issuance by the Authority of Bonds or other financing obligations with respect to the Airport System or any successor resolution, indenture, or trust agreement.

~~(p)~~(n) “Bonds” shall mean any bonds or other financing instrument or obligation of the Authority, other than Subordinated Bonds, issued for the purposes of improving the Airport System, all pursuant to the Bond Resolution.

~~(q)~~(o) “Capital Charges” shall mean with respect to any Fiscal Year, the sum of Debt Service (exclusive of capitalized interest) and Other Debt Service payable by Authority in that Fiscal Year; plus Debt Service Coverage.

~~(r)~~(p) “Common Use Formula” shall mean that formula which prorates one hundred percent (100%) of the cost of a ~~service or~~ Common Use space within a Terminal based on the ratio of each Scheduled Air Carrier’s Enplaned Passengers using the service or space at an Airport during the month, to the total of all Enplaned Passengers using the service or space at an Airport during the month. Notwithstanding the foregoing, Authority shall, after completion of any promotional offering, adjust the computation to reflect enplanements of additional Scheduled Air Carriers at an Airport or after the deletion of a Scheduled Air Carrier at an Airport.

~~(s)~~(q) “Common Use Premises” shall mean space managed by Authority that may be made available to an Airline from time to time for use in common with other Airlines, as assigned by the Executive Director, subject to these Airport Rules and Regulations.

~~“Cost and Revenue Centers” shall mean those areas of functional activities of an Airport used for the purposes of accounting for Revenues, Operation and Maintenance Expenses, and Capital Charges.~~

~~(t)~~(r) “Cost Centers” shall mean those areas or functional activities of an Airport used for the purposes of accounting for Operation and Maintenance Expenses and Capital Charges.

~~(u)~~(s) “Debt Service” shall mean with respect to any series of Bonds, the total, as of any particular date of computation and for any particular period or year, of the aggregate amount required pursuant to the Bond Resolution to be deposited during such period or year in the Bond Fund, as that term is defined in the Bond Resolution.

~~(v)~~(t) “Debt Service Coverage” shall mean one hundred and twenty-five percent (125%) of the debt service payable in each Fiscal Year as stated in Section 6.11 of the ~~Bond~~-Indenture (adjusted as may be permitted under the ~~Bond~~-Indenture).

~~(w)~~(u) “Deplaned Passenger” shall mean any passenger disembarking an aircraft at a Terminal, including any such passenger that shall subsequently board another aircraft of the same or a different Air Transportation Company or the same aircraft, previously operating under a different flight number.

~~(x)~~(v) “Enplaned Passenger” shall mean any passenger boarding an aircraft at a Terminal, including any such passenger that previously disembarked from another aircraft of the same or a different Air Transportation Company or from the same aircraft, previously operating under a different flight number.

~~(y)~~(w) “Executive Director” shall mean the Executive Director of the Authority or his duly authorized representative.

~~“Extraordinary Coverage Protection” shall mean the requirements set forth in Section § 40-10.1-120~~

~~(z)~~(x) “FAA” shall mean the Federal Aviation Administration, or its authorized successors.

~~(aa)~~(y) “Federal Aviation Regulations” shall mean the United States Federal Aviation Regulations, as currently amended, and promulgated by the United States Federal Aviation Administration.

~~(bb)~~(z) “Fiscal Year” shall mean the annual accounting period of the Authority for its general accounting purposes which is the period of twelve consecutive months, ending with the last day of September of any year.

~~(ee)~~(aa) “Fuel handling” shall mean the transportation, delivery, fueling, and draining of fuel or fuel waste products.

~~(dd)~~(bb) “Fuel storage area” shall mean and include any portions of the airport designated temporarily or permanently by the Authority as areas in which gasoline or any other type of fuel may be stored, including but not limited to, gasoline tank farms and bulkheads, piers, or wharves at which fuel is loaded.

(cc) “Gate” shall mean means the area(s) on the secure side of a Terminal that transition the passenger from the Terminal to an Airline’s aircraft and includes a holdroom, landing bridge, pre-conditioned air and power systems.

~~(ee)~~(dd) “General Aviation” shall mean all phases of aviation other than military aviation and scheduled or non-scheduled commercial air carrier operations.

~~(ff)~~(ee) “General Aviation Operator” shall mean a Person conducting civil aviation operations other than scheduled or non-scheduled Air Transportation Companies.

~~(gg)~~(ff) “Hazardous Material” shall mean: (1) any oil petroleum products, flammable substances, explosives, radioactive materials, hazardous wastes or substances, toxic wastes or substances or any other wastes, materials or pollutants which pose a hazard to the Airport System premises or to the safety and/or health of persons on or about the Airport System and/or cause an Airline Assigned Area to be in violation of federal, Commonwealth, or local laws governing or regulating hazardous materials; (2) asbestos in any form, urea formaldehyde foam insulation, transformers or other equipment which contains dielectric fluid containing regulated levels of polychlorinated biphenyls, or radon gas; (3) any chemical, material or substance defined as or included in the definition of “hazardous substances”, “hazardous waste”, “hazardous material”, “extremely hazardous waste”, “restricted hazardous waste”, “toxic substance” or similar words under any applicable local, Commonwealth, or federal laws, or any regulations promulgated pursuant thereto, including, but not limited to: the Comprehensive Environmental Response, Compensation Act of 1980 (CERCLA), as amended, 42 U.S.C. §§ 9601 et seq; the Hazardous Materials Transportation Act, as amended, 49 U.S.C. §§ 5101, et. seq.; the Federal Water Pollution Control Act (CWA), 33 U.S.C. §§ 1251 et. seq.; the Resource Conservation and Recovery Act (RCRA), as amended, 42 U.S.C. §§ 6901 et. seq.; the Toxic Substances Control Act (TSCA), as amended, 15 U.S.C. §§ 2601 et. seq; or defined by the US DOT Pipeline and Hazardous Materials safety admin in 49 Code of Federal Regulations (CFR) 172.101. Also applicable are the Commonwealth of the Northern Mariana Islands (CNMI) BECQ Harmful Substance & Hazardous Waste Regulations; Pesticide and Used Oil Regulations; Storage Tanks: Aboveground & Underground Regulations and Solid Waste Management Regulations; (4) any other chemical, material or substance, exposure to which

is prohibited, limited or regulated by government authority, and which may pose a hazard to the health and safety of occupants of the Airport System, and or to any person entering upon the Airport System or adjacent property; and/or (5) any other chemical, material or substance which may pose a hazard to the environment or persons.

~~(hh)~~(gg) “Indenture” shall mean that certain bond indenture dated March 1, 1998 authorizing the issuance of \$20,050,000.00 Senior Series A, Airport System Revenue Bonds, authorized by the Bond Resolution, and successor indentures.

~~(ii)~~(hh) “Landing Area” shall mean those portions of an Airport provided for the landing, taking off, and taxiing of aircraft, including without limitation, approach and turning zones, aviation or other easements, runways, taxiways, runway and taxiway lights, and other appurtenances in connection therewith.

~~(jj)~~(ii) “Landing Fee” shall mean a fee expressed in tenths of a cent per thousand pounds of the Maximum Gross Landed Weight of each type of Airline’s aircraft and shall be multiplied by the total of all Maximum Gross Landed Weight for all Revenue Landings of each type of aircraft landed at the Airport System by Airline as further specified in Section 40-10.1-1205.

~~(kk)~~(jj) “Letter of Authorization” shall mean a letter issued by the Authority which constitutes a permit by the Authority authorizing an Air Transportation Company with the requisite federal regulatory approvals to conduct Air Transportation Business at an Airport or Airports and to use and occupy certain premises at an Airport or Airports in compliance with the terms of the Airport Rules and Regulations.

~~(ll)~~(kk) “Maintenance and Operation Expenses” shall mean “Maintenance and Operation Expenses” as defined in the Indenture including the current expenses, paid or accrued, of operation, maintenance, and ordinary current repairs of an Airport and shall include, without limiting the generality of the foregoing, insurance premiums, administrative expenses of the Authority relating solely to said Airport, including engineering, architectural, legal, consultants, and accounting fees and expenses as shall be in accordance with sound accounting practice. “Maintenance and Operation Expenses” shall not include any allowance for depreciation or renewals or replacements or obsolescence of capital assets of the Authority, or any operation and maintenance expenses of Special Purpose as that term is defined in the Bond Resolution, facilities buildings where the lessees thereof are obligated to pay such operation and maintenance expenses.

~~(mm)~~(ll) “Maximum Gross Landed Weight” shall mean the maximum gross certificated landing weight in one-thousand-pound units for which each aircraft operated at an Airport by Airline as certificated by the FAA ~~or its successor~~.

~~(nn)~~(mm) “Net Requirement” shall mean, with respect to a Terminal, the direct and indirect Maintenance and Operation Expenses for said Terminal and reserves required by the Indenture, plus its proportional share of Capital Charges, less reimbursements; with respect to an Airfield, the direct and indirect Maintenance and Operation Expenses for the Airfield and reserves therefore, plus the proportional share of Capital Charges, as further specified in Sections 40-10.1-1205 and 40-10.1-1206.

~~(oo)~~(nn) “Operational Area” shall mean any place on an Airport not leased or demised to a Person for exclusive use, and not a public area, highway, or public vehicular area. Operational Areas include runways, public taxiways, Ramp Areas, Public cargo ramp and apron areas, public aircraft parking and storage areas, Terminal Aircraft Aprons, and Fuel storage areas.

~~(pp)~~(oo) “Operator” shall mean the owner of an aircraft or any person who is using an aircraft for the purpose of operation by himself or his agents.

~~(qq)~~(pp) “Other Debt Service” shall mean any principal, interest, premium, and other fees and amounts, either paid or accrued, on Other Indebtedness of Authority.

~~(rr)~~(qq) “Other Indebtedness” shall mean any debt incurred by Authority for Airport System purposes that is outstanding and not authenticated and delivered under and pursuant to the Indenture.

~~(ss)~~(rr) “Passenger Facility Charge” or “PFC” shall mean the fees authorized by 49 U.S.C. 40117 and regulated by 14 CFR Part 158 as such statute and regulations currently exist or as they may be amended.

~~(tt) — “Per Use Fee” shall mean a charge assessed by the Authority for each use of an unassigned aircraft gate facility and / or an unassigned ticket counter for a period not to exceed two (2) hours. The gate facility includes holdroom, loading bridge, pre-conditioned air, and 400 Hertz (Hz) power systems. A ticket counter shall include one 2 position ticket counter. Per Use Fees shall not apply to the use of gate facilities or ticket counters that are included in an Air Transportation Company’s Preferential Use Premises pursuant to a Letter of Authorization issued by the Authority. The location of an aircraft gate facility and / or ticket counter will be assigned by the Executive Director and will be contingent upon the size of the aircraft operating at the Airport.~~

~~(uu) —~~
(vv)(ss) “Permission” or “permit” shall mean permission granted by the Executive Director unless otherwise herein specifically provided. “Permission” or “permit” whenever required by this chapter shall always mean written permission, except that verbal permission in specific instances may be granted under special circumstances where the obtaining of written permission would not be practicable.

~~(ww)~~(tt) “Person” shall mean any individual, firm, partnership, co-partnership, corporation, trust association, or company (including any assignee, receiver, trustee, or similar representatives thereof) or the United States of America, any state or political subdivision thereof, any foreign government, or the United Nations.

~~(xx)~~(uu) “Preferential Use Premises” shall mean those portions of a Terminal and Terminal Aircraft Apron to which an Airline has been assigned priority rights over all other users, subject to the provisions of these se Airport Rules and Regulations.

~~(yy)(vv)~~ “Public aircraft parking and storage area” shall mean that area of an Airport to be used for public aircraft parking and storage space for the parking and storing of aircraft, or for the servicing of aircraft with fuel, lubricants, and other supplies, or for making emergency repairs to aircraft, or for any or all such purposes.

~~(zz)(ww)~~ “Public cargo ramp and apron area” shall mean and include any portions of an Airport designated and made available temporarily or permanently by the Authority for the loading or unloading of, cargo, freight, mail, and supplies, to and from aircraft, and for performing those operations commonly known as “ramp service,” and for performing inspections, minor maintenance, and other services upon or in connection with aircraft incidental to performing “ramp service,” but shall not mean those areas designated for the storage of cargo, freight, mail, and supplies, nor those areas designated for the purpose of performing fueling and other ramp services, or those areas designated for the purpose of parking operations.

~~(aaa)(xx)~~ “Public Space” shall mean all utility rooms, duct-ways, janitorial rooms and closets, stairways, hallways, elevators, escalators, entranceways, public or common use lobbies and areas, public toilet areas and other areas used for the operation, maintenance, or security of a Terminal, even if used solely by Authority.

~~(bbb)(yy)~~ “Public taxiway” shall mean and include any public taxiways designated for the purpose of the ground movement of aircraft on an Airport.

~~(eee)(zz)~~ “Public vehicular parking area” shall mean and include any portion of an Airport designated and made available, temporarily, or permanently, by the Authority for the parking of vehicles.

~~(ddd)(aaa)~~ “Ramp Area” shall mean the aircraft parking and maneuvering areas adjacent to a Terminal, and shall include within its boundaries all Terminal Aircraft Aprons.

~~(bbb)~~ “Rentable Premises” means the sum of the total square footage of assigned and unassigned Preferential Use Premises, Common Use Premises and other space within the Terminals that are available for rent by Airlines or other users of the Terminals.

~~(eee)(ccc)~~ “Revenue Landing” shall mean any aircraft landing by Airline at an Airport for which Airline receives revenue.

~~(fff)~~ “Revenues” shall mean Revenues as defined in the Indenture including income accrued by the Authority in accordance with generally accepted accounting principles, including investment earnings, from or in connection with the ownership or operation of the Airport System or any part thereof, or the leasing or use thereof, but do not include PFC’s except as authorized for the payment of Debt Service and Debt Service Coverage.

~~(ggg)~~—

~~(hhh)~~(ddd) “Rota Terminal” shall mean the Benjamin Taisacan Manglona International Airport terminal building, associated curbside entrance areas, adjoining landscaped areas, and aircraft aprons at the Benjamin Taisacan Manglona International Airport terminal building.

~~(iii)~~(eee) “Runway area” shall mean and include any portion of the paved runway as well as the clear zones and field area to the lateral clearance lines of said runway.

~~(jjj)~~(fff) “Saipan Commuter Terminal” shall mean the Francisco C. Ada/Saipan International Airport terminal building for passengers flying within CNMI, associated curbside entrance areas, adjoining landscaped areas and aircraft aprons at the Francisco C. Ada/Saipan International Airport terminal building for passengers flying within CNMI as well as to and from Guam.

~~(kkk)~~(ggg) “Saipan Main Terminal” shall mean the Francisco C. Ada/Saipan International Airport international passenger terminal building, associated curbside entrance areas, and aircraft aprons at the Francisco C Ada/Saipan International Airport terminal building.

~~(Hh)~~(hhh) “Scheduled Air Carrier” shall mean any Air Transportation Company performing or desiring to perform, pursuant to published schedules, seasonal or non-seasonal commercial air transportation services over specified routes to and from an Airport or Airports and holding the necessary authority from the appropriate federal or Commonwealth agencies to provide such transportation; and any Air Transportation Company authorized to use the Airports under a Letter of Authorization.

~~(mmm)~~(iii) “Sightseeing flights” shall mean flights on which passengers are carried for hire, and which originate and terminate at an Airport with no intermediate stops other than emergency stops.

~~(nnn)~~(jjj) “Shall” means mandatory and not merely directory.

~~(ooo)~~(kkk) “Subordinated Bond Indenture” shall mean an indenture or trust agreement subordinated to the Indenture authorizing the issuance by Authority of Subordinated Bonds, as such may be supplemented or amended from time to time.

~~(ppp)~~(lll) “Subordinated Bonds” shall mean any bonds or other financing instrument or obligation subordinate to the Bonds, issued pursuant to any Subordinated Bond Indenture.

~~(qqq)~~(mmm) “Terminal Aircraft Aprons” shall mean those areas of an Airport— that are designated for the parking of passenger aircraft and support vehicles, and the loading and unloading of passenger aircraft.

~~(fff)(nnn)~~ “Terminal” shall mean the Francisco C. Ada/Saipan International Airport Commuter Terminal Building and Temporary Commuter area, Francisco C. Ada/Saipan International Airport Main Terminal Building, Benjamin Taisacan Manglona International Airport Terminal Building or Tinian Terminal Building and appending structures, law enforcement and security activities, paging systems, multi-user flight information display systems, and terminal roadway systems including entrance/exit/recirculating roadways, terminal curb front, and taxi/bus/staging areas, but excluding roadways exclusively serving the public parking areas.

~~(sss)(ooo)~~ “Terminal Cost ~~and Revenue~~ Center” shall include all Capital Charges, and all direct, indirect, and general administrative Operation and Maintenance Expenses, ~~and Revenues~~ for a Terminal.

~~(ppp)~~ “Terminal Rental Rate” shall mean the ~~fees and charges imposed~~ rates calculated in accordance with Section 40-10.1-1206.

~~(ttt)(qqq)~~ “Ticket Counter” shall mean those areas in a Terminal designated by the Authority on a per square foot basis for the use of a Terminal, by Airlines for ticketing and processing passengers and their baggage, and similar activities, including associated queueing areas.

~~(uuu)(rrr)~~ “Tinian Terminal” shall mean the Tinian International Airport terminal building, associated curbside entrance areas, adjoining landscaped areas, and aircraft aprons at the Tinian International Airport.

~~(vvv)(sss)~~ “Transportation Security Administration” or “TSA” shall mean the Office of Homeland Security and Transportation Security Administration, or their authorized successors.

~~(ttt)~~ “Turn” means the arrival and departure of an aircraft from a Gate.

~~(uuu)~~ “Turn Fees” shall mean a charge assessed by the Authority for each use of an unassigned Gate or Ticket Counter for a period not to exceed two (2) hours, as further specified in Section 40-10.1-1206. Turn Fees shall not apply to the use of Gates Ticket Counters that are included in an Airline’s Preferential Use Premises pursuant to a Letter of Authorization. The location of a Gate or Ticket Counter will be assigned by the Executive Director and will be contingent upon the size of the aircraft operating at the Airport.

~~(www)(vvv)~~ “Vehicles” shall mean and include automobiles, trucks, buses, motorcycles, horse-drawn vehicles, bicycles, push carts, and any other device in or upon or by which any person or property is or may be transported, carried, or drawn upon land, aircraft excluded.

~~(xxx)(www)~~ The words “ingress” and “egress” shall refer to the use of an area, or portion of an Airport, as a means of going from one place to another without undue delay.

Modified, 1 CMC § 3806(d), (f), (g).

History: Amdts Adopted 39 Com. Reg. 39216 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39062 (Dec. 28, 2016); Adopted 14 Com. Reg. 9534 (Aug. 15, 1992); Proposed 14 Com. Reg. 9079 (Mar. 15, 1992).

Commission Comment: In subsections (c) and (●), the Commission moved a period and a comma, respectively, inside of the closing quotation marks to correct manifest errors. The Commission inserted a close quotation mark after the word “permission” in subsection (k) pursuant to 1 CMC § 3806(g). In subsection (u), the Commission inserted an opening quotation mark before “egress.”

§ 40-10.1-1201 Airline Fees and ChargesRate Methodology and Adjustments

~~(a) — Airline shall pay Authority for use of Airline Assigned Area, and fees and charges for the other rights, licenses, and privileges granted under its Letter of Authorization including rentals, fees, and charges payable by Airline with respect to the Airfield Cost and Revenue Center and Terminal Cost and Revenue Center. The rentals, fees, and charges for each of these Cost and Revenue Centers shall be equal to the Airline's share of the Net Requirement in each respective area of the Airport. Landing Fees and Terminal Rental Rates will be calculated annually unless otherwise modified by the Authority as provided herein.~~

~~(b) — Accounting Procedure.~~

- ~~1. — For purposes of assigning and allocating costs, the Authority shall utilize generally accepted accounting practices utilized for airports operating as an enterprise fund, and include only those charges properly attributable to the Airport System.~~
- ~~2. — All rates and charges shall be at reasonable and non-discriminatory rates and adjusted annually based on Authority's cost, as defined in the Airport Rules and Regulations, of the facility or service provided to and used by Airline.~~
- ~~3. — Indirect and general administrative costs shall be allocated in a reasonable, transparent cost allocation formula calculated consistently for all cost centers of the Authority.~~

~~(c) — Cost Excluded.~~

- ~~1. — The portion of capital costs of facilities and improvements paid by the Federal government or other governmental gifts or grant in aid, and depreciation, shall not be included in the cost factors in determining the establishment of rates and charges.~~

~~1. — Insufficiency of Airport System Revenues, Adjustment of Fees and Charges~~

- ~~1. — If at any time the Authority determines that Airport Revenues are or will be insufficient to pay, when due, all principal of and interest and premium on, any Bonds or other instruments of indebtedness issued by the Authority in connection with the Airport System, any requirements of the Airport Indenture or any other expense or cost incidental or necessary to, or arising out of, the maintenance or operation of the Airport System, including without limitation, emergency repairs or expenses, the costs of defending, settling, or satisfying any litigation which relates to the Airport System, or any aspect thereof, or to compensate for the loss of Airport System Revenue, the Authority may, upon thirty (30) days' notice to Airline, increase the fees and charges to such amount as is sufficient to assure that all such items, expenses, and costs shall be paid in full, when due, solely from Airport System Revenues.~~

2. ~~Airline shall pay Extraordinary Coverage Protection payments in any Fiscal Year in which the amount of Revenues less Operating and Maintenance Expenses is projected to be less than one hundred twenty-five percent (125%) of the Debt Service requirement. Any amounts which must be collected for such Extraordinary Coverage Protection payments will be allocated to Cost and Revenue Centers within the Airline Supported Areas on the basis of the Net Requirement of such Cost and Revenue Centers.~~

(a) **Airline Rents, Fees, and Charges.** The fees and rents to be charged by the Authority and paid by Airlines operating at the Airports for their use of the Airfields and the Terminals will be calculated using the compensatory rate-setting methods set forth in this Part 1200 (the "Rate Methodology"). In calculating the revenue requirements used to derive each of these kinds of rates and charges, the Authority shall exclude any cost (net of the cost of collection) that (a) has been reimbursed or covered by government grants or PFC's, (b) has been reimbursed or covered by any insurance recovery, condemnation proceeds or other third-party payment, or (c) has been reimbursed or is required to be reimbursed to the Authority by an individual Airline in connection with projects undertaken by the Authority at the request and for the benefit of an individual Airline. For each Fiscal Year, the Authority shall develop budgeted Landing Fees, Terminal Rental Rates, Common Use Charges and Per Use Fees (collectively, the "Airline Rents, Fees, and Charges"). Illustrative calculations of Airline Rents, Fees, and Charges are provided in Exhibit X.

(b) **Mid-Year Adjustments.** If it appears to the Authority on the basis of information it is able to accumulate during the course of any Fiscal Year that the budgeted Capital Charges and Maintenance or Operation Expenses or projected levels of Airline activity it has used to calculate the Airline Rents, Fees, and Charges set forth in the Rate Methodology are likely to vary significantly (higher or lower) from actual results, the Authority may make adjustments to such rates and charges at mid-year or at such other time during the calendar year (a) as the need for such an adjustment becomes apparent to the Authority or (b) the variance between the budgeted Capital Charges and Maintenance and Operation Expenses or projected levels of Airline activity and actual results is expected to be ten percent (10%) or more. The Authority shall provide Airlines operating at the Airports with at least thirty (30) days advance written notice ("Mid-Year Adjustment Notice") of any adjustments to be made under this Section 1.02.

(c) **Year-End True-Up.** Within one hundred eighty (180) days after completion of the audit for the preceding Fiscal Year, the Authority will recalculate the Airline Rents, Fees, and Charges as set forth in this Rate Methodology on the basis of actual Capital Charges and Maintenance and Operation Expenses, Airline activity and other factors affecting the prescribed calculations and shall determine the amount of any overpayment (credit) or underpayment (debit) due to or from Airline. Any resulting credit will be issued to Airline, and any resulting debit will be invoiced to and payable by Airline. Airline may request that the Authority issue a payment to Airline, instead of a credit, for all or a portion of any overpayment. Any such request must be made in writing to the Authority and the Authority shall submit a payment for the amount requested within 90 days of receipt of the request.

(d) **Cost Centers.** To allocate Capital Charges and Maintenance and Operation Expenses, the following Centers shall be utilized by Authority:

(1) **Direct Cost Centers.** Includes Airfield, Saipan Main Terminal, Saipan Commuter Terminal, Rota Terminal, Tinian Terminal and Non-Airline and are defined below:

- (a) Airfield. The Airfield cost center includes the portion of the Airports provided for the landing, taking off, and taxiing of aircraft, including runways, taxiways, approach and runway protection zones, safety areas, infield areas, landing and navigational aids, and land areas required by or related to aeronautical use of the Airports.
- (b) Saipan Main Terminal. The Saipan Main Terminal cost center includes the Saipan International Airport main terminal passenger building and associated curbside entrance areas and adjoining landscaped areas. This cost center also includes the aircraft aprons at the Main Terminal.
- (c) Saipan Commuter Terminal. The Commuter Terminal cost center includes the Commuter Terminal building and associated curbside entrance areas, and aircraft aprons at the Commuter Terminal.
- (d) Rota Terminal. The Rota Terminal cost center includes the Rota Terminal building, associated curbside entrance areas, and aircraft aprons at the Rota Terminal.
- (e) Tinian Terminal. The Tinian Terminal cost center includes the Tinian Terminal building, associated curbside entrance areas, and aircraft aprons at the Tinian Terminal.
- (f) Non-Airline. The Non-Airline cost center includes all structures and areas other than those included in the Airfield, Saipan Main Terminal, Saipan Commuter Terminal, Rota Terminal and Tinian Terminal.

(2) **Indirect Cost Centers.** Includes ARFF, Security, Administrative, , Accounting and AAS:

- (a) ARFF. The ARFF cost center includes all aircraft rescue and firefighting functions of the Airport System.
- (b) Security. The Security cost center includes all functions of the Airport System related to security.
- (c) Administrative. The Administrative cost center includes the administrative functions of the Airport System.
- (d) Accounting. The Accounting cost center includes accounting functions of the Airport System.
- (e) AAS. The AAS cost center includes weather observation functions of the Airport System.

To calculate Airline Rents, Fees, and Charges, the Authority shall account for and allocate annual Maintenance and Operation Expenses and Capital Charges to the Direct Cost Centers and the Indirect Cost Centers. The Maintenance and Operation Expenses and Capital Charges allocated to the Indirect Cost Centers will then be allocated to the Direct Cost Centers based on cost causation principles and airport industry standards.

§ 40-10.1-1205

Landing Fees

(a) **Landing Fees.** Each Airline shall pay Landing Fees for its use of the Airfields within the Airport System based on its Maximum Gross Landed Weight at the Airports during the Fiscal Year. The Landing Fees effective October 1st of each Fiscal Year shall be determined according to the rate-setting method set forth in this Section 40-10.1-1205(a)-----).

(1) **Airfield Net Requirement.** The Authority shall calculate the Airfield Net Requirement as follows for each Fiscal Year:

(a) the sum of Maintenance and Operation Expenses and Capital Charges allocable to the Airfields in the Airport System; *minus*

(b) any federal, State, or local grants or PFCs that are allocable to the Airfields in the Airport System.

(2) **Calculation of Landing Fees.** The Authority shall calculate the Average Landing Fee for each Fiscal Year by dividing by the cumulative Maximum Gross Landed Weight of all Airlines in the Airport System for the Fiscal Year. The Authority shall then calculate a Saipan Main Terminal Landing Fee and a Commuter Terminal Landing Fee such that the Commuter Terminal Landing Fee is sixty percent (60%) of the Saipan Main Terminal Landing Fee. Aircraft utilizing the Saipan Main Terminal shall pay the Saipan Main Terminal Landing Fee and Aircraft utilizing the Saipan Commuter Terminal or landing at Rota Airport or Tinian Airport shall pay the Commuter Terminal Landing Fee.

(+)(3) **Payment of Landing Fees.** Each Airline shall pay monthly to the Authority the applicable Landing Fees for Revenue Landings for the preceding month: upon receipt of invoice from the Authority. Airline's Landing Fees shall be determined as the product of the applicable Landing Fee rate for the period, and Airline's total landed weight for the month. Airline's landed weight for the month shall be determined as the sum of the products obtained by multiplying the Maximum Gross Landed Weight of each type of Airline's aircraft by the number of Revenue Landings of each said aircraft during such month.

(2)-----

(3)(4) (b)-----Exemptions. Exempted from paying landing fees are diplomatic, U.S. military, and Mariana Islands government aircraft, and any other aircraft operator which has a valid written agreement with the Authority, which provides for landing fees other than as provided for in this section.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 21 Com. Reg. 16803 (June 23, 1999); Amdts Proposed 21 Com. Reg. 16693 (Apr. 19, 1999); Adopted 14 Com. Reg. 9534 (Aug. 15, 1992); Proposed 14 Com. Reg. 9079 (Mar. 15, 1992).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

The 1999 amendments amended and readopted sections (a), (b) and (c). The 1999 amendments provided: "The foregoing amendments to Part 12: Schedule of Fees and Charges of the Airport Rules and Regulations shall become effective March 1, 2000. Until then, the existing Schedule of Fees and Charges shall apply." 21 Com. Reg. at 16700 (April 19, 1999).

§ 40-10.1-1206 Terminal Rentals

(a) ~~(1)~~ — Airline's Terminal rentals Rental Rates. Each Airline shall be determined as the sum of Airline's rentals pay rent and fees for Preferential Use and Premises, Common Use Premises. Airline's rental payment for Preferential Charges and Per Use Premises shall be determined as Fees for its use of the Terminals in the sum of Airport System based on the products obtained by multiplying the rental rate for the period, by the amount of the corresponding type of space assigned to Airline as Preferential Use Premises.

Total Terminal rentals for Common Use Premises shall be calculated as the product of the Rental Rates. The Terminal Rental rate for the period, and the amount Rates effective October 1st of each category of Common Use Premises. Airline's share of the total Fiscal Year shall be determined according to the rate-setting method set forth in this Section 40-10.1-1206(a).

(1) Terminal Complex rentals due Net Requirement. The Authority shall calculate the Terminal Net Requirement as follows for each month Fiscal Year:

(a) the sum of Maintenance and Operation Expenses and Capital Charges allocable to the Terminals in the Airport System; minus

(b) any federal, State, or local grants or PFCs that are allocable to Terminals in the Airport System.

(2) Calculation of Terminal Rental Rates. The Authority shall calculate the Average Terminal Rental Rate by dividing the Terminal Net Requirement by the square footage of the Rentable Premises. The Authority shall then calculate a Saipan Main Terminal Rental Rate and a Commuter Terminal Rental Rate such that the Commuter Terminal Rental Rate is forty percent (40%) of the Saipan Main Terminal Rental Rate. Airlines utilizing the Saipan Main Terminal shall pay the Saipan Main Terminal Rental Rate and Airlines utilizing the Saipan Commuter Terminal, Rota Terminal or Tinian Terminal shall pay the Commuter Terminal Rental Rate.

(b) Rent for Preferential Use Premises. Each Airline shall pay rent to the Authority for any Preferential Use Premises assigned to the Airline in its Letter of Authorization by multiplying the applicable Terminal Rental Rate by the total square footage of the assigned Preferential Use Premises.

(c) Common Use Charges. Each Airline shall pay the Authority Common Use Charges for its use of Common Use Premises in each Terminal. The Common Use Charges for

each Terminal effective October 1st of each Fiscal Year shall be determined ~~in accordance with~~according to the Common Use Formula.

For inclusion in the Common Use Formula, each Airline shall include in its monthly report of Enplaned Passengers and Deplaned Passengers the total number of Enplaned Passengers and Deplaned Passengers handled or otherwise accommodated by the Airline for its Affiliated Airline Companies and other Air Transportation Companies handled by Airline and not having a Letter of Authorization from the Authority that provides for the direct payment to Authority of appropriate charges for the use of Common Use Premises.

~~(b) — § 40-10.1-1210 —~~ **Public Apron and Operational Area Charge**

~~(c) —~~

~~(d) — (a) — A minimum charge of twenty five dollars, or if greater, fifteen cents per thousand pounds maximum gross certified landing weight, as determined by FAA for said aircraft for each one hour, or fraction thereof, for parking on the public apron adjacent to the terminal building shall be paid to the Authority by the aircraft operator. The payment of which shall, in addition to permitting the parking of the aircraft, also permit the use by the aircraft crew and nonrevenue passengers of the public facilities in the departure building and on the airport (but not including use of the arrival building and in bound baggage handling facilities). Maximum time limit for aircraft apron use is three and one-half hours, after which aircraft must be moved to the public aircraft parking area.~~

~~(e) —~~

~~(f) — (b) — Exceptions:~~

~~(g) — (1) — Diplomatic, U.S. military, and Mariana Islands government aircraft.~~

~~(h) — (2) — Notwithstanding the foregoing terminal rental charge schedule, the Authority may provide to airlines servicing the airports of the Commonwealth, an airline incentive fee discount on the terminal rental charges and other airport fees and charges based on a discount rate which the Authority determines to be reasonable and appropriate under the circumstances, taking into account the Authority's financial condition, the Authority's future revenue projection, the Authority's revenue bond debt service obligations, and its operations and maintenance expenses. The airline incentive fee discount program is intended to encourage the airlines to bring in more visitors to the Commonwealth and stimulate its economy.~~

~~(i) —~~

(d) **Turn Fees.** Each Airline shall pay the Authority Turn Fees for its use of certain Ticket Counters and Gates in the Saipan Main Terminal. The Turn Fees effective October 1st of each Fiscal Year shall be determined according to the rate-setting methods set forth in this Section 40-10.1-1206(d).

(1) Turn Fee for Ticket Counters. The Authority shall calculate the Turn Fee for Ticket Counters by:

(a) Dividing the aggregate amount of Ticket Counter space assigned to Airlines at the Saipan Main Terminal by the total number of Ticket Counters assigned to Airlines at the Saipan Main Terminal to derive the Average Assigned Ticket Counter Space; then

(b) Multiplying the Average Assigned Ticket Counter Space by the Saipan Main Terminal Rental Rate to derive the Average Ticket Counter Cost; and then

(c) First dividing the Average Ticket Counter Cost by 365 days to derive a daily rate and then dividing the daily rate by the three.

(2) Turn Fee for Gates. The Authority shall calculate the Turn Fee for Gates by:

(a) Multiplying the average square footage of a Holdroom B Gate by the Saipan Main Terminal Rental Rate to derive the Average Cost of a Holdroom B Gate; and then

(b) First dividing the Average Cost of a Holdroom B Gate by 365 days to derive a daily rate and then dividing the daily rate by the average number of Turns per day.

(3) Payments for Terminal Rents, Fees and Charges. Each Airline shall pay monthly to the Authority the applicable rent for Preferential Use Premises, Common Use Charges and Turn Fees for the preceding month upon receipt of invoice from the Authority.

§ 40-10.1-1210 [RESERVED]

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 23 Com. Reg. 17842 (Apr. 23, 2001); Amdts Proposed 23 Com. Reg. 17614 (Jan. 19, 2001); Amdts Adopted 21 Com. Reg. 16803 (June 23, 1999); Amdts Proposed 21 Com. Reg. 16693 (Apr. 19, 1999); Adopted 14 Com. Reg. 9534 (Aug. 15, 1992); Proposed 14 Com. Reg. 9079 (Mar. 15, 1992).

Commission Comment: The 1999 amendments amended subsections (a) and (b). The 1999 amendments provided: "The foregoing amendments to Part 12: Schedule of Fees and Charges of the Airport Rules and Regulations shall become effective March 1, 2000. Until then, the existing Schedule of Fees and Charges shall apply." 21 Com. Reg. at 16700 (April 19, 1999).

The 2001 amendments added new subsections (c) and (d) and amended and readopted subsections (a) and (b). Subsection (d) refers to all of § 40-10.1-1215. See 23 Com. Reg. at 17619 (Jan. 19, 2001).

§ 40-10.1-1220 ~~International Arrival Facility Service Charge~~ [RESERVED]

(a) ~~To cover the added costs of operations and maintenance of the arrival terminal building for international deplaned passengers at the Authority's Airport, a service charge calculated on the~~

~~basis of two dollars and twenty cents per revenue passenger shall be paid to the Authority by every aircraft operator transporting international revenue passengers.~~

~~(b) — For purposes of this part, “international deplaned passengers” is defined as all those deplaned passengers at the Authority’s Airport whose departure did not originate in Tinian, Rota, Guam, and whose destination is Saipan.~~

Modified, 1 CMC § 3806(c), (f).

History: Adopted 14 Com. Reg. 9534 (Aug. 15, 1992); Proposed 14 Com. Reg. 9079 (Mar. 15, 1992).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

§ 40-10.1-1225 Aircraft Parking Charge**[RESERVED]**

~~Aircraft shall be parked at designated locations only.~~

~~(a) — For aircraft paying the public apron and Operational Area charges cited in § 40-10.1-1210, aircraft parking charges shall be three cents per thousand pounds maximum gross certified landing weight as determined by FAA for said aircraft for each twenty-four hours, or fraction thereof, beginning at the time the aircraft moves to the parking area from the public apron.~~

~~(b) — For aircraft not requiring use of the public apron and thus not subject to a charge thereof, aircraft parking charges shall be a minimum of five dollars, or three cents per thousand pounds for each twenty-four hours, or fraction thereof, thereafter.~~

~~(c) — Monthly rates shall be twenty two times the daily rate. All such charges shall be paid by the aircraft operator to the Authority prior to departure of the aircraft from the assigned parking position.~~

~~(d) — Locally based aircraft parked in areas designated by the Executive Director for such purpose shall pay fifteen dollars per month, payable in advance.~~

~~(e) — Exceptions:~~

~~(1) — Diplomatic, U.S. military, and Mariana Islands government aircraft.~~

~~Modified, 1 CMC § 3806(c), (d), (e), (f), (g).~~

History: Adopted 14 Com. Reg. 9534 (Aug. 15, 1992); Proposed 14 Com. Reg. 9079 (Mar. 15, 1992).

Commission Comment: The final paragraph was not designated. The Commission designated it subsection (e).

In subsection (b), the Commission changed "hall" to "shall" to correct a manifest error.

§ 40-10.1-1230 **~~In-transit Passenger Service Charge~~[RESERVED]**

~~(a) — Any operator using the airport for an in-transit stop (i.e., not involving airport-originating or terminating passengers) shall pay a service charge of a minimum of ten dollars or, if greater, a service charge calculated on the basis of thirty five cents for each in-transit passenger to cover the costs of operating and maintaining the public use portion of a Terminal utilized by said in-transit passengers.~~

~~(b) — Exceptions:~~

~~(1) — Diplomatic, U.S. military, and Mariana Islands government aircraft.~~

Modified. 1 CMC § 3806(c), (e), (f).

History: Adopted 14 Com. Reg. 9534 (Aug. 15, 1992); Proposed 14 Com. Reg. 9079 (Mar. 15, 1992).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

§ 40-10.1-1257 **~~Amendment of Fees and Charges~~[RESERVED]**

~~Authority may, in the manner provided in this Part 1200, amend any of the fees and charges specified in the Airport Rules and Regulations by Resolution. Authority shall approve the budget and the corresponding amendments to such fees and charges by September 1st of each year. Except when Authority acts pursuant to the provision of Section 1201(d), all amendments of such fees and charges shall take effect at the beginning of the Authority's fiscal year (October 1st), and shall continue thereafter until revised in accordance with this Agreement.~~

EXHIBIT X

These exhibits are provided for illustrative purposes only.

Calculation of Landing Fees		
Airfield Expenses:		
Maintenance and Operation Expenses	A	\$4,836,057
Debt Service	B	\$448,737
Debt Service Coverage	C	\$112,184
Capital Charges	D	\$0
Total Airfield Maintenance and Operation Expenses	E=A+B+C+D	\$5,396,978
Less:		
PFC Revenues for Debt Service & Coverage	F	\$361,364
Federal Stimulus Funds for Debt Service	G	\$87,373
Federal Stimulus Funds for Maintenance and Operation Expenses	H	\$3,230,226
Net Airfield Requirement	I=E-F-G-H	\$1,718,015
Landed Weight (000):		
Saipan Main Terminal Landed Weight		207,989
Saipan Commuter Terminal Landed Weight		16,250
Rota Landed Weight		4,994
Tinian Landed Weight		11,256
Total Landed Weight	J	240,488
Landing Fees:		
Average Landing Fee (per 1,000 lbs.)	K=I/J	\$7.14

Calculation of Terminal Rental Rates		
Terminal Expenses:		
Maintenance and Operation Expenses	A	\$6,523,992
Debt Service	B	\$928,451
Debt Service Coverage	C	\$232,113
Capital Charges	D	\$0
Total Airport System Maintenance and Operation Expenses	E=A+B+C+D	\$7,684,555
Less:		
PFC Revenues for Debt Service & Coverage	F	\$158,525
Federal Stimulus Funds for Debt Service	G	\$769,926
Federal Stimulus Funds for Maintenance and Operation Expenses	H	\$5,573,822
Net Terminal Requirement	I=E-F-G-H	\$1,182,283
Total Airport System Terminal Rentable Premises (square feet)	J	232,916
Average Terminal Rental Rate (per square foot)	K=I/J	\$5.08

Calculation of Common Use Charges – Saipan Main Terminal		
Calculation of Common Use Charges:		
Total Saipan Main Terminal Common Use Premises (square feet)	A	71,210
Saipan Main Terminal Rental Rate (per square foot)	B	\$5.45
Total Common Use Charges - Saipan Main Terminal	C=AxB	\$387,865
Airline Percent of Total Enplanements:	D	%
Common Use Charges Allocated by Enplanement Market Share	E=CxD	\$

Calculation of Common Use Charges – Saipan Commuter Terminal		
Calculation of Common Use Charges:		
Total Saipan Commuter Common Use Premises (square feet)	A	1,005
Saipan Commuter Terminal Rental Rate (per square foot)	B	\$2.18
Total Common Use Charges - Saipan Commuter Terminal	C=AxB	\$2,190
Airline Percent of Total Enplanements:	D	%
Common Use Charges Allocated by Enplanement Market Share	E=CxD	\$

Calculation of Common Use Charges – Rota Terminal		
Calculation of Common Use Charges:		
Total Rota Common Use Premises (square feet)	A	4,254
Rota Terminal Rental Rate (per square foot)	B	\$2.18
Total Common Use Charges - Rota Terminal	C=AxB	\$9,274
Airline Percent of Total Enplanements:	D	%
Common Use Charges Allocated by Enplanement Market Share	E=CxD	\$

Calculation of Common Use Charges – Tinian Terminal		
Calculation of Common Use Charges:		
Total Tinian Common Use Premises (square feet)	A	1,527
Tinian Terminal Rental Rate (per square foot)	B	\$2.18
Total Common Use Charges - Tinian Terminal	C=AxB	\$3,329
Airline Percent of Total Enplanements:	D	%
Common Use Charges Allocated by Enplanement Market Share	E=CxD	\$

Calculation of Turn Fees - Ticket Counters		
Calculation of Turn Fee – Ticket Counters:		
Ground Floor - Total Assigned Ticket Counter Space (square feet)	A	1,800
Ground Floor - Total Assigned Airline Queuing Space (square feet)	B	4,975
Total Assigned Airline Ticket Counter Space (square feet)	C=A+B	6,775
Divided by Total Number of Assigned Ticket Counters	D	8
Average Leased Ticket Counter (square feet)	E=C/D	847
Average Terminal Rental Rate - Saipan Main	F	\$5.45
Cost of Average Ticket Counter	G=ExF	\$4,613
Divided by 365	H	365
Divided by 3 Turns	I	3
Turn Fee - Ticket Counters	J=G/H/I	\$4.21

Calculation of Turn Fees - Gates		
Calculation of Turn Fee - Gates:		
Second Floor - Average Holdroom B Gate Size (square feet)	A	6,109
Average Terminal Rental Rate - Saipan Main	B	\$5.45
Cost of Average Shared Gates	C=AxB	\$33,274
Average Loading Bridge Cost	D	\$96,000
Total Cost of Shared Gates	E=C+D	\$129,274
Divided by 365	F	365
Divided by 3 Turns	G	3
Turn Fee - Gates	H=E/F/G	\$118.06



Commonwealth of the Northern Mariana Islands

Department of Lands and Natural Resources

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PUBLIC NOTICE

PROPOSED AMENDMENTS TO SUBMERGED LAND REGULATIONS

The Secretary of the Department of Lands and Natural Resources (“DLNR”) hereby notifies the public that DLNR intends to promulgate amendments to its Submerged Land Rules and Regulations under Northern Mariana Islands Administrative Code (“NMIAC”) Title 145-60.

INTENDED ACTION TO ADOPT THESE PROPOSED AMENDMENTS TO THE SUBMERGED LAND RULES AND REGULATIONS OF THE DEPARTMENT OF LANDS AND NATURAL RESOURCES Notice is hereby given pursuant to 1 CMC § 9104(a) of the Administrative Procedure Act that the DLNR intends to promulgate the following additional provisions and revisions to its Submerged Land Rules and Regulations. The new Submerged Land Rules and Regulations will become effective 10 days after adoption and publication in the Commonwealth Register. 1 CMC § 9105(b).

TERMS, SUBSTANCE, AND DESCRIPTION OF THE SUBJECTS AND ISSUES INVOLVED.

The proposed revision shall amend NMIAC Title 145-60 to:

- Remove Submerged Lands Rules and Regulations from chapter 145 concerning the Department of Public Lands and relocating the subchapter to chapter 85, the chapter concerning the Department of Land and Natural Resources pursuant to 1 CMC § 2653(k) and 2 CMC §§ 1201 et seq.
- Change Mooring and Anchorage rules, regulations, and requirements for vessels over 100 feet.
- Give the Secretary discretion to require buffer zones around structures erected upon Submerged Lands.
- Remove non-mandatory guidance from the Submerged Lands Rules and Regulations.
- Clarify requirements for dredging projects.
- Change the Fee Structure for lease of submerged lands.

AUTHORITY. The Department of Lands and Natural Resources is authorized to promulgate rules and regulations necessary to carry out its duties. 1 CMC § 2653(r).

DIRECTIONS FOR FILING AND PUBLICATION. These proposed regulations to the NMIAC Submerged Land Rules and Regulations shall be published in the Commonwealth Register in the section on the 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 Anthony Benavente, Secretary of the DLNR by means of one of the following: email, fax, mail or hand-delivery to the DLNR Office of the Secretary located in Lower base, Saipan with the subject line **“Comments on Proposed Amendments to DLNR’s Submerged Land Rules and Regulations”**.

Caller Box 10007
Saipan, MP 96950
Fax No. (670) 322-2633
E-mail: tonytbenavente@gmail.com

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

Submitted by:



ANTHONY BENAVENTE
Secretary, DLNR

4/05/2022
Date

Received by:



Matilda A. Rosario
Special Assistant to the Administration

04/21/22
Date

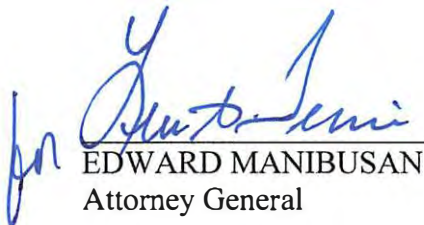
Filed and Recorded by:



ESTHER R.M. SAN NICOLAS
Commonwealth Registrar

04-22-2022
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

4/22/2022
Date



Commonwealth of the Northern Mariana Islands

Department of Lands and Natural Resources

Lower Base, Caller Box 10007
Saipan, MP 96950
Tel: 670-322-9830/34 Fax: 670-322-2633



PUBLIC NOTICE

PROPOSED AMENDMENTS TO SUBMERGED LAND REGULATIONS

The Secretary of the Department of Lands and Natural Resources (“DLNR”) hereby notifies the public that DLNR intends to promulgate amendments to its Submerged Land Rules and Regulations under Northern Mariana Islands Administrative Code (“NMIAC”) Title 145-60.

INTENDED ACTION TO ADOPT THESE PROPOSED AMENDMENTS TO THE SUBMERGED LAND RULES AND REGULATIONS OF THE DEPARTMENT OF LANDS AND NATURAL RESOURCES Notice is hereby given pursuant to 1 CMC § 9104(a) of the Administrative Procedure Act that the DLNR intends to promulgate the following additional provisions and revisions to its Submerged Land Rules and Regulations. The new Submerged Land Rules and Regulations will become effective 10 days after adoption and publication in the Commonwealth Register. 1 CMC § 9105(b).

TERMS, SUBSTANCE, AND DESCRIPTION OF THE SUBJECTS AND ISSUES INVOLVED. The proposed revision shall amend NMIAC Title 145-60, removing it from the chapter 145 concerning the Department of Public Lands and relocating the subchapter to chapter 85, the chapter concerning the Department of Land and Natural Resources pursuant to 1 CMC § 2653(k) and 2 CMC § 1201 et seq.

AUTHORITY. The Department of Lands and Natural Resources is authorized to promulgate rules and regulations necessary to carry out its duties. 1 CMC § 2653(r).

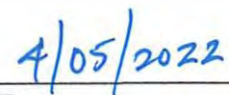
DIRECTIONS FOR FILING AND PUBLICATION. These proposed regulations to the NMIAC Submerged Land Rules and Regulations shall be published in the Commonwealth Register in the section on the proposed and newly adopted regulations, 1 CMC § 9102(a)(1), and posted in convenient places in the civic center and 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 Anthony Benavente, Secretary of the DLNR by means of one of the following: email, fax, mail or hand-delivery to the main DLNR Office of the Secretary located in Lower Base, Saipan with the subject line “Comments on Proposed Amendments to DLNR’s Submerged Land Rules and Regulations”.

Caller Box 10007
Saipan, MP 96950
Fax No. (670) 322-2633
E-mail: tonytbenavente@gmail.com

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

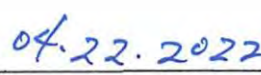
Submitted by: 
ANTHONY BENAVENTE
Secretary, DLNR


Date

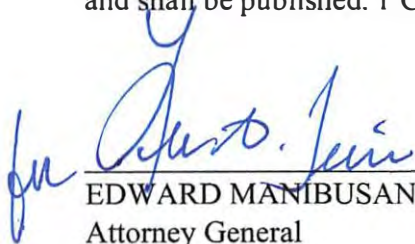
Received by: 
MATILDA A. ROSARIO
Special Assistant for Administration


Date

Filed and Recorded by: 
ESTHER R.M. SAN NICOLAS
Commonwealth Registrar


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


Date



NUTISIAN PUPBLIKU

I MANMAPROPONI NA AMENDA SIHA GI REGULASION I MAÑOKÑUK TĀNU'

I Sekretariun Dipåttamentun Tanu' yan Fengkas Naturåt ("DLNR") ha na'fanunungu' guini i pupbliku i intensiona na i DLNR ha intensiona para u cho'gui i amenda gi iyon-ñiha Areklamentu yan Regulasion i Mañokñuk Tānu' gi pāpa' i Islas Nottle Mariānas "Administrative Code" ("NMIAC") Titulu 145-60.

I AKSION NI MA'INTENSIONA PARA U ADĀPTA ESTI I MANMAPROPONI NA AMENDA SIHA GI AREKLAMENTU YAN REGULASION MAÑOKÑUK TĀNU' GI DIPĀTTAMENTUN TANU' YAN FENGKAS NATURÅT: I nutisia mannā'i guini sigun para 1 CMC § 9104(a) gi Åkton Administrative Procedure na i DLNR ha intensiona para u cho'gui i mantinattiyi mās na hina'halum yan tinilaika siha para i iyon-ñiha Areklamentu yan Regulasion Mañokñuk Tānu' siha. I nuebu na Areklamentu yan Regulasion Mañokñuk Tānu' siempri umifektibu gi halum dies (10) dihas dispues di adāptasion yan publikasion gi halum Rehistran Commonwealth. 1 CMC § 9105(b).

I TEMA, I SUSTĀNSIAN I PALĀBRA, YAN I DISKRIPSION NU I SUHETU YAN ASUNTU SIHA NI TINEKKA: I mapropo ni na tinilaika siempri inamenda i NMIAC Titulu 145-60 para:

- Nina'suha i Areklamentu yan Regulasion Mañokñuk Tanu' ginen i pātti 145 gi Dipåttamentun Tanu' Pupbliku yan para u mapega gi "subchapter" gi pātti 85, i pātti gi Dipåttamentun Tanu' yan Fengkas Naturåt sigun para 1 CMC § 2653(k) yan 2 CMC §§ 1201 et seq.
- Tulaika i "Mooring" yan i areklamentun Fananklāyan, regulasion, yan i dinimānda siha para i mandāngkulu siha na boti ni mās ki sientus (100) pié.
- Nā'i i Sekretariu aturidāt para u na'prisisu i "buffer zones" gi uriyan i istruktura siha ni manmana'tachu' gi hilu' i Mañokñuk Tānu' siha.
- Na'suha i "non-mandatory guidance" ginen i Areklamentu yan Regulasion Mañokñuk Tānu' siha.
- Na'klāru i dinimānda siha para i prāyek mangguadduk.
- Tulaika i Āpas Istruktura para atkilon nu mañokñuk tānu' siha.

ÅTURIDÁT: I Dipåttamentun Tanu' yan Fengkas Naturåt ma'aturisa para u cho'gui i areklamentu yan regulasion siha nisissåriu ni para u makåtga huyung i ubligasion-ñiha. I CMCC § 2653(r).

DIREKSION PARA PINE'LU YAN PUPBLIKASION: Esti i manmaproponi na regulasion siha gi Areklamentu yan Regulasion Mañokñuk Tånu' i NMIAC debi na u mapupblika gi halum Rehistran Commonwealth gi halum seksiona ni manmaproponi yan nuebu na ma'adåpta na regulasion, I CMC § 9102(a)(1), yan u mapega gi halum kumbinienti na lugåt gi halum i civic center yan i ufisinan gubietnamentu siha gi kada distritun senadot, parehu Inglis yan i prinsipåt na lingguåhi. I CMC § 9104(a)(1).

PARA U MAPRIBENIYI UPIÑON SIHA: Petsona pat håyi na pattidå malagu muna'halum upiñon siha debi na u cho'gui gi tinigi' para guatu as Anthony Benavente, i Sekritåriun DLNR gi unu na tinattiyi na manera: email, fax, kåtta osino intrega hålum gi prinsipåt na Ufisinin i Sekritåriun DLNR ni gaigi gi Lower Base, iya Sa'ipan yan i suhetu na råya **"Upiñon gi Manmaproponi na Amenda gi Areklamentu yan Regulasion Mañokñuk Tånu' i DLNR"**.

Caller Box 10007
Saipan, MP 96950
Fax No. (670) 322-2633
E-mail: tonytbenavente@gmail.com

Todu i tinigi' upiñon siha debi na u mana'hålum gi halum trenta (30) dihas dispues di pubplikasion esti na nutisia.

Nina'hålum as:



ANTHONY BENAVENTE
Sekritåriu, DLNR

4/09/2022

Fetcha

Rinisibi as:



MATILDA A. ROSARIO
Ispisiåt na Ayudånti para i Atministrasion



Fetcha

Pine'lu yan Ninota as:

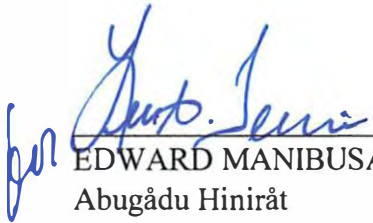


04.22.2022

ESTHER R.M. SAN NICOLAS
Rehistran Commonwealth

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 komu fotma yan sufisienti ligåt ginen i CNMI Abugådu Hiniråt yan debi na u mapupblika. 1 CMC § 2153(f).


EDWARD MANIBUSAN
Abugådu Hiniråt


Fetcha



Commonwealth Téel Falúw kka Efáng Ilól Marianas
Bwulasiyol Falúw me Fowfischil Falúw
Lower Base, Caller Box 10007
Saipan, MP 96950
Tel: 670-322-9830/34 Fax: 670-322-2633



ARONGORONG TOULAP PPWOMWOL LIIWEL NGÁLI MWÓGHUTUGHUTÚL FALÚW IKKA E SCHÓUWUL

Sekkretóoriyol Bwulasiyol Falúw me Fowfischil Falúw (“DLNR”) re aronga toulap bwe DLNR re mánghemángil rebwe aronga liiwel ngáli Alléghúl Falúw ikka e Schóuwul me Mwóghutughutúl faal “Northern Mariana Islands Administrative Code” (“NMIAC”) “Title 145-60.

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓÓPTÁÁLI PPWOMWOL LIIWEL NGÁLI FALÚW KKA E SCHÓUWUL ALLÉGHME MWÓGHUTUGHUTÚL BWULASIYOL FALÚW ME FOWFISCHIL FALÚW Arongorong yeel nge sáangi 1 CMC § 9104(a) reek Administrative Procedure Act iye DLNR re mánghemángil rebwe aronga reel milikka ebwal schuulong me siiwel ngáli Alléghúl me Mwóghutughutúl Falúw ikka e Schóuwul. Ffíl Alléghúl me Mwóghutughutúl Falúw ikka e Schóuwul ebwe bwunguló seigh ráál mwiril aal adóptááli me akkatééwowul me Ilól Commonwealth Register. 1 CMC § 9105(b).

KKAPASAL, AUTOL, ME WEEWEL ME AUTOL. Ppwomwol siiwel ebwe liiweli NMIAC Title 145-60 ngáli:

- Sáághiló Alléghúl me Mwóghutughutúl “Submerged Lands” sáangi chapter 145 iye e súllúngáli Bwulasiyol Ammwelil Faluweer Toulap me ásáághálil “subchapter” ngáli “chapter” 85, “chapter” iye e súllúngáli Bwulasiyol Falúw me Fowfischil Falúw sáangi 1 CMC § 2653(k) me 2 CMC §§ 1201 et seq.
- Siiweli alléghúl “Mooring and Anchorage”, mwóghutughut, me ikka e ffil ngáli “vessels” ikka e lo bwe “over 100 feet”.
- Aiti ngáli Sekkretóoriyo me aal lemelem reel ebwe ayoora “buffer zones” reel kkayú ikkemwu re akkayú wóól falúw kka e schóuwul.
- Siiweli “non-mandatory guidance” sáangi Alléghúl me Mwóghutughutúl Falúw ikka e Schóuwul.
- Ebwe ffat “requirements” ngáli “dredging projects”.
- Siiweli “Fee Structure” ngáli atkkiloonol falúw ikka e schóuwul.

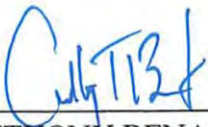
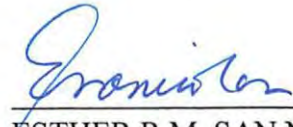
BWÁNGIL. Eyoor bwángil Bwulasiyol Falúw me Fowfischil Falúw reel rebwe aronga allégh me mwóghutughut ikka e ffil reel isiisiwowul aar lemelem. 1 CMC § 2653(r).

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL. Ebwe akkatééwow ppwomwol mwóghutughutúl NMIAC Alléghúl me Mwóghutughutú; Schóuwul Falúw me ebwe akkatééwow me llól Commonwealth Register llól táilil ppwomwol me ffél mwóghutughut ikka ra adóptáálil, 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 KKPAS: Aramas ngáre schóó kka re tipáli rebwe isiisilong ischil kkapas rebwe isch ngáli Anthony Benavente, Sekkretóóriyol DLNR emmwel ubwe yááyá milikka e amwirimwiritiw: “email”, “fax”, afanga ngáre bwughiló DLNR Bwulasiyol Sekkretóóriyo iye e lo Lower Base, Seipél ebwe lo wóó “subject line” bwe **“Comments on Proposed Amendments to DLNR’s Submerged Land Rules and Regulations”**.

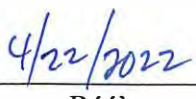
Caller Box 10007
Saipan, MP 96950
Fax No. (670) 322-2633
E-mail: tonytbenavente@gmail.com

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

Isáliylaong:	 _____ ANTHONY BENAVENTE Sekkretóóriyo, DLNR	<u>4/09/2022</u> Ráál
Bwughiyal:	 _____ Matilda A. Rosario Special Assistant ngáli Administration	<u>04/21/22</u> Ráál
Ammwelil :	 _____ ESTHER R.M. SAN NICOLAS Commonwealth Registrar	<u>04.22.2022</u> Ráál

Sángi 1 CMC §2153(e) me 1 CMC § 9104(a)(3), ra takkal amwuri fischiiy ppwomwol liiwel ikka e appasch me átirowa bwe aa lléghló reel fféerúl me legal sufficiency sáangi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatéEwow. 1 CMC § 2153(f).


EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap


Ráál

CHAPTER 85-30.4
SUBMERGED LAND RULES AND REGULATIONS

Part 001 General Provisions

§ 85-30.4-001 Summary
§ 85-30.4-005 Purpose
§ 85-30.4-010 Definitions

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§ 85-30.4-105 Application Fees
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Abutting Upland

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§ 85-30.4-215 Term of Lease
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Lease Applications**

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§ 85-30.4-305 Filling Leases Applications
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Permitting, and Licensing Fees**

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§ 85-30.4-405 Fees for Permits and Licenses
§ 85-30.4-410 Lease Rental Fees
§ 85-30.4-415 Alternate Fee Determination
Methods
§ 85-30.4-420 Government Uses
§ 85-30.4-425 Rental Adjustments to
Existing Leases
§ 85-30.4-430 Late Fee Payments
§ 85-30.4-430 Fees for Unauthorized
Occupation or Use of Submerged Lands

Part 500 Specific Use Activities

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§ 85-30.4-505 Archeological Areas and
Historic Sites
§ 85-30.4-510 Breakwaters
§ 85-30.4-515 Bulkheads
§ 85-30.4-520 Dredging
§ 85-30.4-525 Jetties and Groins
§ 85-30.4-530 Marinas
§ 85-30.4-535 Mining
§ 85-30.4-540 Moorage Anchors;
Permanent
§ 85-30.4-545 Piers

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§ 85-30.4-601 Transfer of Funds to Marianas
Public Land Trust

Part 001 - General Provisions

§ 85-30.4-001 Summary

This chapter sets forth the Department's regulations and policies relating to the use and lease of submerged lands within the Commonwealth. In particular, the Rules and Regulations in this chapter provide the definitions of key terms, explain the Department's policy on uses requiring Department approval, lease application process, terms and conditions of use, fee determination, types of authorized use, and penalty determination and assessments.

§ 85-30.4-005 Purpose

(a) The purpose of this chapter is to establish procedures, Rules, and Regulations for the use of the Commonwealth of the Northern Mariana Islands submerged lands. Since these are Commonwealth resources, the Department of Lands Natural Resources reserves the right in its discretion, to deny any request for a lease if such denial is determined to be in the interest of the Commonwealth or if the proposed use conflicts with an obligation under DLNR's Mandate.

(b) The Submerged Lands Act, PL 1-23 as amended by PL 6-13, was enacted to provide a management philosophy for the Commonwealth's finite resources found in the submerged lands extending 200 miles offshore, which are held in public trust (2 CMC §§ 1201 et seq.). In 2006, the Commonwealth lost authority over all but its internal submerged lands pursuant to *Northern Mariana Islands v. United States*, 399 F.3d 1057 (9th Cir. 2006) cert. denied 547 U.S. 1018. 48 U.S.C. § 1705 and Proclamation No. 9077, Fed. Reg. 3479 (Jan. 15, 2014), granted the Commonwealth of the Northern Mariana Islands title and authority over submerged lands extending three geographical miles seaward from its coastline. PL 18-42 made the Department Responsible for the management, use, and disposition of these submerged lands and granted the authority to promulgate regulations to that end.

(c) Under 1 CMC §§ 2653, 2654 and 2 CMC § 1221, DLNR is charged with interpreting and administering the Submerged Lands Act and promulgating rules and regulations to further the purposes of the Submerged Lands Act and its Departmental Mandate. The purpose of the Rules and Regulations in this chapter is to manage federal, Commonwealth, and private uses of Commonwealth submerged lands. Coordinated management is necessary to resolve the increasing number of conflicts that may arise between development and preservation of environmental quality, resource conservation, and public rights to use these resources.

(d) Activities on submerged lands must conform to various resource planning and protection laws administered by other Commonwealth agencies such as the Division of Coastal Resources Management Office, the Bureau of Environmental and Coastal Quality, and the Historical Preservation Office. The Commonwealth Port Authority is charged with developing port terminal facilities and has authority over certain waters within the Tanapag Lagoon on Saipan, the West Harbor on Rota, and Tinian Harbor on Tinian.

(e) The overall goal of the Department in meeting its responsibilities is to help provide the greatest long-term benefits for all of the people in the Commonwealth. To this end, leases are

TITLE 85: DEPARTMENT OF LAND AND NATURAL RESOURCES

prioritized in terms of their impact on public rights, customs, and uses. Leases deemed to be most desirable are those issued for uses which depend on the water and/or submerged lands for their existence and which make wise use of the natural renewable resources therein. Leases deemed to be least desirable are those issued for uses which are not dependent on the water or submerged lands (i.e. uses such as hotels, short term tourist uses, and industrial manufacturing that can be done inland) or which cause irreversible changes therein. Since private use of submerged land unavoidably restricts general public use of this resource, fees shall be imposed on those private users.

§ 85-30.4-010 Definitions

- (a) A “buffer zone” is an area separating two different types of zones or classes of areas to make each blend more easily with each other.
- (b) The “BECQ” shall mean the Bureau of Environmental and Coastal Quality.
- (c) “Commercial Use” shall mean the sale, advertising, offering for sale, contracting for sale, exchange, distribution for consideration, or solicitation for purchase to the general public of any goods or other property, real, personal, or tangible, or of any service.
- (d) “Commercial purpose” shall mean the motivation behind an action or use is to aid or accomplish the sale, advertising, offering for sale, contracting for sale, exchange, distribution for consideration, or solicitation for purchase to the general public of any goods or other property, real, personal, or tangible, or of any service.
- (e) The “CPA” shall mean the Commonwealth Ports Authority.

TITLE 85: DEPARTMENT OF LAND AND NATURAL RESOURCES

- (f) The “Department” means Department of Natural Resources.
- (g) The “CRM” shall mean the Division of Coastal Resources Management.
- (h) “Filling” is addition of fill material into waters of the Commonwealth. The term generally includes the following activities:
 - (1) Placement of fill that is necessary for the construction of any structure;
 - (2) The building of any structure or impoundment requiring rock, sand, dirt, or other materials for its construction;
 - (3) Residential, and other uses;
 - (4) Causeways or road fills;
 - (5) Dams and dikes;
 - (6) Artificial islands;
 - (7) Property protection and/or reclamation devices such as riprap, groins, seawalls, breakwaters, and revetments;
 - (8) Beach nourishment;
 - (9) Levees;
 - (10) Fill for structures such as sewage treatment facilities, intake and outfall pipes associated with power plants and subaqueous utility lines; and
 - (11) Artificial reefs.
- (i) The “HPO” shall mean the Historic Preservation Office.
- (j) “Ordinary high water mark” means the mark on tidal waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, as that condition exists on (the effective date of submerged lands act amendment) as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: Provided, that in any area where the ordinary high-water mark cannot be found, the ordinary high-water adjoining saltwater shall be the line of mean higher high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high water.
- (k) “Regular use” shall mean the use of submerged lands for at least some portion of one day a month for six months out of the year.
- (l) The “Secretary” shall mean the Secretary of the Department of Lands and Natural Resources.
- (m) “Specific use activities” are defined in part 500 herein.
- (n) “Structure” shall mean any object placed upon submerged lands for more than a week other than a working anchor or any object constructed on submerged lands. Submerged moorings and related tackle for a watercraft which is not greater than 100 feet length overall and has either a Certificate of Documentation from the United States Coast Guard with a recreational endorsement or a Commonwealth Certificate of number with a pleasure use designation shall not be considered “structures” for purposes of these regulations.

Part 100 - Lease, Licenses and Permits of and Constructive Easement; Review of Applications

§ 85-30.4-101 Application

(a) Application to the Department will be deemed to have been made when the Department receives a complete appropriate application for a specific use activity as defined in part 200 herein and pays all applicable application fees.

(b) Actions Taken by the Department and Notification.

(1) The Department shall review all applications within 45 working days of their receipt and shall request additional information from the applicant and/or the permitting agency when

(2) If the proposed project is not within Commonwealth-submerged land, the Department will notify the applicant.

(3) When the proposed project has potentially significant impact on public uses, the Secretary shall schedule a public meeting. The Department will notify the general in compliance with 1 CMC § 9910. Written comments addressing public use issues will be accepted for a fourteen day period following publication in the newspaper. The time period for a Department decision will be extended until 30 days following the meeting.

(c) All applications shall be reviewed to assess the potential impact on fisheries development and adverse impact on marine resources within submerged lands. Applications maybe denied where the Secretary finds there is an undue adverse impact from such use or an inability to sufficiently mitigate the adverse impacts.

§ 85-30.4-105 Application Fees

(a) No fee for solely Commonwealth government projects shall be assessed. The Secretary may waive the fee for a Federal government project if it is determined to be in the interest of the Commonwealth.

(b) All Application Fees are non-refundable and must be paid prior to the processing of an application.

(c) Unless otherwise specified by law or regulation, all other application fees shall be \$100.00.

(d) If the Secretary determines that evaluation of the application will cost the Commonwealth in excess of \$2,500.00, then the Secretary may require the applicant to pay some or all of the costs of evaluation, prior to evaluating the applicant. The applicant shall have 30 days from the date of receiving notice of the Secretary's instruction to pay the required costs or request reconsideration. If the applicant does not pay the requested sum or request reconsideration in 30 days, then the application shall be deemed abandoned and denied.

§ 85-30.4-110 Applicant Not Owner of Abutting Upland

When an application is made for the use of submerged land which extends within 200 feet of the boundary of adjacent upland owners, the Secretary shall require the applicant to receive the adjacent owner's written permission before the application will be considered..

Part 200 - General Terms and Conditions of Lease

§ 85-30.4-201 Uses Requiring a Lease

A lease is required for the use of submerged lands when the applicant seeks the regular use of a specific parcel of submerged lands, and;

- (a) The proposed use of the specified area of submerged lands would substantially interfere with the ability of others to use the area;
- (b) The proposed use is to dredge, fill or erect permanent causeways, bridges, marinas, wharves, docks, pilings, moorings, aquaculture, or other permanent structures on submerged land in the Commonwealth;
- (c) The applicant seeks the regular use of an anchorage or mooring for a watercraft which is greater than 100 feet length overall and does not have either a Certificate of Documentation from the United States Coast Guard with a recreational endorsement or a Commonwealth certificate of number with a pleasure designation;
- (d) The use involves the extraction of resources from or beneath the specified area of submerged lands; or
- (e) The use would substantially alter the submerged lands.

§ 85-30.4-205 Special Provisions Relating to Leases

For the purposes of determining if a lease is necessary based upon the regular usage by a party, unless otherwise specified within this chapter, regular use of submerged lands within a 785,398 square foot circle (a circle with a 500 foot radius) requires the leasing of submerged lands. The lease may be for a parcel of land less than this.

§ 85-30.4-210 Uses Requiring Regulatory Permit

A lease from the Department for a use requiring a permit from Commonwealth and/or federal agencies shall be conditioned upon issuance of and adherence to all applicable permits.

§ 85-30.4-215 Terms of Lease

The Following limitations are put on the term of every lease.

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(a) **Initial Term**

Unless otherwise specified by Commonwealth law or regulation, the initial term for the lease shall not exceed 25 years. The Secretary retains discretion to specify a shorter initial term and reserves the right to amend the lease from time to time during its term to conform with current policies, restrictions, and fees.

(b) **Extension of Term**

Extension of the Term of the Lease may be requested only during the last five years or 25% of the term, whichever is less time, of the principle lease. If granted, the lease term shall be extended by not more than fifteen years and shall be updated to conform with current policies and fees.

(c) **Renewal**

(1) Lease renewal may be granted at the end of the lease term in the discretion of the Secretary.

(d) **Option**

An option to obtain a lease from the Department for a specific area of submerged lands for a period of time not to exceed one year may be negotiated. The option fee may be less than the anticipated annual lease rental fee. The option may only be executed for the sole purpose originally given by the Department.

§ 85-30.4-220 Change in Use Under Lease, License or Permit

When holders of leases wish to change the specific use or nature or intensity of the use of the lands beyond the uses specified in the lease, they must request prior Department approval. Significant changes will be considered under the same criteria used to review new applications, and if approved will require a new lease. A significant change would be a change in the specific use, but is not limited to this.

§ 85-30.4-225 Assignment

(a) Leases containing an assignment clause are assignable with 30 days advance written notice to the Secretary and the Department's prior, written approval is required for the assignment to be effective. The Secretary may withhold or delay written approval at the Secretary's sole discretion. The assignment may be denied by the Secretary if he finds that the assignment would change the nature or intensity of the use, or if the continued use is not in the best interest of the Commonwealth. An administrative processing fee equal to the initial application fee for the use at the time of the transfer will be charged when a lease is transferred.

§ 85-30.4-230 Termination

A lease may terminate where:

- (a) The lessee fails to comply with the terms of the lease and corrective action, acceptable by the Secretary, is not taken within 30 days of written notice; or
- (b) When an applicant fails to sign and return a lease within 90 days of issuance, it shall be deemed void on the 91st day.

§ 85-30.4-235 Improvements

Upon the expiration, cancellation, or termination of a lease, regardless of the reason therefor, the lessee shall have 90 days to remove its property, unless otherwise provided in the lease. The Department shall become the owner of all improvements and structures erected upon the submerged lands not so removed. The Department may require as a term of the lease that the lessee will remove all such improvements and structures at lessee's expense and restore the submerged lands to the condition in which they existed at the commencement of the lease term.

§ 85-30.4-240 Reconsideration

Within 30 days of notification of a decision made pursuant to the regulations in this chapter, the applicant, lessee or other interested party may petition the Secretary to reconsider such decision by submitting a written request therefor. Exhaustion of this remedy is required before an applicant, lessee or other interested party may seek any other remedy at law or equity.

§ 85-30.4-245 Bond or Insurance Required

If the Secretary determines that the proposed use under a lease creates, either directly or indirectly, a significant risk of harm to the submerged lands or related interest, then the Secretary shall require the applicant to post a bond or maintain an insurance policy sufficient to cover the possible harm as a term of the lease. Such bond and/or insurance shall be endorsed in favor of the Commonwealth.

§ 85-30.4-250 Unauthorized Occupation or Use of Submerged Lands

Occupation or use of submerged lands, without first obtaining a lease as required by this chapter is unlawful. Unauthorized occupation or use of submerged lands is grounds to deny any future application for a lease and also grounds to cancel any other existing lease held by the offending party.

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The Department is authorized to enter, seize, and impound any unlawfully moored vessel or other personal property found occupying or using submerged lands in violation of these regulations without liability for loss or destruction thereof.

Part 300 - Additional Requirements for Dredging, Filling, and Fastland Use Lease Applications

§ 85-30.4-301 Dredging Leases

- (a) The applicant shall submit information as required by the Secretary.
- (b) Dredging leases shall expire prior to the term granted when any Commonwealth or federal regulatory permits for the dredging expire, unless an extension is granted to the Commonwealth or federal regulatory permit.

§ 85-30.4-305 Filling Leases Applications

- (a) Conditions. A lease for the filling of Commonwealth submerged land may be approved if the Secretary is satisfied that all of the following conditions exist:
 - (1) There is neither a practical alternative to filling for use of the proposed site nor a reasonable opportunity for relocation to another suitable site that does not require filling; and
 - (2) Public trust rights and purposes and other public rights and customs will not be unreasonably impaired; and
 - (3) All appropriate regulatory permits have been obtained.
- (b) Requirements. The Secretary may require:
 - (1) That a signed map prepared by a registered land surveyor showing the location and boundary of the proposed site shall be filed with and accepted by the Department prior to filling;
 - (2) Monumentation of the submerged land boundary;
 - (3) That the fill materials be removed from the submerged land at the termination of the lease;
 - (4) Free public access over the premises for water dependent or associated uses be provided including walkways; and/or
 - (5) Other mitigating measures.

Part 400 - Calculation of rental Fees for Lease

§ 85-30.4-401 General Provisions

- (a) No fee shall be charged for projects carried out solely by the Commonwealth government, its agencies or instrumentalities. This fee waiver shall not extend to the contractors retained by the Commonwealth, its agencies or instrumentalities.
- (b) The Secretary shall retain full discretion in negotiating the fees of any lease with the Federal Government. The Secretary may waive, reduce, or increase any fee if it is determined to be

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in the interest of the Commonwealth.

(c) If more than one fee rate is applied to a single lease then the highest fee rate shall be used to calculate the fee.

(d) In addition to any other fee for a lease, as a term of any lease, the lessee shall pay for any damage from the use to the submerged lands, including coral reefs and sea grass. Fees for damages, if estimable prior to the execution of the lease, may be prorated over the term of the lease. The lessee shall be responsible for any actual damage in excess of the estimated damage. Unless otherwise provided, the fees for damages to submerged lands may be recovered after the damage occurs, and payment of these fees shall be a condition of the continuation of the lease.

(1) The value of coral reefs shall be determined by the study of Pieter van Beukering, Ed., *The Economic Value of Coral Reefs of Saipan* (March 2006). When CRM and/or BECQ publish a comparable study which updates the value of coral reefs of the Northern Mariana Islands and/or Saipan, the most recent publication shall determine the valuation. The value of the reef shall be adjusted for inflation at the rate of the Consumer Price Index every year after the publication of the most recent study. If the reef in question is not identified in the most recent publication, then the inflation adjusted average value of the reefs included in the report shall be used to calculate the value of the reef in question, unless a reasonably reliable independent basis exists for a higher valuation.

(2) Payment for damages to submerged lands shall not act as a release for the damage to submerged lands or alleviate the lessee from liability arising from the use or damage under other provisions of federal and Commonwealth law.

(e) The secretary may also require a fee in the amount necessary to return the submerged lands to their original condition after the completion of the lease.

(f) All fees are non-refundable.

§ 85-30.4-405 Lease Rental Fees

- (a) Except as otherwise provided for in this chapter, lease rental fees shall be determined by multiplying the area in square feet to be leased by the current square foot rental rate. Square foot rental rates determined by this method shall not exceed fair market value per square foot increased by no more than 10% cumulatively for each year of the term of the lease.
 - (1) The fair market value per square foot shall be determined by an appraisal.
 - (2) The Appraisal shall be paid for by the applicant. DLNR shall select the appraiser.
- (b) The minimum lease rental fee shall be \$1,200.00 per year.
- (c) Lease rental fees are payable in advance on an annual basis.
- (d) For determination of the rental fee for a cable lease, a one-foot wide right of way for cables shall be used unless otherwise indicated within the lease or these regulations.
- (e) For determination of the rental fee for a pipeline lease, a minimum one foot wide right of way shall be used unless otherwise indicated within the lease or these regulations. For pipelines whose diameter is greater than one foot, the diameter will be used for rental fee determination.
- (f) To the extent a cable installation, pipeline installation, or other lease precludes the use of adjacent submerged lands, the lessee shall be required to pay based upon the entire exclusion area.

§ 85-30.4-410 Alternate Fee Determination Methods

The Secretary may calculate rental fees in one of the following manners if it will result in a higher rental fee than the method set forth in § 85-30.4-405

- (a) For commercial, closed-system pipeline, the Secretary may determine lease rental fees based upon volume of material transported.
- (b) Where dredging materials or other materials are removed from submerged lands for profit or where dredging is for non- navigational purposes, the Secretary may establish the fee based upon the fair market value of materials removed.
- (c) For other types of uses, the Director may establish the lease rental fee based on the value determined by appraisal, when any of the following conditions exist:
 - (1) The rental value is significantly greater than the current standard square foot value;
 - (2) The use is for upland purposes; or
 - (3) The area is filled.
- (d) For leases for commercial purposes the secretary may determine the lease rental fee to be 1% of gross revenue generated by the commercial use.
 - (1) All fees shall be payable on an annual basis for the forthcoming year based upon projected gross revenue.
 - (2) If at the end of the year actual gross revenues have exceeded the projected gross revenues

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upon which the fee was calculated, the lessee has an affirmative duty to disclose this fact to the Department and make payment for a fee amount based upon the actual gross revenue. Any payment already received for the year in question shall be applied to this balance. Failure to report excess revenue and make payment shall in the discretion of the Secretary result in the termination of the lessee or a penalty fee of three times the amount owed.

§ 35-30.4-415 Government Uses

(a) Free Public Use. If a government use of Commonwealth-owned submerged lands is to provide general public access to the waters and if there is no fee charged for use of the land or associated facility, then there shall be no lease rental fee charged by the Department. This lease shall not be assignable without the Secretary's approval.

(b) Minimal User Fee. No lease fee is charged when:

- (1) The Government acting alone uses the submerged lands for general public access to the Commonwealth's waters;
- (2) Use is controlled and operated by the Commonwealth government; and
- (3) Any fees for the use of the area are used exclusively for the operation and maintenance of the same facility. The government shall send the Department an annual financial statement, in full, of the revenues and expenditures of the facility. This lease shall not be assignable without the Secretary's approval.

(c) Quasi-government Uses. Commonwealth Utility Corporation in creating sewer and water districts shall obtain non-assignable leases. There shall be no lease rental fee charged by the Department.

(d) Commercial. To the extent that a government use of submerged lands is for generating general revenue is operated by a commercial enterprise or is otherwise an amenity in furtherance of a commercial purpose, then all standard lease fees, terms and conditions shall apply.

§ 85-30.4-420 Late Fee Payments

(a) Any lease fee which is more than 30 days past due shall be subject to interest. The rate of interest shall not exceed the highest conventional rate of interest charged for commercial unsecured loans by Commonwealth banking institutions. This rate shall be determined by the Banking Commission of the Commonwealth.

(b) No application which would legitimize a pre-existing use shall be considered until all uncollected fees, including those specified by § 85-30.4-435.

Part 500 - Specific Use Activities

§ 85-30.4-501 Aquaculture

Aquaculture is the culture or farming of food fish, shellfish, or other aquatic plants and animals. Properly managed, it can result in long term over short term benefit and can protect the resources and ecology of the shoreline. Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area. Potential locations for aquaculture are relatively restricted due to specific requirements for water quality, temperature, flows, oxygen content, adjacent land uses, wind protection, commercial navigation, and, in marine waters, salinity, guidelines.

(a) Aquacultural activities and structures shall be located in areas where the navigational access of upland owners, recreational boaters, and commercial traffic is not significantly restricted.

(b) Recognition shall be given to the possible detrimental impact aquacultural development might have on the visual access of upland owners and on the general aesthetic quality of the shoreline area.

§ 85-30.4-505 Archeological Areas and Historic Sites

Historical and archeological areas are often located on shorelines because water provided an important means of transportation and subsistence. These sites are nonrenewable resources and many are in danger of being lost through present day changes in land use and urbanization. Because of their rarity and the educational link they provide to our past, these locations should be preserved. Where possible, sites should be permanently preserved for scientific study and public observation.

(a) If the applicant is applying for a lease in an area known or reasonably believed to possess historical or archaeological value, the applicant must consult with professional archeologists to identify areas containing potentially valuable archeological data, and to establish procedures for recovering the data through HPO in order to obtain approval of the application.

(b) As a condition of any lease, the lessee has an affirmative duty to disclose the discovery of anything of historical or archaeological value to the Secretary and HPO as soon as possible after discovery. The lessee shall take no action that will damage the historical or archaeological value of the site until consulting with professional archeologists to identify areas containing potentially

valuable archaeological data and to establish procedures for recovering the data through the HPO. Failure to comply with section shall be grounds for termination of any lease.

§ 85-30.4-510 Breakwaters

Breakwaters are protective structures usually built offshore to protect beaches, bluffs, dunes, harbor areas from wave action. However, because offshore breakwaters are costly to build, they are seldom constructed to protect the natural features alone, but are generally constructed for navigational purposes also. Breakwaters can be either rigid in construction or floating. The rigid breakwaters, which are usually constructed of rip rap or rock, have both beneficial and detrimental effects on the shore. All breakwaters eliminate wave action and thus protect the shore immediately behind them. They also obstruct the free flow of sand along the coast and have the potential to starve the downstream beaches. Floating breakwaters do not have the same negative effect on sand movement as rigid breakwaters, but cannot withstand extensive wave action and thus can be impractical with present construction methods in many areas.

(a) Floating breakwaters are preferred to solid landfill types in order to maintain sand movement and fish habitat.

(b) Solid breakwaters shall be constructed only where design modifications can eliminate potentially detrimental effects and consideration given for natural current and sediment flow, wave patterns, and over all flushing characteristics.

(c) The restriction of the public use of the water surface as a result of breakwater construction must be recognized and must be considered in granting shoreline leases for their construction.

Modified, 1 CMC § 3806(g).

History: Adopted 11 Com. Reg. 6065 (Mar. 15, 1989); Proposed 10 Com. Reg. 5762 (Dec. 15, 1988).

Commission Comment: In subsection (b), the Commission deleted the word “in” before “natural” to correct a manifest error.

§ 85-30.4-515 Bulkheads

(a) Bulkheads or seawalls are structures erected parallel to and near the high-water mark for the purpose of protecting adjacent uplands from the action of waves or currents. Bulkheads are constructed of steel, lumber, or concrete piling, and may be either of solid or open piling construction. For ocean exposed locations, bulkheads do not provide a long-lived permanent solution, because eventually a more substantial wall is required as the beach continues to recede and larger waves reach the structure.

(b) While bulkheads and seawalls may protect the uplands, they do not protect the adjacent beaches by speeding up the erosion of the sand in front of the structures. The construction of bulkheads and seawalls designed to protect the immediate upland area and proposals for landfill must comply with the regulations for that specific activity.

(1) Bulkheads and seawalls shall be located and constructed in such a manner which will mitigate in adverse effects on nearby beaches and will minimize alterations of the natural shoreline.

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- (2) Where bulkheads are essential, a shallow zone shall be maintained against the bulkheads with not more than a 3:1 slope starting at least ten feet from the bulkhead.
- (3) Bulkheads and seawalls shall be constructed in such a way as to minimize damage to fish and shellfish habitats. Open-piling construction is preferable in lieu of the solid type.
- (4) The effect of a proposed bulkhead on public access to publicly owned shorelines shall be considered.
- (5) Bulkheads and seawalls shall be designed to blend in with the surroundings and not to detract from the aesthetic qualities of the shoreline to the greatest extent feasible.
- (6) The construction of bulkheads shall be permitted only where they provide protection to upland areas or facilities, not for the indirect purpose of creating land by filling behind the bulkhead.

§ 85-30.4-520 Dredging

Dredging is the removal of earth from the bottom of a stream, river, lake, bay, or other water body for the purposes of deepening a navigational channel or to obtain use of the bottom materials for landfill. A significant portion of all dredged materials are deposited either in the water or immediately adjacent to it, often resulting in problems of water quality.

- (a) Dredging shall be controlled to minimize damage to existing ecological, archaeological, cultural, and natural resources of both the area to be dredged and the area for deposit of dredged materials, which shall be non-wetland areas.
- (b) Programs must include long-range plans for the deposit and use of spoils on land. Spoil deposit sites in water areas should also be identified by government in cooperation with the Division of Fish & Wildlife. Depositing of dredge material in water areas shall be allowed only for habitat improvement, to correct problems of material distribution adversely affecting fish and shellfish resources, or where the alternatives of depositing material on land is more detrimental to shoreline resources than depositing it in water areas.
- (c) Dredging of bottom materials for the single purpose of obtaining fill material shall be banned.
- (d) The dredged site shall be designed to contain the material to prevent dispersal into adjacent wetland areas and prevent adverse impacts.
- (e) Every application for a lease involving a dredging project shall include an environmental protection plan that must include a temporal analysis of the biological activities with which dredging might conflict. For example, the dredging may have a severe impact on the submerged grass community wherein a commercially important species must use for some portion of their life cycle in the same grass flats.

§ 85-30.4-525 Jetties and Groins

- (a) Jetties and groins are structures designed to modify or control sand movement. A jetty is generally employed at inlets for the purpose of navigation improvements. When sand being transported along the

coast by waves and currents arrives at an inlet, it flows inward on the flood tide to form an inner bar, and outward on ebb tide to form an outer bar. Both formations are harmful to navigation through the inlet. A jetty is usually constructed of steel, concrete or rock. The type depends on foundation conditions and wave, climate and economic considerations. To be of maximum aid in maintaining the navigation channel, the jetty must be high enough to completely obstruct the sand stream. The adverse effect of a jetty is that sand is impounded at the updrift jetty and the supply of sand to the shore downdrift from the inlet is reduced, thus causing erosion. Groins are barrier-type structures extending from the backshore seaward across the beach. The basic purpose of a groin is to interrupt the sand movement along a shore. Groins can be constructed in many ways using timber, steel, concrete, or rock, but can be classified into basic physical categories as high or low, long or short, and permeable or impermeable. Trapping of sand by a groin is done at the expense of the adjacent downdrift shore, unless the groin system is filled with sand to its entrapment capacity.

(a) The Secretary must consider sand movement and the effect of proposed jetties or groins on that sand movement. The Secretary may require conditions sufficient to compensate for the adverse effects of the structures either by artificially transporting sand to the downdrift side of an inlet with jetties, or by artificially feeding the beaches in case of groins as a condition of any lease.

(b) Special attention shall be given to the effect these structures will have on wildlife propagation and movement, and to the design of these structures which will not detract from the aesthetic quality of the shoreline.

§ 85-30.4-530 Marinas

Where this chapter conflicts with regulations of Outer Cove Marina or Smiling Cove Marina, regulations specific to that location shall govern. Where this chapter conflicts with the regulations of Outer Cove Marina or Smiling Cove Marina, regulations specific to that location shall govern. Marinas are facilities which provide boat launching, storage, supplies, and services for small pleasure and fishing craft. There are two basic types of marinas. The open-type construction (floating breakwater and/or open-pile work) and solid-type construction (bulkhead and/or landfill). Depending upon the type of construction, marinas affect fish and shellfish habitats.

(a) In locating marinas, provisions sufficient to protect or offset the marine resources that may be harmed by construction and operation of the facility shall be made as a condition of approval of any lease.

(b) Marinas shall be designed in a manner that will reduce damage to marine resources and be aesthetically compatible with adjacent areas.

(c) Sufficient operational procedures for fuel handling and storage in order to minimize accidental spillage and provide satisfactory means for handling those spills that do occur shall be required as a condition of any lease. Applicants must specifically show that their operational procedures are sufficient to withstand typhoon conditions.

(d) Shallow-water embayments with poor flushing action shall not be considered for overnight and long-term moorage facilities.

(e) All water areas in the marina should be well flushed to allow proper circulation.

(f) The depth of the boat basins and access channels shall not exceed that of the receiving

body of water;

- (2) Basins and channels shall not be located in areas of poor water circulation;
- (3) Channels shall have gentle grades, with no sills or bottom holes;
- (4) Canals shall be tapered toward the headwater both in vertical and horizontal planes;
- (5) Floating docks should be used if possible, and if not possible, docks shall be built on pilings rather than on a solid base.
- (f) The depth of the water basin shall not exceed the depth of light penetration during calm conditions.
- (g) The impacts of storm water runoff shall be mitigated to ensure that the rate, volume, and quality are approximately the same as runoff naturally flowing into the basin.
- (h) The boat channel shall be well marked, and boaters required to stay in the designated channel. The impacts of storm water runoff should be mitigated to ensure that the rate, volume, and quality are approximately the same as runoff naturally flowing into the basin.
- (i) The boat channel entrance should be well marked, and boaters required to stay in the designated channel.

§ 85-30.4-535 Mining

Mining is the removal of naturally occurring materials from the earth for economic use. The removal of sand and gravel from submerged lands of the Commonwealth usually results in erosion of land and silting of water. These operations can create silt and kill bottom-living animals. The removal of sand from submerged lands can deplete a limited resource which may not be restored through natural processes.

- (a) When rock, sand, gravel, and minerals are removed from submerged lands, adequate protection against sediment and silt production should be provided.
- (b) When removal of sand and gravel from submerged lands is permitted by existing legislation, it should be taken from the least sensitive biophysical areas of the beach.

§ 85-30.4-540 Moorage Anchors; Permanent

Permanent anchors are fixed to submerged lands to provide for ongoing and intermittent anchorage of watercraft and serve to eliminate the need for and the damages caused by a watercraft's working anchor(s). Requiring small areas of submerged land to accommodate the anchorbulk, moorings also include sections of chain or other appropriate pendant material attached to a floating buoy. Moored watercraft swing in an arc around the center point of the anchor. Moorings are preferred to the use of working anchors as they cause less damage and disturbance to submerged lands and are more secure than working anchors.

- (a) Permanent moorage anchors shall be designed and installed with due regard for typhoon, wind, and wave conditions.

(b) Any area designated for permanent moorage anchors shall be well removed from fairways and located so as not to interfere with general navigation.

(c) Sanitation facilities of moored watercraft must meet applicable standards and be adequately serviced prior to and during the use of a mooring. DLNR has the authority to inspect the sanitation facilities of moored watercrafts prior to and during the use of the mooring. Failure to maintain sufficient sanitation by the moored watercrafts shall be grounds for termination of the use of the mooring.

(d) Any watercraft which is greater than 100 feet length overall and does not have either a Certificate of Documentation from the United States Coast guard with a recreational endorsement or a Commonwealth certificate of number with a pleasure use designation that seeks the regular use of an anchorage within the Saipan lagoon shall be required to use a permanent mooring.

(e) Submerged moorings for a watercraft which is less than 100 feet length overall and has either a Certificate of Documentation from the United States Coast Guard with a recreational endorsement or a Commonwealth certificate of number shall not require a lease. The impact upon submerged lands and marine resources of these moorings when properly sited is minimal. They have little to no commercial value or impact and are not a type of use the Submerged Lands Act was intended to regulate. Easing access to these moorings will further the regulatory purpose of protecting submerged lands and marine resources by reducing the usage of working anchors and encouraging watercraft owners to use moorings that would otherwise be too burdensome to obtain.

(1) Such moorings shall not be sited on a location where the mooring, use of the mooring, or construction of the mooring interferes with navigation or with leases issued by DLNR or where they will have an adverse environmental impact or damage anything of archaeological value.

(2) Before placing or using a mooring, the intended user must register the mooring with DLNR and gain written approval to use or construct the mooring from the Secretary for the siting.

(3) After registration, the registrant will have use of the mooring for three years. Thereafter, the registrant must seek the written permission of the Secretary for the continued use of the mooring.

(4) Transfer or assignment of the mooring is not allowed. Permitting the use of the mooring by a watercraft which is greater than 100 feet length overall or has neither a Certificate of Documentation from the United States Coast Guard with a recreational endorsement nor a Commonwealth certificate of number shall result in the registrant of the mooring to lose all right to the use of the mooring.

(5) The use of the mooring is required to obtain and comply with all other appropriate regulations and regulatory permits as a condition to the continuing use of the mooring.

§ 85-30.4-545 Piers

A pier or dock is a structure built over or floating upon the water, used as a landing place for marine transport, fisheries or recreational purposes. While floating docks generally create less of a visual impact than those on piling, they constitute an impediment to boat traffic and shoreline trolling. Floating docks can also alter beach sand patterns in areas where tides and littoral drift are significant. The Secretary shall consider the following factors when evaluating any lease application involving piers or docks:

- (a) The use of floating docks shall be preferred in those areas where scenic values are high and where conflicts with recreational boaters and fishermen will not be created.
- (b) Open-pile piers shall be preferred where water circulation is needed to support marine resources, where there is significant littoral drift, and where scenic values will not be impaired.
- (c) Priority shall be given to the use of community piers and docks in major waterfront subdivisions. In general, priority shall be given to the cooperative use of piers and docks.
- (d) The Commonwealth shall consider the capacity of the shoreline sites to absorb the impact of waste discharges from boats including gas and oil spillage.

§ 85-30.4-550 Buffer Zones

If the Secretary requires a buffer zone around a leased area, a buffer zone shall not extend more than 30 feet beyond the permanent structure or area and may also be leased for a period of not more than 25 years except as extended by statute. The buffer zone shall be permitted for the same fees and rents as the fair market value of the leased area it is protecting.

Part 600 - Miscellaneous Provisions

§ 85-30.4-601 Severability Provision

If any provision of the rules and regulations in this chapter, or the application of any provision of these rules and regulations to any person or any other instrumentality or circumstances shall be held invalid by a court of competent jurisdiction, the remainder of these rules and regulations and

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the application of the affected provision to other persons, instrumentalities and circumstances, shall not be affected thereby.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 11 Com. Reg. 6065 (Mar. 15, 1989); Proposed 10 Com. Reg. 5762 (Dec. 15, 1988).

Appendix A

List of Government Contacts

	For Activities Affecting:	Contact and/or Apply for Permit To:
1.	Coastal wetlands, areas of open tidal waters great ponds streams, rivers, brooks and other wetlands	Coastal Resources Management Office Governor's Office Sixth Floor, Nauru Building Saipan, MP 96950 Tel. No. (670) 234-6623/7320
2.	Port resources	Commonwealth Port Authority Saipan International Airport P.O. Box 1055 Saipan, MP 96950 Tel. No. (670) 234-8315/5962
3.	Dredging in submerged lands	Division of Environmental Quality Department of Public Health and Environmental Services Dr. Torres Hospital P.O. Box 1304 Saipan, MP 96950 Tel. No. (670) 6114/698*
4.	Aquaculture and scientific research in the marine environment	Division of Fish and Wildlife Department of Natural Resources Lower Base, Tanapag Saipan, MP 96950
5.	Historical and Cultural resources	Historic Preservation Office Community and Cultural Affairs Department Lower Base, Tanapag Saipan, MP 96950 Tel. No. (670) 322-9722

Applications to any of the above agencies for use of submerged lands will automatically be forwarded to the Department of Natural Resources. Applications for conveyances for activities that do not require a permit from another agency should be made in a letter to the Department discussing the applicant's request and the reasons justifying approval. The Department may be contacted directly at Capitol Hill, Saipan, MP 96950 (670) 322-9830/9834.

* See in original.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 11 Com. Reg. 6065 (Mar. 15, 1989); Proposed 10 Com. Reg. 5762 (Dec. 15, 1988).

TITLE 85: DEPARTMENT OF LAND AND NATURAL RESOURCES

Commission Comment: The Commission corrected the spelling of “automatically” and “Department.” In the first line of the table, the Commission deleted the repeated words “streams, rivers, brooks.”



Eli D. Cabrera
Administrator

Commonwealth of the Northern Mariana Islands
OFFICE OF THE GOVERNOR
Bureau of Environmental and Coastal Quality –
Division of Environmental Quality

P.O. Box 501304, Saipan, MP 96950-1304
DEQ Tel: (670) 664-8500/01; Fax: (670) 664-8540
DCRM Tel: (670) 664-8300; Fax: (670) 664-8315
www.becq.gov.mp



Zabrina S. Cruz
Director, DEQ

OAG-CIVIL DIV
2022 APR 21 PM 12:39

PUBLIC NOTICE
OF PROPOSED AMENDMENTS TO WATER QUALITY STANDARDS
TO REGULATE CERTAIN PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS)

NOTICE OF INTENDED ACTION: The Commonwealth of the Northern Mariana Islands, Office of the Governor, Bureau of Environmental and Coastal Quality (BECQ) intends to amend the Division of Environmental Quality (DEQ) Water Quality Standards regulations pursuant to the procedures of the Administrative Procedure Act (APA), 1 CMC § 9104(a) to regulate certain per- and polyfluoroalkyl substances (PFAS).

AUTHORITY: These amendments are promulgated under the authority of BECQ pursuant to 2 CMC § 3121 to issue regulations to carry out its policies and purposes, including to develop and administer programs to prevent or regulate activities as necessary to protect the public health or welfare from any significant adverse effect of the discharge of pollutants. 2 CMC § 3122.

TERMS AND SUBSTANCE: Senate Bill 22-40 House Draft 1 adopted 2 CMC § 3902. 2 CMC § 3902(a) establishes a maximum contaminant level (MCL) for PFAS equal to 0.00007 mg/L (70 ng/L; 70 parts per trillion) for the sum of the concentrations of each of the following PFAS chemicals: perfluorooctane sulfonic acid (PFOS), perfluorooctanoic acid (PFOA), and perfluorononanoic acid (PFNA). In addition, 2 CMC § 3902(e) provides that once an MCL has been set for a specific PFAS, the PFAS shall be considered a toxic pollutant for purposes of BECQ's water quality standard regulations and "The Bureau shall establish and adopt water quality criteria for PFAS commensurate with § 3902(a)-(d) and the water quality standard regulations." These proposed amendments will adopt water quality criteria for PFAS, as required by 2 CMC § 3902.

CITATION OF AFFECTED REGULATIONS: The proposed amendments will revise existing regulatory language in NMIAC § 65-130-450 Toxic Pollutants.

DIRECTIONS FOR FILING AND PUBLICATION: The proposed amendments shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9201(a)(1)) and posted in convenient places in the civic center and in local governmental offices in each senatorial district, both in English and in the principal vernacular (1 CMC § 9104(a)(1)).

COMMENTS: Interested parties may submit written comments on the proposed amendments to Larry Maurin, DEQ Water Quality Surveillance/Non-Point Source Branch Manager, to the

following address, fax, or email address, with the subject line "Proposed Amendments to the Water Quality Standards to Regulate PFAS":

BUREAU OF ENVIRONMENTAL AND COASTAL QUALITY

PO Box 501304, Saipan, MP 96950

Fax: (670) 664-8540

Email: cnmi.waterquality@gmail.com

Comments are due within thirty (30) calendar days from the date of publication of this notice. I CMC § 9104(a)(2).

Submitted by:



Eli Cabrera
Administrator, BECQ

4/6/22

Date

Received by:



Ms. Mathilda A. Rosario
Special Assistant for Administration

04/06/22

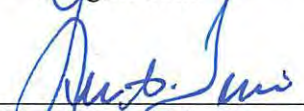
Date

Filed and Recorded by:

Ms. Esther R.M. San Nicolas
Commonwealth Registrar

Date

I certify, pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3), that I have reviewed and approved these regulations as to form and legal sufficiency.



Mr. Edward Manibusan
Attorney General

4/22/2022

Date



Eli D. Cabrera
Administrador

Commonwealth Gi Sangkattan Na Islas Mariñas

UFISINAN GUBIETNU

Bureau of Environmental and Coastal Quality

DEQ: P.O. Box 501304, DCRM: P.O. Box 10007, Saipan, MP 96950-1304

DEQ Tel.: (670) 664-8500/01; Fax: (670) 664-8540

DCRM Tel.: (670) 664-8300; Fax: (670) 664-8315

www.becq.gov.mp



Zabrina S. Cruz
Direktor, DEQ

NUTISIAN PUPBLIKU PUT I MANMAPROPONI NA AMENDA PARA STANDARD KUALIDAT HANUM PARA U MAGUBIETNA METTON NA PER- YAN POLYFLUOROALKYL SUBSTANCES (PFAS)

I AKSION NI MA'INTENSIONA: I Commonwealth gi Sangkattan na Islas Mariñas, i Ufisinan Gubietnu, yan i Bureau of Environmental and Coastal Quality (BECQ) ha intensiona para u amenda i Division of Environmental Quality (DEQ) Standards Kualidat Hanum na regulasion sigun para i manera siha gi Akton Administrative Procedure (APA), I CMC § 9104(a) para u gubietna metton na per- yan polyfluoroalkyl substances (PFAS).

ATURIDAT: Esti na amenda siha manmaho'gui gi papa' i aturidat nu BECQ sigun para 2 CMC § 3121 para u man'a' i huyung regulasion ni para u katga huyung i iyon-niha "policies" yan rason siha, kuntodu para u madibelop yan "administer" i prugrama siha para u pruhibi o sino gubietna i aktibidat siha komu nisisariu para u prutehi i hinemlu' pat inadahn pupbliku ginen kuatkuet na siknifikanti na "adverse effect" ginen i hiniyung i inaplacha siha. 2 CMC § 3122.

I TEMA YAN SUSTANSIAN I PALABRA SIHA: I Senate Bill 22-40 House Draft 1 ma'adapta 2 CMC § 3902. I 2 CMC § 3902(a) inestapbleble si i chi'n "level" inaplacha (i MCL) para PFAS ni parehu para 0.00007 mg/L (70 ng/L; 70 parts para kada trillion) para i kuantidat nu i "concentration" para kada mantinattiyin PFAS chemicals: perfluorooctanoic sulfonic acid (PFOS), perfluorooctanoic acid (PFOA), yan perfluorononanoic acid (PFNA). Yan mas, i 2 CMC § 3902(e) mampribeni na un biahi i MCL mapega para ispesifikao na PFAS, i PFAS debi na u kunsidera i manbinenu na inaplacha para rason nu i standard kualidat hanum regulasion BECQ siha yan "I Bureau debi na u istapbleble yan adapta i criteria kualidat hanum para i PFAS commensurate yan i § 3902(a)-(d) yan i regulasion standard kualidat hanum siha." Esti siha i manmapropo ni na amenda siempri ma'adapta i criteria kualidat hanum para PFAS, komu madimanda ni i 2 CMC § 3902.

SITUATION NU MANAFEKTA NA REGULASION SIHA: I manmapropo ni na amenda siempri mananuebu i maneksissisti na sustansian regulatori gi halum i NMIAC Patti 65-130-450 i Mambinenu na inaplacha siha.

DIREKSION PARA U MAPO'LU YAN MAPUPBLIKA: I manmapropo ni na amenda siempri mapupblika gi halum Rehistran Commonwealth gi seksiona ni manmapropo ni yan nuebu manma'adapta na regulasion siha (I CMC § 9201(a)(1)) yan u mapega gi halum kumbinienti na lugat siha gi halum i civic center yan i ufisinan gubietnamentu siha gi kada distritun senadot, parehu Inglis yan prinsipat na linguahin natibu (I CMC § 9104(a)(1)).

UPIÑON SIHA: I manintiresao na pattida siha ma'intrega halum upiñon tinigi' gi i manmapropo ni na amenda siha guatu as Larry Maurin, DEQ Water Quality Surveillance/Non-Point Source Branch

Manager, para i tinattiyi na address, fax, o sino email address, yan i suhetu na rãya "Manmaproponi na Amenda para i Standard Kualidat Hãnum para Gubietnan i PFAS."

BUREAU OF ENVIRONMENTAL AND COASTAL QUALITY

PO Box 501304, Saipan, MP 96950

Fax: (670) 664-8540

Email: cnmi.waterquality@gmail.com

I upiñon siha debi na u mana'fanhãlum gi halum trenta (30) dihas ginen i kalendãriu ni mafetcha i publikasion esti na nutisia. I CMC § 9104(a)(2).

Nina'hãlum as:



Eli Cabrera
Atministrador, BECQ

4/6/22

Fetcha

Rinisibi as:



Ms. Mathilda A. Rosario
Ispisiat na Ayudanti para i Atministrasion

04/06/22

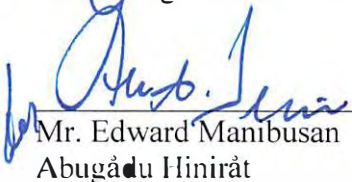
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Pine'lu yan ninota as:

Ms. Esther SN. Nesbitt
Rehistran Commonwealth

Fetcha

Hu settifika, sigun para i CMC § 2153(e) yan i CMC § 9104(a)(3), na hu ribisa yan aprueba esti siha na regulasion komu para fotma yan ligat sufisienti.



Mr. Edward Manibusan
Abugadu Hinirãt

4/22/2022

Fetcha



Eli D. Cabrera
Administrator

Commonwealth Téél Falúw kka Efáng Ilól Marianas
BWULASIYOL SOULEMELEM
Bureau of Environmental and Coastal Quality –
Division of Environmental Quality

P.O. Box 51134, Saipan, MP 96950-1304
DEQ Tel.: (670) 664-8500/01; Fax: (670) 664-8540
DCRM Tel.: (670) 664-8300; Fax: (670) 664-8315
www.becq.gov.mp



Zabrina S. Cruz
Director, DEQ

ARONGORONGOL TOULAP
REEL PPWOMWOL LIIWEL NGÁLI MWÓGHUTUGHUTÚL
SCHALÚL ÚÚL REEL EBWE AYOORAI MWÓGHUTUGHUTÚL AKKÁÁW PER ME
POLYFLUOROALKYL SUBSTANCE (PFAS)

ARONGORONGOL MÁNGEMÁNGIL MWÓGHUT: Commonwealth Téél Falúw kka Efáng Ilól Marianas, Bwulasiyol Soulemelem, Bureau of Environmental and Coastal Quality (BECQ) re mángemángil rebwe liiweli Division of Environmental Quality (DEQ) mwóghutughutúl “Water Quality Standards” sáangi mwóghutughutúl Administrative Act (APA), 1 CMC § 9104(a) reel ebwe yoor mwóghut ngáli akkááw “per-and polyfluoralkyl subsatnces” (PFAS).

BWÁNGIL: Ebwe arongowow liiwel kkal faal bwángil BECQ sáangi 2 CMC § 3121 reel ebwe isiisiwow mwóghutughutúl me bwulul, e schuulong itittiwele me lelemelel progróoma reel ebwe pileey me aghatchú mwóghutughut ikka e fíil ngáli legheleghil meefiyeer toulap ngáre “welfare” sáangi ikka e nngaw iye e tutto sáangi “discharge of pollutants”. 2 CMC § 3122.

KKAPASAL ME AUTOL: Senate Bill 22-40 House Draft 1 re adóptáali 2 CMC § 3902. 2 CMC § 3902(a) e itittiwele reel llangal “contaminant level” (MCL) ngáli PFAS e weewe towoowul bwe 0.00007mg/L (70ng/L; 70 “parts per trillion”) ngáli mwotal “concentration” reel ghal eew reel milikka e amwirimwiritiw “PFAS chemicals: perfluorooctane sulfonic acid (PFOS), perfluorooctanoic acid (PFOA)”, me “perfluoronoanoic acid (PFNA)”. E bwal schuulong, 2 CMC § 3902(e) iye e ayoora bwe ngáre schagh aa ffat “MCL” ngáli eew PFAS, iwe PFAS ebwe amwuri fischiiy “toxic pollutant” ngáli mwóghutughutúl aar BECQ “water quality standard” me “Bureau ebwe itittiwele me adóptáali “water quality criteria” ngáli “PFAS commensurate” fengál me § 3902(a)-(d) me mwóghutughutúl “water quality standard”. Ppwomwol liiwel kkal ebwe adóptáali “water quality criteria” ngáli PFAS, me igha re tingór sáangi 2 CMC § 3902.

KKAPASAL MWÓGHUTUGHUT IKKA E SIIWEL: Ppwomwol liiwel ebwe fféerú sefáaliy mwóghutughutúl kkapas ikka e lo Ilól NMIAC § 65-130-450 “Toxic Pollutants”.

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ppwomwol liiwel kkal ebwe akkatééwow me Ilól Commonwealth Register Ilól táilil ppwomwol me ffél mwóghutughut ikka ra adóptáali (1 CMC § 9201 (a)(1)) me ebwe appaschetá Ilól civic center me bwal Ilól bwulasiyol gobetnameento Ilól senatorial district, fengál reel English me mwaliyaasch (1 CMC § 9104(a)(1)).

KKAPAS: Schóo kka re mwuschel isiisilong ischil kkapas wóol ppwomwol liiwel kkal rebwe isch ngáli Larry Maurin, DEQ Water Surveillance/Non-Point Source Branch Manager, ngáli féléfél iye

e amwirimwiritiw, “fax”, ngáre “email address”, ebwe lo wóol “subject line” bwe “Ppwomwol Liiwel ngáli Mwóghutughutúl Schalúl Úúl ebwe lemeli PFAS.”

BUREAU OF ENVIRONMENTAL AND COASTAL QUALITY

PO Box 501304, Saipan, MP 96950

Fax: (670) 664-8540

Email: cnmi.waterquality@gmail.com

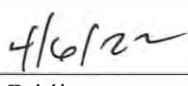
Ebwe toolong kkapas llól eliigh (30) ráál mwiril aal akkatééwow arongorong yeel. I CMC § 9104(a)(2).

Isáliyalong:



Eli Cabrera

for Administrator, BECQ



Ráál

Bwughiyal:



Ms. Mathilda A. Rosario
Special Assistant ngáli Administration



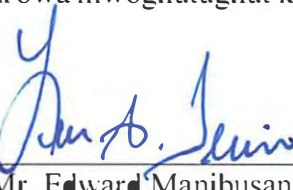
Ráál

Ammwelil:

Ms. Esther R.M. San Nicolas
Commonwealth Registrar

Ráál

I átirow, sáangi I CMC § 2153(e) me I CMC § 9104(a)(3), bwe I ya takkal amwuri físchiy me átirowa mwóghutughut kkal bwe aa lléghló reel fíéérúl me “legal sufficiency”.



Mr. Edward Manibusan
Soulemelemil Allégh Lapalap



Ráál

§ 65-130-450 Toxic Pollutants

(f) In waters designated for use as a source of public water supply, the human health numeric criteria shall be those listed in the EPA 2002 publication, Appendix I, for water plus organism consumption and shall be at least as stringent as the maximum contaminant levels (MCLs) for drinking water established in the CNMI Drinking Water Regulations [NMIAC, title 65, chapter 20]. In waters not designated as a source of public water supply, the human health numeric criteria shall be those listed in the EPA 2002 publication, Appendix I, for organism consumption only.

(1) The human health numeric criteria for arsenic in the EPA 2002 publication are an exception. These arsenic criteria are excluded from the CNMI standards, and instead, the CNMI human health criterion for arsenic is 5 µg/L.

(2) The human health numeric criteria for per- and polyfluoroalkyl substances (PFAS) are also an exception. The EPA 2002 publication does not establish human health numeric criteria for PFAS. Instead, the human health criteria for PFAS in waters listed as a source of public water supply are:
(i) 0.00007 mg/L (70 ng/L; 70 parts per trillion) for the sum of the concentrations of each of the following PFAS chemicals:

<u>CAS No.</u>	<u>Contaminant</u>
<u>1763-23-1</u>	<u>Perfluorooctane Sulfonic Acid (PFOS)</u>
<u>335-67-1</u>	<u>Perfluorooctanoic Acid (PFOA)</u>
<u>375-95-1</u>	<u>Perfluorononanoic Acid (PFNA)</u>

and

(ii) 0.0000044 mg/L (4.4 ng/L; 4.4 parts per trillion) for the concentration of Perfluorononanoic Acid (PFNA); and

(iii) if a more stringent MCL has been established in the CNMI Drinking Water Regulations [NMIAC, title 65, chapter 20], the more stringent MCL shall apply.



Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands

1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



PUBLIC NOTICE OF PROPOSED AMENDMENTS TO THE CHCC CHARGEMASTER FOR VARIOUS FEES

INTENDED ACTION TO ADOPT THESE PROPOSED REVISIONS TO THE RULES AND REGULATIONS:
The Commonwealth Healthcare Corporation (CHCC) intends to adopt as permanent the attached additional Chargemaster pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The additional Chargemaster will become effective 10 days after adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

AUTHORITY: The Board of Trustees may prepare and adopt rules and regulations to assure delivery of quality health care and medical services and the financial viability of the Corporation that will best promote and serve its purposes. 3 CMC Section 2826(c).

THE TERMS AND SUBSTANCE: These are new or changes to fees.

THE SUBJECTS AND ISSUES INVOLVED: New and amended fees.

DIRECTIONS FOR FILING AND PUBLICATION: This Notice of Proposed Amendments to the Chargemaster 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)) codified at NMIAC Sections 140-10.8-101. Copies are available upon request from Tiffany Sablan, Director of Revenue.

TO PROVIDE COMMENTS: Send or deliver your comments to Tiffany Sablan, Director of Revenue, tiffany.sablan@chcc.health, Attn: *Amendments to the Chargemaster, for Various Fees* at the above address, fax or email address, with the subject line "Amendments to the Chargemaster, for Various Fees." 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 500409 CK, Saipan, MP 96950
Telephone: (670) 236-8201/2 FAX: (670) 233-8756

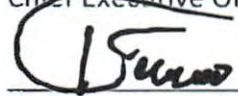
These proposed amendments to the Chargemaster, for Various Fees were approved by the CHCC Board of Trustees and the CHCC CEO.

Submitted by:



ESTHER L. MUNA
Chief Executive Officer

04/11/2022
Date



EDWARD DELEON GUERRERO
Board Chairman

04/11/2022
Date

Filed and
Recorded by:



ESTHER ~~SAN NICOLAS~~ R.M. SAN NICOLAS
Commonwealth Registrar

04.13.2022
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 13 day of April 2022.



EDWARD E. MANIBUSAN
Attorney General

COMMONWEALTH HEALTHCARE CORPORATION

3/10/2022

CPT	MOD	Description	New Price
62324		NJX DX/THER SBST INTRLMNR CRV/THRC W/O IMG GDN	\$ 372.19
37224	26	REVSC OPN/PRG FEM/POP W/ANGIOPLASTY UNI	\$ 10,061.29
37224	TC	REVSC OPN/PRG FEM/POP W/ANGIOPLASTY UNI	\$ 9,118.37
01440		ANES ARTERIES OF KNEE & POPLITEAL AREA NOS	\$ 534.72
32560	26	INSTLJ VIA CHEST TUBE/CATH AGENT FOR PLEURODESIS	\$ 691.51
32561	26	INSTLJ VIA CH TUBE/CATH AGENT FBRNLYSIS 1ST DAY	\$ 294.83
32562	26	INSTLJ CH TUBE/CATH AGENT FBRNLYSIS SBSQ DAY	\$ 252.84
M0240		CASIRI AND IMDEV REPEAT	\$ 1,350.00
M0241		CASIRI AND IMDEV REPEAT HM	\$ 2,250.00
M0243		CASIRIVI AND IMDEVI INJ	\$ 1,350.00
M0244		CASIRIVI AND IMDEVI INJ HM	\$ 2,250.00
M0245		BAMLAN AND ETESEV INFUSION	\$ 1,350.00
M0246		BAMLAN AND ETESEV INFUS HOME	\$ 2,250.00
Q0247		SOTROVIMAB	\$ 7,182.00
M0247		SOTROVIMAB INFUSION	\$ 1,350.00
M0248		SOTROVIMAB INF, HOME ADMIN	\$ 2,250.00
Q0249		TOCILIZUMAB FOR COVID-19	\$ 19.71
M0249		ADM TOCILIZU COVID-19 1ST	\$ 1,350.00
M0250		ADM TOCILIZU COVID-19 2ND	\$ 1,350.00
M0220		TIXAGEV AND CILGAV INJ	\$ 451.50
M0221		TIXAGEV AND CILGAV INJ HM	\$ 751.50
0004A		ADM SARSCOV2 30MCG/0.3ML BST	\$ 85.17
0021A		ADM SARSCOV2 5X10^10VP/.5ML 1	\$ 85.17
0022A		ADM SARSCOV2 5X10^10VP/.5ML 2	\$ 85.17
0031A		ADM SARSCOV2 VAC AD26 .5ML	\$ 85.17
0034A		ADM SARSCOV2 VAC AD26 .5ML B	\$ 85.17
0041A		ADM SARSCOV2 5MCG/0.5ML 1ST	\$ 85.17
0042A		ADM SARSCOV2 5MCG/0.5ML 2ND	\$ 85.17
0051A		ADM SARSCV2 30MCG TRS-SUCR 1	\$ 85.17
0052A		ADM SARSCV2 30MCG TRS-SUCR 2	\$ 85.17
0053A		ADM SARSCV2 30MCG TRS-SUCR 3	\$ 85.17
0054A		ADM SARSCV2 30MCG TRS-SUCR B	\$ 85.17
0064A		ADM SARSCOV2 50MCG/0.25MLBST	\$ 85.17
0071A		ADM SARSCV2 10MCG TRS-SUCR 1	\$ 85.17
0072A		ADM SARSCV2 10MCG TRS-SUCR 2	\$ 85.17



Commonwealth Healthcare Corporation

Commonwealth gi Sangkattan na Islas Mariãnas
1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



NUTISIAN PUPBLIKU PUT I MANMAPROPONI NA AMENDA SIHA GI CHARGEMASTER PARA OTRU SIHA NA KLÂSIN ÂPAS GI CHCC

I AKSION NI MA'INTENSIONA PARA U ADÂPTA ESTI I MANMAPROPONI NA TINILAIKA GI AREKLAMENTU YAN REGULASION SIHA: I Commonwealth Healthcare Corporation (i CHCC) ha intensiona para u adâpta komu petmanienti i mañechettun na hina'halum Chargemaster sigun gi maneran i Âkton Administrative Procedure, 1 CMC § 9104(a). I hina'halum Chargemaster siempri umifektibu gi halum dies (10) dihas dispues di adâptasion yan publikasion gi halum Rehistran Commonwealth. (1 CMC § 9105(b))

ATURIDÂT: I Board of Trustees siña mapripâra yan adâpta i areklamentu yan regulasion siha para u mana'garantiha na manmannânâ'i kuâlidât na inadahin hinemlu' yan setbisiun mediku yan i macho'cho'chu' na fainansiât nu i Corporation ni mäs ha na'adilantão yan sietbi i rason-ñiha siha. 3 CMC Seksiona 2826(c).

I TEMA YAN SUSTÂNSIAN I PALÂBRA SIHA: Mannuebu esti siha pat mantinilaika gi âpas siha.

I SUHETU NI MASUMÂRIA YAN ASUNTU NI TINEKKA: Nuebu yan ma'amenda na âpas siha.

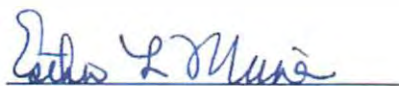
DIREKSION PARA U MAPO'LU YAN PARA U MAPUPBLIKA: Esti na nutisia put i Manmaproponi na Amenda siha gi Chargemaster debi na u mapupblika gi halum Rehistran Commonwealth halum i seksiona gi maproponi yan nuebu na manma'adâpta na regulasion siha (1 CMC § 9102(a)(1)) yan mapega gi halum kumbinienti na lugât halum i civic center yan halum i ufisinin gubietnamentu gi kada distritun senadot, parehu gi finu' Inglis yan i prinsipât na linguâhi natibu (1 CMC § 9104(a)(1)) yan siempri ma-codified gi NMIAC na Seksiona siha 140-10.8-101. Guaha kopia siña marikuesta ginen as Tiffany Sablan, i Direktot Revenue.

PARA U MAPRIBENIYI UPIÑON SIHA: Na'hânão pat intrega hălum i upiñom-mu guatu as Tiffany Sablan, i Direktot Revenue, tiffany.sablan@chcc.health, Attn: *I Amenda siha gi Chargemaster, para Otru Siha na Klâsin Âpas.* I upiñon siha debi na u fanhălum gi halum trenta (30) dihas ginen i fetchan publikasiön esti na nutisia. Put fabot na'hălum i infotmasion, upiñon pat testimonion kinentrâm-mu siha. (1 CMC § 9104(a)(2)).

P.O. Box 500409 CK, Saipan, MP 96950
Telephone: (670) 236-8201/2 FAX: (670) 233-8756

Esti i manmaproponi na amenda siha gi Chargemaster, para Otru Siha na Klâsin Âpas ginen maninaprueba ni i CHCC board of Trustees yan i CHCC CEO.

Nina'hâlum as:



ESTHER L. MUNA
Chief Executive Officer

04/08/22

Fetcha



EDWARD DELEON GUERRERO
Kabesiyun Kuetpu

04/11/2022

Fetcha

Pine'lu yan

Ninota as:



ESTHER ~~S. NESE~~ R.M. SAN NICOLAS
Rehistran Commonwealth

04.13.2022

Fetcha

Sigun i 1 CMC § 2153 (e), (Inapruiban Abugâdu Hinirât i regulasion siha ni para u macho'gui kumu fotma) yan i 1 CMC § 9104 (a) (3) (hentan inapruiban Abugâdu Hinirât) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisient i ligât ginin i CNMI Abugâdu Henerât yan debi na u mapupblika, 1 CMC § 2153 (f) (pupublikasion areklamentu yan regulasion siha).

Mafetcha gi diha 13 gi April, 2022.



EDWARD E. MANIBUSAN
Abugâdu Hinirât

COMMONWEALTH HEALTHCARE CORPORATION

3/10/2022

CPT	MOD	Description	New Price
62324		NJX DX/THER SBST INTRLMNR CRV/THRC W/O IMG GDN	\$ 372.19
37224	26	REVSC OPN/PRG FEM/POP W/ANGIOPLASTY UNI	\$ 10,061.29
37224	TC	REVSC OPN/PRG FEM/POP W/ANGIOPLASTY UNI	\$ 9,118.37
01440		ANES ARTERIES OF KNEE & POPLITEAL AREA NOS	\$ 534.72
32560	26	INSTLJ VIA CHEST TUBE/CATH AGENT FOR PLEURODESIS	\$ 691.51
32561	26	INSTLJ VIA CH TUBE/CATH AGENT FBRNLYSIS 1ST DAY	\$ 294.83
32562	26	INSTLJ CH TUBE/CATH AGENT FBRNLYSIS SBSQ DAY	\$ 252.84
M0240		CASIRI AND IMDEV REPEAT	\$ 1,350.00
M0241		CASIRI AND IMDEV REPEAT HM	\$ 2,250.00
M0243		CASIRIVI AND IMDEVI INJ	\$ 1,350.00
M0244		CASIRIVI AND IMDEVI INJ HM	\$ 2,250.00
M0245		BAMLAN AND ETESEV INFUSION	\$ 1,350.00
M0246		BAMLAN AND ETESEV INFUS HOME	\$ 2,250.00
Q0247		SOTROVIMAB	\$ 7,182.00
M0247		SOTROVIMAB INFUSION	\$ 1,350.00
M0248		SOTROVIMAB INF, HOME ADMIN	\$ 2,250.00
Q0249		TOCILIZUMAB FOR COVID-19	\$ 19.71
M0249		ADM TOCILIZU COVID-19 1ST	\$ 1,350.00
M0250		ADM TOCILIZU COVID-19 2ND	\$ 1,350.00
M0220		TIXAGEV AND CILGAV INJ	\$ 451.50
M0221		TIXAGEV AND CILGAV INJ HM	\$ 751.50
0004A		ADM SARSCOV2 30MCG/0.3ML BST	\$ 85.17
0021A		ADM SARSCOV2 5X10^10VP/.5ML 1	\$ 85.17
0022A		ADM SARSCOV2 5X10^10VP/.5ML 2	\$ 85.17
0031A		ADM SARSCOV2 VACAD26 .5ML	\$ 85.17
0034A		ADM SARSCOV2 VAC AD26 .5ML B	\$ 85.17
0041A		ADM SARSCOV2 5MCG/0.5ML 1ST	\$ 85.17
0042A		ADM SARSCOV2 5MCG/0.5ML 2ND	\$ 85.17
0051A		ADM SARSCV2 30MCG TRS-SUCR 1	\$ 85.17
0052A		ADM SARSCV2 30MCG TRS-SUCR 2	\$ 85.17
0053A		ADM SARSCV2 30MCG TRS-SUCR 3	\$ 85.17
0054A		ADM SARSCV2 30MCG TRS-SUCR B	\$ 85.17
0064A		ADM SARSCOV2 50MCG/0.25MLBST	\$ 85.17
0071A		ADM SARSCV2 10MCG TRS-SUCR 1	\$ 85.17
0072A		ADM SARSCV2 10MCG TRS-SUCR 2	\$ 85.17



Commonwealth Healthcare Corporation

Commonwealth Téel Falúw kka Efáng Ilól Marianas
1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



ARONGORONGOL PPWOMWOL LIIWEL NGÁLI CHCC CHARGEMASTER REEL AKKÁÁW ÓBWÓSS

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI PPWOMWOL SIIWEL NGÁLI ALLÉGH ME MWÓGHUTUGHUT: Commonwealth Healthcare Corporation (CHCC) re mángemángil rebwe adóptááli bwe ebwe lléghló fféerúl mille e appasche me e schuulong bwe "Chargemaster" sáangi Administrative Procedure Act, 1 CMC § 9104(a). "Chargemaster" ikka re aschuulong ebwe bwunguló seigh ráál mwiril aar adóptáánil me akkatééwowul me llól Commonwealth Register. (1 CMC § 9105(b))

BWÁNGIL: "Board of Trustees" emmwel rebwe ayoora ammwelil me adóptáánil allégh me mwóghutughut bwe ebwe alúghúw ghatchúw "health care" me "medical services" me "financial viability" reel Corporation iye ebwe ghatch me fféerú mwóghutughutúl. 3 CMC Tálil 2826(c).

KKAPASAL ME WEEWEL: Ese yoor ffél ngáre siiwel ngáli óbwóss.

KKAPASAL ME AUTOL: Ffél me óbwóss.

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Arongorongol Ppwomwol Liiwel ngáli "Chargemaster" ebwe akkatééwow me llól Commonwealth Register llól tálil ppwomwol me ffél mwóghutughut ikka re adóptááli (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)) me ebwe "codified" me NMIAC Tálil 140-10.8-101. Eyoor pappid yeel emmwel ubwe tingór sáangi Tiffany Sablan, Sirekktoodil Revenue.

REEL ISIISILONGOL KKAPAS: Afanga ngáre bwughiló yóómw ischil kkapas ngáli Tiffany Sablan, Direkktoodil Revenue, tiffany.sablan@chcc.health, Attn: *Amendments to the Chargemaster, for Various Fees* reel féféfé iye e lo weiláng, "fax" ngáre "email", ebwe lo wóól "subject line" bwe "Amendments to the Chargemaster, for Various Fees." Ebwe toolong kkapas llól eliigh ráál mwiril aal akkatééwow arongorong yeel. Isiisilong yóómw "data", "views" ngáre angiingi. (1 CMC § 9104(a)(2)).

P.O. Box 500409 CK, Saipan, MP 96950
Telephone: (670) 236-8201/2 FAX: (670) 233-8756

Ppwomwol liiwel ngáli "Chargemaster, for Various Fees" ra átirowa sáangi "CHCC Board of Trustees" me "CHCC CEO".

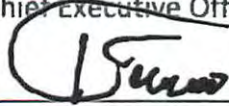
Isáliyalong:



ESTHER L. MUNA
Chief Executive Officer

04/11/22

Ráál



EDWARD DELEON GUERRERO
Board Chairman

04/11/2022

Ráál

Ammwelil:



ESTHER S. ~~NICOLAS~~ R.M. SAN NICOLAS
Commonwealth Registrar

04.13.2022

Ráál

Sáangi 1 CMC § 2153(e) (sáangi átirowal AG reel mwóghutughut kkal bwe aa ffil reel fféerúl) me 1 CMC § 9104(a)(3) (sáangi átirowal AG) reel ppwomwol mwóghutughut kka e appasch bwe ra takkal amwuri fischiiy me aa lléghló reel fféerúl me "legal suffiency" sáangi Soulemelemil Allégh Lapalapa CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (akkatééwowul allégh me mwóghutughut).

Aghikkilátiw wóol 13 rááil April, 2022.



EDWARD E. MANIBUSAN
Soulemelemil Allégh Lapalap

P.O. Box 500409 CK, Saipan, MP 96950
Telephone: (670) 236-8201/2 FAX: (670) 233-8756

COMMONWEALTH HEALTHCARE CORPORATION

3/10/2022

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0071A		ADM SARSCV2 10MCG TRS-SUCR 1	\$ 85.17
0072A		ADM SARSCV2 10MCG TRS-SUCR 2	\$ 85.17



PUBLIC NOTICE

OF PROPOSED AMENDMENTS TO THE BOARD OF DIRECTORS' BY-LAWS OF THE COMMONWEALTH ECONOMIC DEVELOPMENT AUTHORITY (CEDA)

INTENDED ACTION TO ADOPT THE PROPOSED AMENDMENTS TO THE CEDA BOARD OF DIRECTORS' BY-LAWS: The Commonwealth of the Northern Mariana Islands Commonwealth Economic Development Authority intend to adopt the attached amendments to the CEDA Board of Directors' By-Laws, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Amendments to the CEDA Board of Directors' By-Laws would become effective ten (10) days after adoption and publication in the Commonwealth Register. (1 CMC § 9105(b)).

AUTHORITY: The Board of Directors of the Commonwealth Economic Development Authority thru its Chairwoman are authorized to promulgate the CEDA Board of Directors' By-Laws pursuant to §6 of the CEDA Act of 1985 (P.L. 4-49, as amended), 4 CMC §10203(a)(2) and (a)(30).

THE TERMS AND SUBSTANCE: The proposed amendments to the CEDA Board of Directors' By-Laws were formulated to: 1) allow for meeting appearances of the CEDA Board of Directors by means of internet or online video conferencing, or other electronic means of communication if a member of the Board in the Commonwealth of the Northern Mariana Islands (CNMI) is unable to attend a meeting in person at a meeting place; 2) to remove provision on the appointment of an attorney to handle CEDA legal matters; and 3) renumbering of §§ (e) to §§ (d) and amending this provision to clarify compensation for the Executive Director and the Comptroller pursuant to P.L. 19-71.

CITATION OF RELATED AND/OR AFFECTED STATUTES, RULES AND REGULATIONS. These proposed amendments would affect other sections of the existing CEDA Board of Directors' By-Laws.

DIRECTIONS FOR FILING AND PUBLICATION: The proposed amendments to the CEDA Board of Directors' By-Laws 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, CEDA Executive Director, to the following address, fax or email address, with the subject line "Proposed Amendments to CEDA Board of Directors' By-Laws":

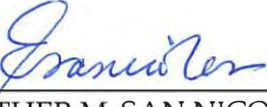
Commonwealth Economic Development Authority
P.O. Box 502149 • CEDA Building, Beach Road • Oleai
Saipan, MP 96950
Tel. No.: 234-7145/7146/6293/6245 ext. 311 • Fax No.: 235-7147
Email address: e.borja@developcnmi.com

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 CEDA Board of Directors' were approved by the Board of Directors on March 6, 2022.

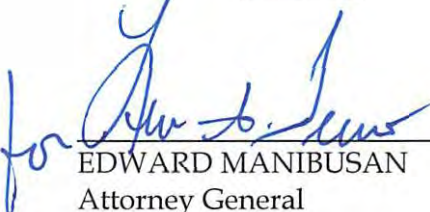
Submitted by: 
AUBRY M. HOCOG
Chairwoman, Board of Directors
Date: 04/27/2022

Received by: 
MATHILDA A. ROSARIO
Special Assistant for Administration
Date: 04/28/22

Filed and
Recorded by: 
ESTHER M. SAN NICOLAS
Commonwealth Registrar
Date: 04.28.2022

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 28th day of April 2022.


EDWARD MANIBUSAN
Attorney General

Amendments to the CEDA Board of Directors' By-Laws

§ 25-10-2225 MEETINGS OF THE BOARD

(a) All meetings of the Board shall be held in the Commonwealth and pursuant to Public Law 8-41; "the Open Government Act of 1992", as amended. Members of the Board of Directors who are in the Commonwealth but unable to attend a meeting in person may appear by means of internet or online video conferencing, teleconferencing, or other electronic means of communication, pursuant to Public Law 22-05

1) Members attending a meeting via internet or online video conferencing, teleconferencing, or other electronic means of communication must make sure that they are in a secure location when participating in an executive session portion of a meeting, pursuant to the Open Government Act.

2) Members who appear by means of internet or online video conferencing, teleconferencing, or other electronic means of communication shall be considered present for the purposes of a quorum.

(b) Notice of Intent to Attend Remotely. Members who plan to attend a meeting of the Board of Directors by means of internet or online video conferencing, teleconferencing, or other electronic means of communication shall inform the Chairman of the Board and the Executive Assistant at least three (3) days prior to the meeting.

§ 25-10-2235 OFFICERS OF THE AUTHORITY

~~(d) — The Board may appoint an attorney who will serve at its pleasure and whose duties and compensation may be fixed by the Board. The Attorney shall advise the Board, the Executive Director, and staff in all legal matters to which the Authority is a party or in which the Authority is legally interested, and may represent the Authority before the Legislature, Boards, and other agencies of the Commonwealth or of the United States.~~

~~(e)~~(d) The Executive Director and Comptroller shall be paid at salaries established pursuant to Public Law 19-71.

~~(f)~~(e) The Executive Director, Comptroller and other officers of the Authority may be dismissed for cause by the affirmative vote of five Board members



NUTISIAN PUPBLIKU

PUT I MANMAPROPONI NA AMENDA SIHA PARA I KUETPUN DIREKTOT “BY-LAWS” NU I COMMONWEALTH ECONOMIC DEVELOPMENT AUTHORITY (CEDA)

I AKSION NI MA’INTENSIONA PARA U ADAPTA ESTI I MANMAPROPONI NA AMENDA SIHA GI KUETPUN DIREKTOT “BY-LAWS” I CEDA: I Commonwealth gi Sangkattan na Islas Mariānas, i Commonwealth Economic Development Authority ha intensiona para u adapta i mañechettun na amenda siha gi Kuetpun Direktot “By-Laws” i CEDA, sigun gi maneran nu i Åkton Administrative Procedure, 1 CMC § 9104(a). I amenda siha gi Kuetpun Direktot “By-Laws” i CEDA siempri umifektibu gi halum dies (10) dihas dispues di adaptasion yan pupublikasion gi halum i Rehistran Commonwealth. (1 CMC § 9105(b)).

ÅTURIDÅT: I Kuetpun Direktot nu i Commonwealth Economic Development Authority ginen iyon-ñiha Kabesiyu manma’aturisa para u macho’gui i Kuetpun Direktot “By-Laws” i CEDA sigun para §6 nu i Åkton CEDA nu 1985 (P.L. 4-49, komu ma’amenda), 4 CMC §10203(a)(2) yan (a)(30).

I TEMA YAN SUSTANSIAN I PALÅBRA: I manmaproponi na amenda siha gi i Kuetpun Direktot “By-Laws” i CEDA manmafotma para: 1) sedi para huntan inannuk siha nu i Kuetpun Direktot CEDA ginen i “internet” osino “online video conferencing,” pat otu na ilektronik na maneran kumbetsasion yanggin i membru nu i Kuetpu gi halum iya Commonwealth gi Sangkattan na Islas Mariānas (i CNMI) ti siña ma’atendi i hunta maisa mismu gi lugåt i hunta; 2) para u mana’suha i “provision” gi apunta nu i abugådu para u maneha i ligåt na situasion CEDA siha; yan 3) “renumbering” nu §§ (e) para §§ (d) yan amemenda esti na “provision” para u klaruyi i åpas para i Eksakatibun Direktot yan i “Comptroller” sigun gi i P.L. 19-71.

SITASION I ASOSIÅT YAN/PAT I MANINA’FEKTA NA STATUTES, AREKLAMENTU YAN REGULASION: Esti i manmaproponi na amenda siha siempri ha afekta otu na seksiona siha gi maneksissisti na Kuetpun Direktot “By-Laws” i CEDA.

DIREKSION PARA PINE’LU YAN PUPBLIKASION: I manmaproponi na amenda siha gi i Kuetpun Direktot “By-Laws” i CEDA debi na u mapupblika gi halum Rehistran Commonwealth gi halum seksiona ni manmaproponi yan nuebu na ma’adapta na regulasion (1 CMC § 9102(a)(1)) yan u mapega gi halum kumbinienti na lugåt gi halum i civic center yan i ufisinan gubietnamentu siha gi kada distritun senadot, parehu Inglis yan i prinsipåt na lingguåhi. (1 CMC § 9104(a)(1))

PARA U MAPRIBENIYI UPIÑON SIHA: Na'hãnao pat intrega hãlum i upiñom-mu guatu as Manuel A. Sablan, i Eksakatibun Direktot CEDA, para i mantinattiyi na address, fax osino email address, yan i suhetu na rãya **"I Manmaproponi na Amenda siha gi i Kuetpun Direktot "By-Laws" i CEDA"**.

Commonwealth Economic Development Authority
P.O. Box 502149 ▪ CEDA 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

I upiñon siha debi na u fãkpu' gi hãlum trenta (30) dihas ginen i fetchan pupublikasion nu esti na nutisia. Put fabot na hãlum i infotmasion, i upiñon yan i kunistasiòn-mu siha. (I CMC § 9104(a)(2))

Esti i manmaproponi na amenda siha gi i Kuetpun Direktot "By-Laws" i CEDA manma'aprueba ginen i Kuetpun Direktot siha gi Måtsu 6, 2022.

Nina'hãlum as:


AUBRY M. HOCOG
Kabesiyun Kuetpun Direktot

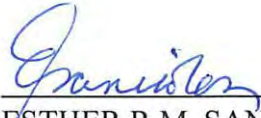
04/27/2022
Fetcha

Rinisibi as:


Mathilde ~~MATHILDE~~ A. ROSARIO
Ispisiãt na Ayudãnti para i Atministrasion

04/28/22
Fetcha

Pine'lu yan Ninota as:

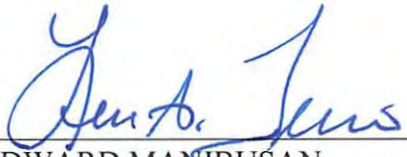

ESTHER R.M. SAN NICOLAS
Rehistran Commonwealth

04.28.2022
Fetcha

Sigun para I CMC § 2153(e) (I Abugãdu Hinirãt ma'aprueba i regulasion siha na para u macho'gui kumu fotma) yan i I CMC § 9104(a)(3) (hentan inaprueban Abugãdu Hinirãt) i manmaproponi na

regulasion siha ni mañechettun guini ni manmaribisa yan manma'apueba kumu fotma yan sufisienti ligât ginen i CNMI Abugâdu Hinirât yan debi na u mapupblika, l CMC § 2153(f) (pupplikasion areklamentu yan regulasion siha).

Mafetcha gi diha 28th gi April 2022.


EDWARD MANIBUSAN
Abugâdu Hinirât

4/28/2022
Fetcha



ARONGORONGOL TOULAP

REEL PPWOMWOL LIIWEL NGÁLI "BOARD OF DIRECTORS' BY-LAWS REEL COMMONWEALTH ECONOMIC DEVELOPMENT AUTHORITY" (CEDA)

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI PPWOMWOL LIIWEL NGÁLI ALLÉGHÚL CEDA "BOARD OF DIRECTORS": Commonwealth Téél Falúw kka Efáng llól Marianas Commonwealth Economic Development Authority re mángemángil rebwe adóptááli liiwel ikka e appasch ngáli Alléghúl CEDA Board-il Directors, sáangi mwóghutughutúl Administrative Procedure Act, 1 CMC §9104(a). Liiwel ngáli CEDA Alléghúl Board-il Directors ebwe bwunguló seigh (10) ráál mwiril aar adóptááli me akkatééwowul me llól Commonwealth Register. (1 CMC § 9105(b)).

BWÁNGIL: Board-il Directors me Commonwealth Economic Development Authority sáangi aar "Chairwoman" bwe eyoor bwángil re aronga "CEDA Board of Directors' By-Laws" sáangi §6 reel CEDA Act of 1985 (P.L. 4-49, igha re liiweli), 4 CMC §10203(a)(2) me (a)(30).

KKAPASAL ME WEEWEL: Ppwomwol liiwel ngáli CEDA "Board of Directors' By-Laws" re ayoora ammwelil ngáli: 1) lighiti ngáli liiwelil CEDA "Board of Director" sáangi mángemángil yááyál "internet" ngáre "online video conferencing", ngáre akkááw "electronic means of communication" iye membrol "Board" me llól Commonwealth Téél Falúw kka Efáng llól Marianas (CNMI) ese mmwelil ebwe lo llól yéélágh "in person" me leliyál yéélágh; 2) siiweli peiráágh imwu e lo wóól "appointment of an attorney" bwe ebwe ayoor ammwelil mwóghutughutúl CEDA "legal matters"; me 3) fféerú sefááliy páápál §§ (e) ngáli §§ (d) me ebwe liiweli peiráágh bwe ebwe ffat "compensation" ngáli "Executive Director" me "Comptroller" sáangi P.L. 19-71.

ABWETCH REEL IKKA E SCHUU ME/NGÁRE E ANNGAWA "STATUTES", ALLÉGH ME MWÓGHUTUGHUT. Ppwomwol liiwel kkal ebwe siiweli akkááw táilil ikka e lo llól "CEDA Board of Directors' By-Laws".

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow ppwomwol liiwelil CEDA "Board of Directos' By-Laws" me llól Commonwealth Register llól táilil ppwomwol me ffél mwóghutughut ikka ra adóptááli (1 CMC § 9102(a)(1) me ebwe appaschetá me 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 ischil kkapas ngáli Manuel A. Sablan, CEDA Executive Director, ngáli féléfél iye e lo, "fax" ngáre "email address", fengál reel "subject line" bwe "Proposed Amendments to CEDA Board of Directors' By-Laws":

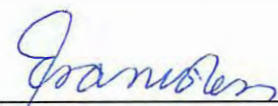
Commonwealth Economic Development Authority
P.O. Box 502149 ▪ CEDA Building, Beach Road ▪ Oleai
Saipan, MP 96950
Tel. No.: 234-7145/7146/6293/6245 ext. 311 ▪ Fax No.: 235-7147
Email address: e.borja@developcnmi.com

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

Ra átirowa ppwomwol liiwel ngáli CEDA "Board of Directors" wóól Mááilap 6, 2022.

Isáliyalong:  04/27/2022
AUBRY M. HOCOG
Chairwoman, Board of Directors
Ráál

Bwughiyal:  04/28/22
MATHILDA A. ROSARIO
Special Assistant ngáli Administration
Ráál

Ammwelil:  04.28.2022
ESTHER.M. SAN NICOLAS
Commonwealth Registrar
Ráál

Sáangi 1 CMC § 2153(e) (sáangi átirowal AG reel mwóghutughut bwe aa lléghló reel fféérúl) me 1 CMC § 9104(a)(3) (sáangi átirowal AG) reel ppwomwol liiwel ngáli Alléghúl me Mwóghutughutúl DCD iye e appasch bwe ra takkal amwuri fischiiy me aa lléghló reel fféérúl me "legal sufficiency" sáangi Soulemelemil Allégh Lapalapal CNMI, 1 CMC § 2143(f) (arongorongol allégh me mwóghutughut).

Aghikkilátiw wóól 28th ráálil April 2022.


EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap



In Re Matter of:	)	PUA Case No. 21-0162
	)	
Mehmet Karakaya,	)	
	)	
Appellant,	)	ADMINISTRATIVE ORDER
	)	
v.	)	
	)	
CNMI Department of Labor,	)	
Division of Employment Services-PUA,	)	
	)	
Appellee.	)	
	)	

This matter came before the undersigned for an Administrative Hearing on March 25, 2022, at approximately 1:00 p.m. at the Administrative Hearing Office, Saipan. Appellant Mehmet Karakaya (“Appellant”) was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program (“Department”) was present and represented by PUA Coordinator Donald Camacho, Jr.

1. Nerissa Benavente Karakaya (Appellant's spouse).

1. Exhibit 1: Copy of the Appellant's Application Snapshot, filed December 7, 2020;
2. Exhibit 2: Copy of Department's Disqualifying Determination, dated April 1, 2021;
3. Exhibit 3: Copy of Appellant's Request to File an Appeal and supporting documents, filed September 28, 2021;
4. Exhibit 4: Copy of the Notice of Hearing, issued September 28, 2021;
5. Exhibit 5: Copy of Second Notice of Hearing, issued February 7, 2022;
6. Exhibit 6: Copy of Appellant's Employment Certification, effective January 6, 2020;
7. Exhibit 7: Copies of Appellant's visas: H-2B visa valid from December 27, 2019 to January 30, 2020 and CW-1 visa valid from August 13, 2021 to March 14, 2022;

8. Exhibit 8: Copy of USCIS Form I-797A, Approval Notice for Appellant's H-2B visa, valid from January 31, 2020 to January 30, 2021;
9. Exhibit 9: Copy of Northern Mariana Islands Portal Message, sent March 30, 2021;
10. Exhibit 10: Copy of Case Note, dated March 30, 2021;
11. Exhibit 11: Copy of Case Note, dated April 1, 2021;
12. Exhibit 12: Copy of the PUA Benefit Rights Information Handbook;
13. Exhibit 13: Copies of Newspaper Articles about the PUA Appeals Process: *Saipan Tribune*, (dated October 16, 2020) and *Marianas Variety* (dated October 15, 2020);
14. Exhibit 14: Copy of Email from Department's Benefit Payment Control Unit, dated February 2, 2022; and
15. Exhibit 15: Copies of Email Communications, dated April 7, 2021 to April 16, 2021.

For the reasons stated below, the Department's Determination dated April 1, 2021 is **AFFIRMED**. Claimant is not eligible for benefits for the period of October 18, 2020 to December 26, 2020.

II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")¹ and Federal Pandemic Unemployment Compensation ("FPUC").² On December 27, 2020, the Continued Assistance for Unemployed Workers Act of 2020 ("Continued Assistance Act") amended and created new provisions of said federal unemployment insurance programs, which, among other things, extended the PUA and FPUC programs to March 13, 2021.³ On March 11, 2021, the American Rescue Plan Act of 2021 ("ARPA") extended the programs to September 6, 2021. The CNMI Department of Labor is charged with the responsibility in administering the above-mentioned programs in the CNMI in accordance with applicable law.⁴ The

¹ See Section 2102 of the CARES Act of 2020, Public Law 116-136.

² See Section 2104 of the CARES Act of 2020, Public Law 116-136.

³ See Consolidated Appropriations Act, 2021, Division N, Title II, Subtitled A ("Continued Assistance for Unemployed Workers Act of 2020" or "Continued Assistance Act").

⁴ Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

1 CNMI Department of Labor Administrative Hearing Office has been designated to preside over
2 appeals of agency decisions.

3 Upon review of the records, the appeal is not timely filed. Accordingly, jurisdiction is not
4 established.

5 **III. PROCEDURAL BACKGROUND & ISSUES**

6 Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon
7 review of Appellant's application and supporting documents, the Department issued a Disqualifying
8 Determination on April 1, 2021. On September 28, 2021, Appellant filed the present appeal, and the
9 matter was scheduled for a hearing. As stated in the Notice of Hearing and Second Notice of Hearing,
the issues on appeal are: (1) whether the appeal is timely filed; (2) whether Appellant is eligible for
PUA; and (3) whether an overpayment occurred, and funds should be returned.⁵

10 **IV. FINDINGS OF FACT**

11 In consideration of the evidence provided and credibility of witness testimony, the undersigned
12 issues the following findings of fact:

- 13 1. Prior to the COVID-19 pandemic, Appellant was employed as a plumber at Imperial Pacific
14 International (CNMI), LLC ("Employer"), located in Garapan, Saipan. As a full-time
15 plumber, Appellant was paid \$8.35 per hour (\$17,368.00 per annum).⁶ Because of the impact
of the COVID-19 pandemic, Employer reduced Appellant's hours and eventually issued stop-
work order and ceased construction work activities.⁷
- 16 2. On or around December 7, 2020, Appellant submitted an application⁸ for unemployment
17 assistance under the PUA and FPUC programs administered by the Department. In his initial
18 application, Appellant self-certified under penalty of perjury that:
 - 19 a. He is an Alien/Refugee Lawfully Admitted to U.S.;
 - 20 b. His employment was directly affected by COVID-19 when his place of employment
was affected by COVID19 loss of revenue, and his hours were reduced; and
 - 21 c. Appellant's employment was affected since October 20, 2020.⁹

22 ⁵ See Exhibit 4-5.

23 ⁶ See Exhibit 6

24 ⁷ Exhibit 1.

⁸ *Id.*

⁹ *Id.*

- 1 3. Appellant did not submit documents to substantiate his claim, including failing to provide the
2 required weekly certifications to claim continued benefits, employment certification(s), and
3 immigration status and employment authorization documents.¹⁰
- 4 4. The answers provided in Appellant's initial application were submitted under penalty of
5 perjury. It is Appellant's responsibility to provide true, accurate, and complete answers.
6 Moreover, it is Appellant's responsibility to be informed about the program by reading the
7 PUA Benefit Rights Information Handbook and other official written material regarding PUA.
- 8 5. Appellant did not read the PUA Benefits Rights Information Handbook,¹¹ Department press
9 releases clarifying the Appeals process,¹² or the instructions on the Determination¹³ and
10 Appeal Form.
- 11 6. With respect to Appellant's immigration status and employment authorization, Appellant
12 provided testimony and substantiating evidence to demonstrate that:
- 13 a. Appellant had an H-2B visa valid from December 27, 2019 to January 30, 2020;¹⁴
- 14 b. Appellant had an H-2B visa valid from January 31, 2020 to January 30, 2021;¹⁵ and
- 15 c. Appellant had a CW-1 visa valid from August 13, 2021 to March 14, 2022;¹⁶
- 16 7. Appellant has no other documents or evidence to demonstrate that he is a qualified alien
17 during the time period he is claiming benefits.
- 18 8. On April 1, 2021, the Department issued a determination disqualifying Appellant from PUA
19 and FPUC benefits from October 18, 2020 to December 26, 2020 because Appellant did not
20 submit weekly certifications and documentation to show he is a CNMI resident and that his
21 employment was affected by the pandemic.¹⁷
- 22 9. Appellant did not immediately act on the Determination because he was off island from about
23 January 2020 to August 2020, in Turkey, awaiting the approval of his H-2B visa renewal.¹⁸
24 Mrs. Karakaya was also off island at the time that the Determination was issued; she was
25 taking care of an ill family member.

¹⁰ Exhibits 9-11.

¹¹ See Exhibit 12.

¹² See Exhibit 13.

¹³ See Exhibit 2.

¹⁴ Exhibit 7.

¹⁵ Exhibit 8.

¹⁶ Exhibit 7.

¹⁷ Exhibit 2.

¹⁸ See Exhibit 3 and 7.

1 10. Between April 7-16, 2021, contrary to appeal procedure and requirements, Mrs. Karakaya
2 contacted the Department on behalf of Appellant asking whether Appellant is a qualified alien
3 eligible for benefits.¹⁹

4 11. Appellant did not correctly file his Appeal until September 28, 2021.²⁰ Upon correctly filing
5 the present Appeal, this matter was scheduled for an Administrative Hearing.²¹

6 12. The Department conducted further review and confirmed with the Department's Benefit
7 Payment Control Unit that no overpayment occurred in this case.²²

8 V. CONCLUSIONS OF LAW

9 In consideration of the above-stated findings and applicable law, the undersigned issues the
10 following conclusions of law:

11 1. Appellant's appeal is not timely filed.

12 Generally, an appeal should be filed within ten days after the Notice of Determination was issued
13 or served to the claimant. However, the Department may extend the period to thirty (30) days by a
14 showing of good cause.²³ "Good cause" means: (1) illness or disability; (2) keeping an appointment
15 for a job interview; (3) attending a funeral of a family member; and (4) any other reason which would
16 prevent a reasonable person from complying as directed.²⁴

17 Here, as demonstrated and testified to by the Department and Appellant, the Department issued
18 and transmitted the Disqualifying Determination to Appellant via email on April 1, 2021 and
19 Appellant received the Determination via email on or about April 1, 2021. Appellant was provided
20 with instructions on how to file his appeal through multiple venues. Specifically, Appeal instructions
21 could be found in the Benefits Rights Information Handbook,²⁵ the Determination,²⁶ and the Request
22 to Appeal Form.²⁷ The Determination clearly stated that Appellant had 10 calendar days to file an
23 appeal and the appeal "**must be received or postmarked by 04/11/2021.**"²⁸ However, Appellant did
24 not file his Appeal until September 28, 2021.²⁹

25 ¹⁹ See Exhibit 15.

²⁰ See Exhibit 3.

²¹ Exhibits 4-5.

²² See Exhibit 14.

²³ HI. Rev. Statute § 383-38(a).

²⁴ HAR § 12-5-81(j).

²⁵ Exhibit 12.

²⁶ Exhibit 2.

²⁷ Exhibit 3.

²⁸ Exhibit 2 (emphasis original).

²⁹ See Exhibit 3.

1 Notably, as acknowledged in his initial Application, it is claimant's responsibility to read the PUA
2 Benefits Rights Information Handbook and all published materials.³⁰ At the Administrative Hearing,
3 Appellant testified that he did not read or understand the PUA Benefits Rights Information Handbook,
4 but that Mrs. Karakaya helped him complete his initial Application. Appellant also testified that he
5 did not timely file his appeal because he was off island, in Turkey, from about January 2021 to August
6 2021. Mrs. Karakaya testified that she too was off island at that time that the Determination was
7 issued, attending to and taking care of an ill family member. However, between April 7-16, 2021,
8 Mrs. Karakaya contacted the Department via email about Appellant's eligibility for PUA, without
9 filing the Request for Reconsideration or Appeal Form.³¹ The undersigned recognizes that Appellant
10 and Mrs. Karakaya were both off-island and did not have the documents to support his claim.
11 However, the Appeal Form was a fillable PDF document published online and could be emailed to
12 the Administrative Hearing Office. Moreover, even after returning to Saipan at the end of August
13 2021, it still took Appellant about another month before he correctly filed his Appeal, on September
14 28, 2021. Generally, the failure to read and follow instructions is not good cause for an extension.
15 However, even if a 30-day extension was granted for good cause, Appellant's appeal would still be
16 approximately five months late.

17 Ultimately, Appellant's appeal is untimely. Considering that the Appellant's appeal is untimely,
18 the Department's Determination is final. In addition, as discussed below, Appellant is not eligible to
19 receive benefits for the period of October 18, 2020 to December 26, 2020 because he was not a
20 qualified alien during this period.

21 **2. Appellant is not a qualified alien.**

22 PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of
23 eligibility for any federal public benefit, the claimant must be a "qualified alien" at the time relevant
24 to the claim. 8 USC §1611(a). Pursuant to 8 USC §1641, the term "qualified alien" is:

- 25 1. An alien admitted for permanent residence under the Immigration and Nationality Act (INA);
2. An alien granted asylum under § 208 of the INA;
3. A refugee admitted to the US under § 207 of the INA;
4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose removal is being withheld under § 241 (b)(3) of the INA;
6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;

³⁰ See Exhibit 1.

³¹ See Exhibit 15.

7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee Education Assistance Act of 1980; or
8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

Further, Section 265 of the Continued Assistance Act provides that a Commonwealth Only Transitional Worker (CW-1) shall be considered a qualified alien for purposes of eligibility under the PUA and FPUC programs. As provided in UIPL 16-20, change 4, page I-16, “CW-1 workers may receive PUA and FPUC if they meet all PUA eligibility requirements beginning with claims filed after December 27, 2020 (*i.e.*, claim effective dates beginning on or after January 3, 2021).”

Here, the Determination disqualified Appellant from PUA and FPUC benefits from October 18, 2020 to December 26, 2020. During that period, Appellant had a valid H-2B visa, which was valid from January 31, 2020 to January 30, 2021.³² While the H-2B visa granted Appellant certain rights and privileges to live and work in the CNMI, the H-2B visa does not grant rights to federal public benefits, such as PUA. The term “qualified alien”, as defined above, does not include H-2B visa holders. Appellant has no other documents or evidence to demonstrate that he is a qualified alien during the time period he is claiming benefits. Accordingly, Appellant is not a qualified alien during the time that he is disqualified.

VI. DECISION

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor’s Disqualifying Determination, dated April 1, 2021, is **AFFIRMED**; and
2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of October 18, 2020 to December 26, 2020.

If a party is aggrieved by this Order and would like to contest the decision, he or she must submit a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5-93. The written request should be supported by legal, factual, or evidentiary reasons to reopen the decision. The written request must be submitted to the Administrative Hearing Office, either in person at 1357 Mednilla Avenue, Capitol Hill Saipan MP 96950 or via email at hearing@dol.gov.mp.

In the event a request to reopen the decision is granted, the matter shall be scheduled for a subsequent hearing. In the event a request to reopen the decision is denied, or if the Appellant still

³² See Exhibit 8.

1 disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI Superior
2 Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms, filings fees, and
3 filing deadlines for judicial review will be as established by the applicable law and court rule.

4 So ordered this 12th day of April, 2022.

/s/

CATHERINE J. CACHERO

Administrative Hearing Officer, *Pro Tem*



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

In Re Matter of:) PUA Case No. 21-0164
)
Lilia T. Faranal,)
)
Appellant,) ADMINISTRATIVE ORDER
)
v.)
)
CNMI Department of Labor,)
Division of Employment Services-PUA,)
)
Appellee.)

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on March 18, 2022, at approximately 9:00 a.m. at the Administrative Hearing Office, Saipan. Appellant Lilia T. Faranal ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Department") was present and represented by PUA Coordinator Joseph Pangelinan.

Witnesses:

1. Celso G. Agui, Jr. (former Human Resources Manager and Accountant of Employer Saint Trading Company, Inc.); and
2. Romerizza Talavera (current Human Resources Manager and Accountant of Employer Saint Trading Company, Inc.).

Exhibits:

1. Exhibit 1: Copy of the Appellant's Application Snapshot, filed August 13, 2020;
2. Exhibit 2: Copy of Appellant's Application Snapshot (reopen), filed July 30, 2021;
3. Exhibit 3: Copy of Appellant's Weekly Certifications, for the following weeks:
 - a. Beginning December 27, 2020 and ending January 2, 2021; and
 - b. Beginning August 15, 2021 and ending August 21, 2021.
4. Exhibit 4: Copy of Department's Disqualifying Determination, dated September 23, 2021;
5. Exhibit 5: Copy of Appellant's Request to File an Appeal and supporting documents, filed October 4, 2021;

6. Exhibit 6: Copy of the Notice of Hearing, issued October 4, 2021;
7. Exhibit 7: Copy of Order Continuing Hearing, issued February 16, 2022;
8. Exhibit 8: Copies of Amended Subpoena to Celso G. Agui, Jr. (issued on February 22, 2022) and Subpoena to Human Resources Manager or Designated Representative of Employer Saint Trading Company, Inc. (issued on February 22, 2022).
9. Exhibit 9: Copy of Email from Department's Benefit Payment Control Unit, dated February 11, 2022;
10. Exhibit 10: Copy of Appellant's Letter of Reconsideration, dated October 14, 2021;
11. Exhibit 11: Copy of USCIS Form I-797A, Approval Notice for Appellant's CW-1 visa, valid from October 1, 2019 to September 30, 2020;
12. Exhibit 12: Copy of Appellant's Letter to USCIS Guam Field Office Director, dated September 15, 2020;
13. Exhibit 13: Copy of USCIS Form I-797C, Receipt Notice, dated January 30, 2021 (Receipt No. WAC2112050565);
14. Exhibit 14: Copy of USCIS Online Case Status, dated September 8, 2021;
15. Exhibit 15: Copy of USCIS Decision, dated September 10, 2021;
16. Exhibit 16: Copy of NMI Portal – Preview Message, sent September 23, 2021;
17. Exhibit 17: Copy of SAVE Response, dated September 20, 2021;
18. Exhibit 18: Copy of Case Note, dated September 20, 2021;
19. Exhibit 19: Copy of Case Note, dated September 22, 2021;
20. Exhibit 20: Copies of Case Notes, dated September 23, 2021; and
21. Exhibit 21: Copy of Email Communication from Employer Saint Trading Company, Inc., dated September 23, 2021.

For the reasons stated below, the Department's Determination dated September 23, 2021 is **AFFIRMED**. Claimant is not eligible for benefits for the period of December 27, 2020 to September 4, 2021.

II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance ("PUA")¹ and Federal Pandemic Unemployment Compensation

¹ See Section 2102 of the CARES Act of 2020, Public Law 116-136.

1 (“FPUC”).² On December 27, 2020, the Continued Assistance for Unemployed Workers Act of 2020
2 (“Continued Assistance Act”) amended and created new provisions of said federal unemployment
3 insurance programs, which, among other things, extended the PUA and FPUC programs to March 13,
4 2021.³ On March 11, 2021, the American Rescue Plan Act of 2021 (“ARPA”) extended the programs
5 to September 6, 2021. The CNMI Department of Labor is charged with the responsibility in
6 administering the above-mentioned programs in the CNMI in accordance with applicable law.⁴ The
7 CNMI Department of Labor Administrative Hearing Office has been designated to preside over
8 appeals of agency decisions.

9 Upon review of the records, the appeal is timely filed. Accordingly, jurisdiction is established.

10 **III. PROCEDURAL BACKGROUND & ISSUES**

11 Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon
12 review of Appellant’s application and supporting documents, the Department issued a Disqualifying
13 Determination on September 23, 2021. On October 4, 2021, Appellant filed the present appeal, and
14 the matter was scheduled for a hearing. As stated in the Notice of Hearing and Second Notice of
Hearing, the issues on appeal are: (1) whether the appeal is timely filed; (2) whether Appellant is
eligible for PUA; and (3) whether an overpayment occurred, and funds should be returned.⁵

15 **IV. FINDINGS OF FACT**

16 In consideration of the evidence provided and credibility of witness testimony, the undersigned
issues the following findings of fact:

- 17 1. Prior to the COVID-19 pandemic, Appellant was employed as a full-time employee at Saint
Trading Company, Inc. (“Saint Trading” or “Employer”), located in San Jose Village, Saipan.⁶
18 As a full-time employee, Appellant regularly worked 35 to 40 hours per week, and she earned
19 \$7.69 per hour.⁷
20

21 ² See Section 2104 of the CARES Act of 2020, Public Law 116-136.

22 ³ See Consolidated Appropriations Act, 2021, Division N, Title II, Subtitled A (“Continued Assistance for
Unemployed Workers Act of 2020” or “Continued Assistance Act”).

23 ⁴ Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI
Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state
law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

24 ⁵ See Exhibits 6-7.

⁶ See Exhibits 1-2.

25 ⁷ See *id.*

2. On or around August 13, 2020, Appellant submitted an initial application for unemployment assistance under the PUA and FPUC programs administered by the Department.⁸ In the initial application, Appellant self-certified under penalty of perjury that:
 - a. She is an Alien/Refugee Lawfully Admitted to U.S. (Alien/USCIS No. WAC2000350149 with expiration of September 30, 2020);
 - b. Her employment was directly affected by COVID-19 when her place of employment was closed as a direct result of the COVID-19 public health emergency; and
 - c. Her employment was affected since March 19, 2020.⁹
3. Subsequently, on July 30, 2021, Appellant filed an application to reopen.¹⁰ Similar to her initial application, Appellant self-certified under penalty of perjury that:
 - a. She is an Alien/Refugee Lawfully Admitted to U.S. (Alien/USCIS No. WAC2112050565, expiration September 30, 2021);
 - b. Her employment was directly affected by COVID-19 when her place of employment was closed as a direct result of the COVID-19 public health emergency; and
 - c. Her employment was affected since March 19, 2020.¹¹
4. Appellant also filed weekly certifications in which she self-certified that she remains unemployed as a direct result of COVID-19 public health emergency, she is able and available to go to work, and she did not work or earn wages during the weeks certified.¹²
5. The answers provided in Appellant's initial application, application to reopen, and weekly certifications were submitted under penalty of perjury. It is Appellant's responsibility to provide true, accurate, and complete answers. Moreover, it is Appellant's responsibility to be informed about the program by reading the PUA Benefit Rights Information Handbook and other official written material regarding PUA.
6. The statements and self-certifications that Appellant provided in her application and her weekly certifications were not entirely truthful, accurate and complete. Specifically, Employer did not close, but because of the impact of the COVID-19 pandemic, Employer reduced Appellant's hours and issued to her a notice of non-renewal of contract because business slowed down.

⁸ See Exhibit 1.

⁹ *Id.*

¹⁰ Exhibit 2.

¹¹ *Id.*

¹² See Exhibit 3.

- 1 7. With respect to Appellant's immigration status and employment authorization, Appellant had
2 a CW-1 visa valid from October 1, 2019 to September 30, 2020.¹³ Before the expiration of
3 her CW-1 visa, Saint Trading transferred Appellant's employment to Nenita Delos Santos
4 Olarte doing business as Prophet Manpower Services ("Prophet Manpower") and Prophet
5 Manpower began the process to file a CW-1 visa petition (Form I-129CW) for Appellant.¹⁴
6 However, Prophet Manpower faced delays and issues,¹⁵ and Prophet Manpower's Form I-
7 129CW for Appellant was not received by USCIS until January 29, 2021 (Receipt No.
8 WAC211205065)¹⁶ and Manpower Prophet had to respond to a Request for Evidence (RFE)
9 on various issues.¹⁷ On or about September 10, 2021, USCIS denied the Prophet Manpower's
10 Form I-129CW Petition for Appellant and other beneficiaries.¹⁸
- 11 8. On September 20, 2021, the Department entered Appellant's information into the Systematic
12 Alien Verification for Entitlements ("SAVE") database maintained by USCIS, Verification
13 Division.¹⁹ The SAVE database is used to determine the immigration status of PUA applicants
14 so only those entitled to benefits receive them. The September 20, 2021 SAVE results
15 confirmed that Appellant had no immigration status or employment authorization.²⁰
- 16 9. After getting the SAVE results, on September 20, 2021, the Department contacted Appellant
17 and asked if she could provide any other documentation regarding her immigration status and
18 the Department attempted to gather additional information on the status of the renewal or
19 extension of her CW-1 visa.²¹
- 20 10. On September 22, 2021, the Department checked online on USCIS' website for the status of
21 the Employer's Form I-129CW Petition using the receipt number provided by the Appellant
22 and Employer and the status update revealed the Form I-129CW Petition was denied.²²
23 Department also confirmed with Employer that the CW-1 petition was denied.²³

¹³ Exhibit 11.

¹⁴ See Exhibit 13.

¹⁵ See Exhibits 12, 13 and 14.

¹⁶ Exhibit 13.

¹⁷ See Exhibit 14.

¹⁸ See Exhibit 15.

¹⁹ See Exhibit 17.

²⁰ *Id.*

²¹ See Exhibit 18.

²² See Exhibits 19

²³ See Exhibit 19 and 21.

11. Appellant has no other documents or evidence to demonstrate that she is a qualified alien during the time she is claiming benefits.

12. On September 23, 2021, the Department issued a determination disqualifying Appellant from PUA and FPUC benefits from December 27, 2020 to September 4, 2021 because the Department determined that Appellant was not a U.S. Citizen, Non-citizen National, or a Qualified Alien.²⁴

13. Upon receipt of the Determination on September 23, 2021, Appellant called the Department to say she will be appealing.²⁵ Appellant filed her present appeal on October 4, 2021²⁶ and the matter was scheduled for an Administrative Hearing.²⁷

14. Upon filing of this Appeal, the Department conducted further review and confirmed with the Department's Benefit Payment Control Unit that no overpayment occurred in this case.²⁸

V. CONCLUSIONS OF LAW

In consideration of the above-stated findings and applicable law, the undersigned issues the following conclusions of law:

1. For good cause, the Appeal filing deadline shall be extended to thirty days and Appellant's appeal is timely filed.

Generally, an appeal should be filed within ten days after the Notice of Determination was issued or served to the claimant. However, the Department may extend the period to thirty (30) days by a showing of good cause.²⁹ "Good cause" means: (1) illness or disability; (2) keeping an appointment for a job interview; (3) attending a funeral of a family member; and (4) any other reason which would prevent a reasonable person from complying as directed.³⁰

Here, the Department issued and transmitted the Disqualifying Determination to Appellant via email on September 23, 2021. Appellant received the Determination on September 23, 2021 and told the Department on the same day that she would be Appealing.³¹ While the Determination stated that an appeal must be received or postmarked by October 3, 2021, this deadline was a Sunday. Appellant filed her appeal on the following business day, Monday, October 4, 2021. In consideration of the fact

²⁴ Exhibit 4. *See also* Exhibit 20.

²⁵ *See* Exhibit 20.

²⁶ Exhibit 5.

²⁷ Exhibits 6-7.

²⁸ *See* Exhibit 9.

²⁹ HI. Rev. Statute § 383-38(a).

³⁰ HAR § 12-5-81(j).

³¹ *See* Exhibit 20.

1 that the Administrative Hearing Office was closed on October 2nd and 3rd, and that Appellant was
2 given 10 calendar days to file an appeal, the Department did not contest the issue of timeliness and a
3 30-day extension for good cause. Accordingly, the undersigned finds good cause to extend the filing
4 period of the Appeal to 30 days from the day Appellant received notice. Here, Appellant filed her
5 appeal on October 4, 2021, within the thirty (30) day extended timeline. Accordingly, Appellant's
6 filing is timely.

7 **2. Appellant is not a qualified alien.**

8 PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of
9 eligibility for any federal public benefit, the claimant must be a "qualified alien" at the time relevant
10 to the claim. 8 USC §1611(a). Pursuant to 8 USC §1641, the term "qualified alien" is:

- 11 1. An alien admitted for permanent residence under the Immigration and Nationality
12 Act (INA);
- 13 2. An alien granted asylum under § 208 of the INA;
- 14 3. A refugee admitted to the US under § 207 of the INA;
- 15 4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
- 16 5. An alien whose deportation is being withheld under § 243(h) of the INA ... or
17 whose removal is being withheld under § 241 (b)(3) of the INA;
- 18 6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;
- 19 7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee
20 Education Assistance Act of 1980; or
- 21 8. An alien who (or whose child or parent) has been battered or subject to extreme
22 cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

23 Further, Section 265 of the Continued Assistance Act provides that a Commonwealth Only
24 Transitional Worker (CW-1) shall be considered a qualified alien for purposes of eligibility under the
25 PUA and FPUC programs. As provided in UIPL 16-20, change 4, page I-16, "CW-1 workers may
receive PUA and FPUC if they meet all PUA eligibility requirements beginning with claims filed after
December 27, 2020 (*i.e.*, claim effective dates beginning on or after January 3, 2021)."

Here, the Determination disqualified Appellant from PUA and FPUC benefits from December 27,
2020 to September 4, 2021. Based on the evidence and testimony provided, the undersigned finds that
Appellant does not meet the qualified alien definition above. First, Appellant was unable to provide
any documentary evidence to substantiate her immigration status and employment authorization
document under any of the qualified alien provisions, listed above. Second, although Appellant had a
CW-1 visa valid from October 1, 2019 to September 30, 2020,³² CW-1 workers were not considered

³² See Exhibit 11.

1 qualified aliens for the purposes of PUA until after December 27, 2020. Third, subsequently,
2 Employer's CW-1 visa petition for Appellant was denied on September 10, 2021.³³ Finally, when
3 questioned, Appellant testified that she had no other documents or evidence to demonstrate that she
4 is a qualified alien under any of the qualified alien provisions, listed above. Accordingly, based on
5 the applicable law and evidence provided, Appellant was not a qualified alien at the time that she
6 claimed unemployment benefits.

6 VI. DECISION

7 For the reasons stated above, it is ORDERED that:

- 8 1. The CNMI Department of Labor's Disqualifying Determination, dated September 23, 2021,
9 is **AFFIRMED**; and
- 10 2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of December 27,
11 2020 to September 4, 2021.

12 If a party is aggrieved by this Order and would like to contest the decision, he or she must submit
13 a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5-93. The written
14 request should be supported by legal, factual, or evidentiary reasons to reopen the decision. The
15 written request must be submitted to the Administrative Hearing Office, either in person at 1357
16 Mednilla Avenue, Capitol Hill Saipan MP 96950 or via email at hearing@dol.gov.mp.

17 In the event a request to reopen the decision is granted, the matter shall be scheduled for a
18 subsequent hearing. In the event a request to reopen the decision is denied, or if the Appellant still
19 disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI Superior
20 Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms, filings fees, and
21 filing deadlines for judicial review will be as established by the applicable law and court rule.

22 So ordered this **11th** day of April, 2022.

23 /s/

24 **CATHERINE J. CACHERO**

25 Administrative Hearing Officer, *Pro Tem*

26 ³³ See Exhibits 12-15.



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

In Re Matter of:) PUA Case No. 21-0173
)
Jesse L. Elameto,)
)
Appellant,) ADMINISTRATIVE ORDER
) GRANTING THE DEPARTMENT'S
v.) REQUEST FOR DISMISSAL
)
CNMI Department of Labor,)
Division of Employment Services-PUA,)
)
Appellee.)

This matter came before the undersigned for an online Administrative Hearing on March 31, 2022 at 9:00 a.m. at the Administrative Hearing Office. Appellant Jesse L. Elameto ("Appellant") was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program ("Appellee" or "Department") was present and represented by PUA Coordinators Jessica Ichihara and Kimberly Degracia.

Upon further review of the proposed evidence and hearing the testimony of the Appellant, the Department conceded to fault and stated they no longer contest a full waiver of recovery for the overpayment in this case. Subsequently, the Department issued Appellant a Notice of Overpayment Waiver for the amount of \$5,809.33 and requested a dismissal of this case. Upon review, the parties were able to resolve the pending issues and a hearing is no longer necessary. Accordingly, this matter is hereby **DISMISSED**. In the event that the Appellant disagrees with a subsequent determination or notice, Appellant may file a new appeal.

So ordered this 1st day of April, 2022.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer

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



In Re Matter of:) **PUA Case No. 21-0175**
)
Cleotilde H. Ebreo,)
)
Appellant,) **ADMINISTRATIVE ORDER**
)
v.)
)
CNMI Department of Labor,)
Division of Employment Services-PUA,)
)
Appellee.)

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on April 7, 2022 at 9:00 a.m. at the Administrative Hearing Office. Appellant Cleotilde H. Ebreo (“Appellant”) was present and self-represented. Appellee CNMI Department of Labor Division of Employment Services – Pandemic Unemployment Assistance program (“Appellee” or “Department”) was present and represented by PUA Coordinators Esco Francene Kileleman and Ryan Litulumar.

Exhibits:

1. Exhibit 1: Copy of the Benefit Rights Information Handbook
2. Exhibit 2: Copy of Appellant’s Initial Applications
 - a. Application filed 6/17/2020; and
 - b. Application filed 2/16/2021
3. Exhibit 3: Copy of Appellant’s Weekly Certification
 - a. Weekly Certification for April 12, 2020 to April 18, 2020;
 - b. Weekly Certification for April 19, 2020 to April 25, 2020;
 - c. Weekly Certification for April 26, 2020 to May 2, 2020;
 - d. Weekly Certification for May 3, 2020 to May 9, 2020;
 - e. Weekly Certification for May 10, 2020 to May 16, 2020;
 - f. Weekly Certification for May 17, 2020 to May 23, 2020;
 - g. Weekly Certification for May 24, 2020 to May 30, 2020;

- h. Weekly Certification for May 31, 2020 to June 6, 2020;
 - i. Weekly Certification for June 7, 2020 to June 13, 2020;
 - j. Weekly Certification for June 14, 2020 to June 20, 2020;
 - k. Weekly Certification for June 21, 2020 to June 27, 2020;
 - l. Weekly Certification for June 28, 2020 to July 4, 2020;
 - m. Weekly Certification for July 5, 2020 to July 11, 2020;
 - n. Weekly Certification for July 12, 2020 to July 18, 2020; and
 - o. Weekly Certification for July 19 to July 25, 2020.
4. Exhibit 4: Copy of Appellant's Employment Documents
 - a. Copy of Notice of Furlough dated April 1, 2020
 - b. Copy of Certification Letter dated February 16, 2021
 5. Exhibit 5: Copy of Appellant's Philippines Passport
 6. Exhibit 6: Copy of Appellant's USCIS Approval Notices
 - a. Approval Notice for CW1 Petition valid from January 10, 2020 to September 30, 2020;
 - b. Approval Notice for CW1 Petition valid from October 1, 2020 to September 30, 2021; and
 - c. Approval Notice for C37 Employment Authorization valid from May 28, 2021 to May 27, 2026.
 7. Exhibit 7: Copy of Appellant's C37 EAD Card valid from May 28, 2021 to May 27, 2026.
 8. Exhibit 8: Copy of the Department's SAVE Response
 - a. Verification initiated October 1, 2020
 - b. Verification initiated July 7, 2021
 9. Exhibit 9: Copy of the Department's Disqualifying Determinations
 - a. Determination dated August 25, 2020 effective April 5, 2020 to December 26, 2020;
 - b. Determination dated November 3, 2021 effective April 5, 2020 to December 26, 2020.
 10. Exhibit 10: Copy of the Department's Payment Register
 11. Exhibit 11: Copy of the Department's Audit Sheet

- 1 12. Exhibit 12: Copy of the Department's Notice of Overpayment dated December 16,
2 2020
3 13. Exhibit 13: Copy of the Payment Plan Agreement
4 14. Exhibit 14: Copy of Payment Agreements
5 15. Exhibit 15: Copy of Appellant's Request to File an Appeal, filed November 10, 2021;
6 and
7 16. Exhibit 16: Copy of the Notice of Hearing, issued November 10, 2021.

8 For the reasons stated below, the Department's Determination dated November 3, 2021 is
9 **AFFIRMED**. Appellant is not eligible for benefits for the period of April 5, 2020 to December
10 26, 2020. Appellant was overpaid in the amount of \$12,551.80. However, Appellant is entitled to
11 a waiver of recovery for the remaining overpayment in the amount of \$2,151.80.

12 II. JURISDICTION

13 On March 27, 2020, the Coronavirus Aid Relief and Economic Security ("CARES") Act of
14 2020 was signed into law creating new temporary federal programs for unemployment benefits
15 called Pandemic Unemployment Assistance ("PUA")¹ and Federal Pandemic Unemployment
16 Compensation ("FPUC").² On December 27, 2020, the Continued Assistance for Unemployed
17 Workers Act of 2020 ("Continued Assistance Act") amended and created new provisions of said
18 federal unemployment insurance programs, which, among other things, extended the PUA and
19 FPUC programs to March 13, 2021.³ On March 11, 2021, the American Rescue Plan Act of 2021
20 ("ARPA") extended the programs to September 6, 2021. The CNMI Department of Labor is
21 charged with the responsibility in administering the above-mentioned programs in the CNMI in
22 accordance to applicable law.⁴ The CNMI Department of Labor Administrative Hearing Office
23 has been designated to preside over appeals of agency decisions.

24
25
26 ¹ See Section 2102 of the CARES Act of 2020, Public Law 116-136.

27 ² See Section 2104 of the CARES Act of 2020, Public Law 116-136.

28 ³ See Consolidated Appropriations Act, 2021, Division N, Title II, Subtitled A ("Continued Assistance for
Unemployed Workers Act of 2020" or "Continued Assistance Act").

⁴ Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI
Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state
law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

1 Upon review of the records, the appeal was timely filed after the Department reopened the
2 issues of the case. Accordingly, jurisdiction is established.

3 4 **III. PROCEDURAL BACKGROUND & ISSUES**

5 Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon
6 review of Appellant's application and supporting documents, the Department issued a
7 Disqualifying Determination on August 25, 2020 effective April 20, 2020 to December 26, 2020
8 and Notice of Overpayment on December 16, 2020. After the Department reopened the case to
9 erroneously requalify then subsequently disqualify Appellant for the above-stated time period,
10 Appellant filed the present appeal and the matter was scheduled for a hearing. As stated in the
11 Notice of Hearing, the issues on appeal are: (1) whether Appellant is eligible for PUA; and (2)
whether an overpayment occurred and funds should be returned.

12 **IV. FINDINGS OF FACT**

13 In consideration of the evidence provided and credibility of witness testimony, the
14 undersigned issues the following findings of fact:

- 15 1. Appellant was employed as an accountant at Fiesta Resort, later acquired and renamed as
16 Crowne Plaza Resort, ("Employer") since August 20, 1990. Immediately prior to the
17 COVID-19 pandemic, Appellant was a full-time employee (40 hours per week) and paid
\$12.86 per hour.
- 18 2. Appellant worked in the CNMI as a Commonwealth Only Transitional Worker ("CW-1")
19 with valid authorization from January 10, 2020 to September 30, 2020 and October 1,
20 2020 to September 30, 2021.
- 21 3. Due to the economic impact of the pandemic, Employer implemented cost-cutting
22 measures that affected Appellant's employment. Specifically, Employer suspended
23 operations and Appellant was furloughed effective April 11, 2020. Effective January 10,
24 2021, Appellant was recalled back to work at reduced hours at a range of 26 to 30 hours
25 per week. Occasionally, Appellant worked more hours, as needed.

- 1 4. On or around June 16, 2020, Appellant submitted an application⁵ for unemployment
2 assistance under the PUA and FPUC programs administered by the Department. In the
3 initial application,⁶ Appellant self-certified under penalty of perjury that:
 - 4 a. Appellant is an Alien/Refugee Lawfully Admitted to U.S.;
 - 5 b. Appellant's employment was directly affected by COVID-19 when her place of
6 employment closed as a direct result of the COVID-19 public health emergency;
 - 7 c. Appellant's employment was affected since April 11, 2020.
- 8 5. Subsequently, Appellant submitted weekly certifications to claim continued benefits from
9 week ending April 18, 2020. In each weekly application, Appellant reported:
 - 10 a. That her employment was still affected by COVID-19 because her place of
11 employment was closed;
 - 12 b. That she is able and available for work during the claimed week; and
 - 13 c. That she earned an income at various rates during the claimed weeks.⁷
- 14 6. The answers provided in Appellant's initial application and weekly certifications were
15 submitted under penalty of perjury. It is Appellant's responsibility to provide true,
16 accurate, and complete answers. To that effect, Appellant must be informed about the
17 program by reading the PUA Benefit Rights Information Handbook and other official
18 written material regarding PUA and comply with a PUA coordinator's requests for
19 information in the adjudication phase. Despite Appellant's professional background,
20 Appellant did not read and/or understand the entirety of the benefit rights information
21 handbook.
- 22 7. Appellant has no other documents or evidence to demonstrate that she meets the qualified
23 alien definition when she claimed benefits in the year 2020. However, Appellant reported
24 that the Department encouraged everyone to apply and there was confusing or
25 contradicting information as to eligibility of CW-1 made by politicians and other
26 individuals outside the Department.

⁵ Exhibit 1.

⁶ *Id.*

⁷ The weekly certifications show reported income ranging from approximately \$48.32 to \$483.20. These discrepancies appear to be a system calculation error as she claims to have only reported the 8 hours from her Employer's covid assistance program.

- 1 8. Based on the answers on Appellant's initial and weekly certification(s), Appellant's claim
2 was automatically processed for payment by the online system. On July 28, 2020, a direct
3 deposit in the amount of \$12,551.80 was sent to Appellant's designated bank account for
4 weeks ending April 12, 2020 to July 25, 2020. Appellant does not contest receiving this
5 amount.
- 6 9. Due to fear and the threat of fraud, Appellant self-reported the received benefits to the
7 Department's Benefit Payment Control Unit ("BPC").
- 8 10. On August 25, 2020, the Department issued a determination disqualifying Appellant from
9 PUA and FPUC benefits from April 5, 2020 to December 26, 2020 because Appellant
10 failed to demonstrate that she was a U.S. Citizen, Non-Citizen National, or Qualified
11 Alien.
- 12 11. On October 1, 2020 the Department entered Appellant's information into the Systematic
13 Alien Verification for Entitlements (SAVE) database maintained by USCIS, Verification
14 Division. This database is used to determine the immigration status of PUA applicants so
15 only those entitled to benefits receive them. The SAVE results confirm that Appellant is
16 a CW-1 during the relevant time period.
- 17 12. On December 16, 2020, after auditing the claim, the Department's Benefit Payment
18 Control Unit ("BPC") issued an Initial Notice of Overpayment for the total amount of
19 \$12,551.80 in federal unemployment benefits for weeks ending April 18, 2020 to August
20 1, 2020. Specifically, this amounted to \$3,551.80 in PUA benefits and \$9,000 in FPUC
21 benefits.
- 22 13. Appellant felt pressured to enter into an Overpayment Payment Plan Agreement because
23 she did not want to be accused of fraud. Appellant was not told that the overpayment
24 occurred as a result of a system error and felt discouraged from seeking a waiver.
- 25 14. On December 16, 2020, Appellant entered into a payment plan in which she made an
26 initial return of \$10,000 and agreed to biweekly payments until the total amount was
27 repaid.
 - 28 a. On January 4, 2021, Appellant paid \$100 toward the remaining overpayment.
 - b. On January 29, 2021, Appellant paid \$100 toward the remaining overpayment.
 - c. On April 1, 2021, Appellant paid \$100 toward the remaining overpayment.
 - d. On December 22, 2021, Appellant paid \$100 toward the remaining overpayment.

1 15. Appellant fell behind on payments and was unable to pay according to the agreed
2 schedule.

3 16. The remaining amount of the overpayment equates to \$2,151.80.

4 17. On November 3, 2021, the Department erroneously issued a determination qualifying
5 Appellant for benefits effective April 5, 2020. To correct their error, the Department
6 issued a disqualifying determination on November 3, 2021, effective April 5, 2020 to
7 December 26, 2020.

8 18. Due to the confusion and complications, Appellant decided to pursue an appeal and waiver
9 of the overpayment. On November 10, 2021, Appellant filed the present appeal and the
10 matter was scheduled for an Administrative Hearing.

11 19. As discussed during the Administrative Hearing, Appellant is appealing the Department's
12 Disqualifying Determination effective April 5, 2020 to December 26, 2020. Additionally,
13 Appellant is contesting the Notice of Overpayment occurring for weeks ending April 18,
14 2020 to July 25, 2020.

15 20. Appellant is requesting a waiver from repaying the overpayment amount claiming that the
16 overpayment occurred without her fault. Additionally, while Appellant has returned to full
17 time work, Appellant is still experiencing financial hardships. Notably, the Department
18 does not contest a waiver for the remaining balance of the overpayment.

19 V. CONCLUSIONS OF LAW

20 In consideration of the above-stated findings and applicable law, the undersigned issues the
21 following conclusions of law:

22 1. Appellant's appeal is timely filed.

23 Generally, an appeal should be filed within ten days after the Notice of Determination was
24 issued or served to the claimant. However, the Department may extend the period to thirty days
25 by a showing of good cause.⁸ Good cause means: (1) illness or disability; (2) keeping an
26 appointment for a job interview; (3) attending a funeral of a family member; and (4) any other
27 reason which would prevent a reasonable person from complying as directed.⁹

28 Here, Appellant's original determination was issued in August 25, 2020 and the notice of
overpayment was issued on December 16, 2020. Upon receipt, Appellant declined to appeal due

⁸ HI. Rev. Statute § 383-38(a).

⁹ HAR § 12-5-81(j).

1 to confusion, fear, and pressure. However, when the Department erroneously issued a qualifying
2 determination for the same time frame on November 11, 2021, the Department had to re-issue the
3 disqualifying determination that same day. By re-issuing the disqualifying determination, the
4 Appellant had another opportunity to file an appeal. Appellant timely filed the present appeal on
November 10, 2021.

5 **2. Appellant's employment was affected as a direct result of COVID-19.**

6 In accordance with the CARES Act and Continued Assistance Act, payment of PUA and
7 FPUC benefits are available to "covered individuals." A "covered individual" is someone who:
8 (1) is not eligible for regular compensation or extended benefits under State or Federal law or
9 pandemic emergency unemployment compensation under Section 2107 of the CARES Act,
10 including an individual who has exhausted all rights to regular unemployment or extended
11 benefits under State or Federal law or Pandemic Emergency Unemployment Compensation under
12 Section 2107;¹⁰ (2) self-certifies¹¹ that the individual is unemployed, partially unemployed, or
13 unable or unavailable to work¹² as a direct result¹³ of a listed COVID-19 reason in Section
14 2102(a)(3)(A)(ii) of the CARES Act, and (3) provides required documentation of
employment/self-employment within the applicable period of time.¹⁴

15 With respect to condition (2) listed above, Section 2102 (a)(3)(A)(ii)(I) of the CARES Act
16 specifically identifies the COVID-19 qualifying reasons¹⁵ as:

17 (aa) The individual has been diagnosed with COVID-19 or is
18 experiencing symptoms of COVID-19 and is seeking a medical
19 diagnosis;

20
21
22 ¹⁰ This condition is generally not at issue with claimants in the CNMI because there are no other State or Federal
unemployment insurance programs in the CNMI.

23 ¹¹ The PUA program utilizes initial and weekly applications where claimants self-certify and report under penalty of
perjury.

24 ¹² A claimant must be able to work and be available for work, as defined by Hawaii state law, in order to be eligible
for benefits. See HAR § 12-5-35.

25 ¹³ Pursuant to 20 CFR § 625.5, unemployment is considered a "direct result" of the pandemic where the employment
is an immediate result of the COVID-19 public health emergency itself, and not the result of a longer chain of events
precipitated or exacerbated by the pandemic.

26 ¹⁴ Section 241 of the Continued Assistance Act requires that an individual must provide documentation substantiating
employment or self-employment, or the planned commencement of employment or self-employment, if he or she
27 files a new application for PUA on or after January 31, 2021, or, if the individual applied for PUA before January 31,
2021 and receives PUA benefits on or after December 27, 2020. Failure to supply said documents, and any other
28 relevant, requested documents is a justifiable basis to deny benefits under HAR § 12-5-81(j).

¹⁵ These reasons are further defined or illustrated in UIPL 16-20, Change 4.

- (bb) A member of the individual's household has been diagnosed with COVID-19;
- (cc) The individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;
- (dd) A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID-19 public health emergency and such school or facility care is required for the individual to work;
- (ee) The individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency;
- (ff) The individual is unable to reach the place of employment because the individual has been advised by a health care provider to quarantine due to concerns related to COVID-19;
- (gg) The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;
- (hh) The individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID-19;
- (ii) The individual has to quit his or her job as a direct result of COVID-19;
- (jj) The individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or
- (kk) The individual meets any additional criteria established by the US Secretary of Labor for unemployment assistance under PUA.

Additional criteria established by the US Secretary of Labor under item (kk)¹⁶, above, includes:

- (1) The individual is an independent contractor who is unemployed (total or partial) or is unable or unavailable to work because of the COVID-19 public health emergency has severely limited his or her ability to continue performing the customary job;
- (2) The individual has been denied continued unemployment benefits because the individual refused to return to work or accept an offer of work at a worksite that, in either instance, is not in compliance with local, state, or national health and safety standards directly related to COVID-19. This includes, but is not limited to, those related to facial mask wearing, physical distancing measures, or the provision of personal protective equipment consistent with public health guidelines;

¹⁶ See Unemployment Insurance Program Letter 16-20 and 16-20, Change 5.

- (3) An individual provides services to an educational institution or educational service agency and the individual is unemployed or partially unemployed because of volatility in the work schedule that is directly caused by the COVID-19 public health emergency. This includes, but is not limited to, changes in schedules and partial closures; and
- (4) An individual is an employee and their hours have been reduced or the individual was laid off as a direct result of the COVID-19 public health emergency.

Here, there is no question that Appellant's employment was affected when the Employer suspended operations and furloughed staff, including Appellant. Additionally, even after being recalled to work, Appellant was working at reduced hours. Accordingly, Appellant satisfies the COVID-19 qualifying reason (kk)(4), listed above.

3. Appellant is not a qualified alien.

PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of eligibility for any federal public benefit, the claimant must be a "qualified alien" at the time relevant to the claim. 8 USC §1611(a). Pursuant to 8 USC §1641, the term "qualified alien" is:

1. An alien admitted for permanent residence under the Immigration and Nationality Act (INA);
2. An alien granted asylum under § 208 of the INA;
3. A refugee admitted to the US under § 207 of the INA;
4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose removal is being withheld under § 241 (b)(3) of the INA;
6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;
7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee Education Assistance Act of 1980; or
8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

Further, Section 265 of the Continued Assistance Act provides that a Commonwealth Only Transitional Worker (CW-1) shall be considered a qualified alien for purposes of eligibility under the PUA and FPUC programs. As provided in UIPL 16-20, change 4, page I-16, "CW-1 workers may receive PUA and FPUC if they meet all PUA eligibility requirements beginning with claims filed after December 27, 2020 (*i.e.*, claim effective dates beginning on or after January 3, 2021)."

1 While Appellant satisfies a COVID-19 qualifying reason, Appellant must also be a U.S.
2 Citizen, Non-citizen National, or qualified alien to receive these federal benefits. Here, Appellant
3 is a Philippine National who worked in the CNMI as a CW-1. Despite any confusion as to the
4 eligibility of CW-1 affected employees, CW-1 workers were not eligible until a change in law,
5 effective December 27, 2020. Accordingly, Appellant was not a qualified alien from April 5, 2020
6 to December 26, 2020.

6 **4. Appellant was overpaid and is entitled to a partial waiver.**

7 “Benefits shall be paid promptly in accordance with a determination, redetermination, or
8 decision or appeal.”¹⁷ However, “[a]ny individual who has received any amount as benefits . . .
9 to which the individual was not entitled shall be liable for the amount unless the overpayment was
10 received without fault on the part of the recipient and its recovery would be against equity and
11 good conscience.”¹⁸ Fault¹⁹ is defined as:

- 12 (A) A material statement made by the individual which the
13 individual knew or should have known to be incorrect; or
- 14 (B) Failure to furnish information which the individual knew or
15 should have known to be material; or
- 16 (C) Acceptance of a payment which the individual either knew or
17 reasonably could have been expected to know was incorrect.

18 Based on federal guidance, “contrary to equity and good conscience” is tantamount to placing an
19 individual below the poverty line and taking away basic necessities to live. In evaluating equity
20 and good conscience,²⁰ the factors to consider include, but are not limited to:

- 21 (A) Whether notice of a redetermination was given to the claimant,
22 as required ...
- 23 (B) Hardship to the claimant that the repayment may impose; and

24 ¹⁷ HRS § 383-43.

25 ¹⁸ HRS § 383-44. Section 2104(f)(2) of the CARES Act requires individuals who have received FPUC overpayments
26 to repay these amounts to the state agency. Thereunder, the state has authority to waive repayments of FPUC if the
27 payment was without fault on the part of the individual and such repayment would be contrary to equity and good
28 conscience. Section 201(d) of the Continued Assistance Act amends Section 2102(d) of the CARES Act and
authorizes states to waive the repayment if the state determines that the payment of PUA was without fault on the
part of any such individual and such repayment would be contrary to equity and good conscience. This waiver
authority applies to overpayments that meet this criterion at any time since the PUA program began.

¹⁹ HRS 12-5-83.

²⁰ *Id.*

(C) The effect, if any, that the repayment will have upon the fulfillment of the objectives of the program.²¹

Considering that Appellant was not a qualified alien eligible for PUA or FPUC benefits, she should not have been paid said benefits. Nonetheless, Appellant received \$12,551.80 for weeks ending April 18, 2020 through August 1, 2020. Appellant does not contest receiving this amount by direct deposit. Accordingly, an overpayment occurred.

However, Appellant was paid out due to a system error. Simply, the Department's online system automatically processed Appellant's application. This payout was made without conducting a SAVE verification, without reviewing the application supporting documents, and without cross referencing the alien I-94 number provided on the application. While Appellant technically provided wrong information that she was an Alien/Refugee lawfully admitted to the U.S., she did not do so maliciously. The Department's Benefit Rights Information Handbook or other official material did not explain the highly technical language or explain whether that status was inclusive of CW-1 workers. Moreover, the online system required an answer in order to move on with the application and it did not allow for Appellant to input her CW-1 status. Based on the evidence and testimony of both parties, Appellant was not at fault for the overpayment.

Despite not being at fault, Appellant is not entitled to a full waiver. Here, Appellant has already returned the unused funds and began repaying what she could afford under a payment plan agreement. Moreover, Appellant has returned to full time work and the able to afford necessary expenses with a dual income household. Accordingly, the amount of overpayment recovered was not contrary to equity and good conscience. Instead, Appellant is entitled to a waiver of the remaining amount of the overpayment in the amount of \$2, 151.80.

VI. DECISION

For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Disqualifying Determination, dated November 3, 2021 is **AFFIRMED**;

²¹ PUA benefits were designed to be a critical lifeline for qualifying individuals facing a financial crisis amidst a pandemic. Issues of fraud and overpayments are of great consequence that jeopardizes the integrity of the program and availability of funds for eligible or qualified individuals.

2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of April 5, 2020 to December 26, 2020;
3. The CNMI Department of Labor's Notice of Overpayment, dated December 16, 2020 is **AFFIRMED**;
4. Appellant was overpaid in the total amount of **\$12,551.80** and is entitled to a partial waiver for repayment in the amount of **\$2,151.80**, and
5. The Department's Benefit Payment Control Unit **ORDERED** is ordered to immediately reconcile any and all holds or issues placed on Appellant's account due the above-stated overpayment.

If a party is aggrieved by this Order and would like to contest the decision, he or she must submit a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5-93. The written request should be supported by legal, factual, or evidentiary reasons to reopen the decision. The written request must be submitted to the Administrative Hearing Office, either in person at 1357 Mednilla Avenue, Capitol Hill Saipan MP 96950 or via email at hearing@dol.gov.mp.

In the event a request to reopen the decision is granted, the matter shall be scheduled for a subsequent hearing. In the event a request to reopen the decision is denied, or if the Appellant still disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI Superior Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms, filings fees, and filing deadlines for judicial review will be as established by the applicable law and court rule.

So ordered this **14th** day of April, 2022.

/s/

JACQUELINE A. NICOLAS
Administrative Hearing Officer

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



In Re Matter of:) PUA Case No. 21-0176
)
Francisco Ada IV,)
)
Appellant,) ADMINISTRATIVE ORDER
) GRANTING PARTIES'
v.) REQUEST FOR DISMISSAL
)
CNMI Department of Labor,)
Division of Employment Services-PUA,)
)
Appellee.)

Pursuant to Appellant's Request to Appeal, the matter was scheduled for an Administrative Hearing on April 12, 2022 at 9:00 a.m. On April 1, 2022, the Appellant, through his authorized representative, filed a written statement to withdraw his appeal stating they no longer wish to pursue the appeal. On April 4, 2022, the Department filed a Motion to Dismiss confirming that Appellant no longer contests this case and that no overpayment occurred.

In consideration of above, the undersigned finds that there are no issues to review on appeal and dismissal is appropriate. Accordingly, this appeal is hereby **DISMISSED** and the Administrative Hearing scheduled for April 12, 2022 at 9:00 a.m. is **VACATED**. In the event that the Appellant disagrees with a subsequent determination or notice, Appellant may file a new appeal.

So ordered this 4th day of April, 2022.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer



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

In Re Matter of:) PUA Case No. 21-0181
)
Idris Kocamaz,)
)
Appellant,) ADMINISTRATIVE ORDER
) GRANTING PARTIES'
v.) REQUEST FOR DISMISSAL
)
CNMI Department of Labor,)
Division of Employment Services-PUA,)
)
Appellee.)

Pursuant to Appellant's Request to Appeal, the matter was scheduled for an Administrative Hearing on April 28, 2022 at 9:00 a.m. On April 12, 2022, the Appellant filed a written statement to withdraw his appeal stating he no longer contests the determination. On April 13, 2022, the Department filed a Motion to Dismiss confirming that Appellant no longer contests this case and that no overpayment occurred.

In consideration of above, the undersigned finds that there are no issues to review on appeal and dismissal is appropriate. Accordingly, this appeal is hereby **DISMISSED** and the Administrative Hearing scheduled for April 28, 2022 at 9:00 a.m. is **VACATED**. In the event that the Appellant disagrees with a subsequent determination or notice, Appellant may file a new appeal.

So ordered this **14th** day of April, 2022.

/s/
JACQUELINE A. NICOLAS
Administrative Hearing Officer