

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



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**COMMONWEALTH REGISTER**

**VOLUME 39  
NUMBER 10  
OCTOBER 28, 2017**

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# COMMONWEALTH REGISTER

VOLUME 39  
NUMBER 10  
October 28, 2017

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# Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands  
1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



## PUBLIC NOTICE OF EMERGENCY REGULATIONS

### WHICH ARE NEW FEES FOR THE COMMONWEALTH HEALTHCARE CENTER'S ROOM AND BOARD CHARGES, DENTAL CLINIC, AND HEALTH AND VITAL STATISTICS OFFICE

EMERGENCY ADOPTION AND IMMEDIATE EFFECT: The Commonwealth Healthcare Corporation (hereinafter "CHCC") of the Northern Mariana Islands, finds that:

(1) the attached rules and regulations regarding the fees for CHCC Room and Board, Dental Clinic, and Health Vital Statistics Office shall be adopted immediately on an emergency basis because the public interest so requires, for the reasons stated below (1 CMC § 9104(b), (c); 1 CMC § 9105(b)(2)); and

(2) the same rules and regulations shall be adopted, after a proper notice and comment period, as permanent regulations pursuant to the attached Notice of Proposed Rules and Regulations and the Administrative Procedure Act, 1 CMC § 9104(a) and will be published at NMIAC 140-10.8-301, 140-10.8- Part 200, and 140-10.8-375.

AUTHORITY: The CHCC is empowered by the Legislature to adopt rules and regulations as may be necessary for the implementation of this chapter. 3 CMC Section 2824(c) and (l).

The Administrative Procedure Act provides that an agency may adopt an emergency regulation upon fewer than 30 days' notice if it states its reasons in writing:

(b) If an agency finds that the public interest so requires, or that an imminent peril to the public health, safety, or welfare requires adoption of a regulation upon fewer than 30 days' notice, and states in writing its reasons for that finding, it may, with the concurrence of the Governor, proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency regulation. The regulation may be effective for a period of not longer than 120 days, but the adoption of an identical regulation under subsections (a)(1) and (a)(2) of this section is not precluded.

(c) No regulation adopted is valid unless adopted in substantial compliance with this section. . . .

1 CMC § 9104(b), (c).

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P. O. Box 500409 CK, Saipan, MP 96950  
Telephone: (670) 234-8950 FAX: (670) 233-8756

THE TERMS AND SUBSTANCE: These Rules and Regulations provide for implementation of fees for the CHCC's Room and Board, Dental Clinic and the Health and Vital Statistics Office.

THE SUBJECTS AND ISSUES INVOLVED: Fees for CHCC Room and Board, Dental Clinic, and the Health and Vital Statistics Office.

ADOPTION OF EMERGENCY REGULATIONS FOR 120 DAYS: The Corporation has followed the procedures of 1 CMC § 9104(b) to adopt these Proposed Regulations on an emergency basis for 120 days.

REASONS FOR EMERGENCY ADOPTION: The CHCC finds that the public interest requires adoption of these regulations on an emergency basis, for the following reasons:

1. The Current Procedural Terminology (CPT) Codes determine the structure of the fees at the Commonwealth Health Center. Recent changes make it necessary for CHC to make amendments to their Schedule of Fees, as described by the CPT structure.
2. CHCC professionals do not necessarily perform services listed in the CPT Manual. Therefore, when professionals find services and procedures are necessary for the medical care of the patient, CHCC must price them and include them in the Schedule of Fees.

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Emergency Rules and Regulations shall be published in the Commonwealth Register in the section/s on emergency and proposed regulations (see 1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district (1 CMC § 9104(a)(1)) and will be codified at NMIAC Sections 140-80.8-100, 140-80.8-301, and 140-80.8-375.

The CEO shall take appropriate measures to make these Rules and Regulations known to the persons who may be affected by them (1 CMC 9105(b)(2)).

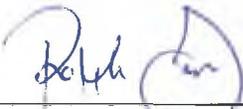
IMMEDIATE EFFECT: These Emergency Rules and Regulations become effective immediately upon filing with the Commonwealth Register and delivery to the Governor. (1 CMC § 9105(b)(2)) This is because the CHCC has found that this effective date is required by the public interest or is necessary because of imminent peril to the public health, safety, or welfare. (*Id.*)

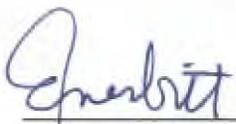
TO PROVIDE COMMENTS: No comments are required for these Emergency Rules and Regulations. However, the related Notice of Proposed Rules and Regulations will specify comment procedures. Please see the notice regarding these emergency regulations being presented as proposed regulations, in the October 2017 Commonwealth Register.

These emergency regulations were approved by the CHCC on 2nd day of October 2017.

Submitted by:  10/02/17  
Esther L. Muna Date

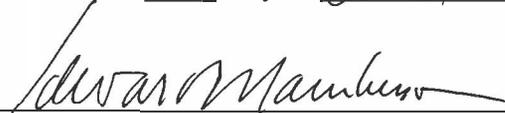
(Received by  10/02/17  
Shirley Camacho-Ogumoro Date  
Special Asst for Administration

Concurred by:  10 3 OCT 2017  
Ralph DLG. Torres Date  
Governor

Filed and Recorded by:  for 10/03/2017  
ESTHER SN. NESBITT Date  
Commonwealth Register

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

Dated the 29 day of October, 2017.

  
EDWARD E. MANIBUSAN  
Attorney General

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P.O. Box 500409 CK, Saipan, MP 96950  
Telephone: (670) 234-8950 FAX: (670) 233-8756

**Commonwealth Healthcare Corporation**  
Commonwealth Gi Sangkattan Na Islas Mariñas Siha  
1 Lower Navy Hill Road, Saipan, MP 96950

**NUTISIAN PUPBLIKU NU I EMERGENCY NA REGULASION**

**NI MANÑUEBU NA ÁPAS SIHA PARA I COMMONWEALTH HEALTHCARE CENTER'S  
PRESIO'N KUATTO YAN SETBISIU  
DENTAL CLINIC YAN OFISINAN VITAL STATISTIC SIHA**

EMERGENCY NA ADÁPTASION YAN IFEKTIBU INSIGIDAS: I Commonwealth Healthcare Corporation (guini dispues "CHCC") nu i Islas Nottle Mariñas, ha sodda' na:

(1) i mañechetton na areklamentu yan regulasion siha put Ápas i CHCC Presio'n Kuatto Yan Setbisiu, Dental Clinic yan Health Vital Statistics debi na u ma'adapta insigidas gi emergency basis sa' ma'nisisita para i intires i pupbliku, para i rason ni masangan gi sanpapa' (1 CMC § 9104(b), (c); 1 CMC § 9105(b)(2)); yan

(2) i parehu na areklamentu yan regulasion siha debi na u ma'adapta, dispues di propiu na nutisia yan puntun upiñon, kumu petmanienti na regulasion siha sigun para i mañechetton na Nutisian nu i Manmaproponi na Areklamentu yan Regulasion siha yan i Áktun i Administrative Procedure, 1 CMC § 9104(a).

ÁTURIDÁT: I CHCC ma'aturisa nu i Lehlatura para u ma'adapta i areklamentu yan regulasion siha kumu manprisisu para i implimentasion nu esti na patti. 3 CMC Seksion 2824(l).

I Áktun Administrative Procedure mapribeni atyu na ahensia ni siña ma'adapta i emergency na regulasion ni menos ki 30 (trenta) dihas i nutisia kumu masangan i rason gi tinigi':

(b) Kumu i ahensian masodda' atyu i intires i pupbliku ni manisisita, pat atyu i mansiriosu na nisisidat para i hinemlu' pupbliku, sináfu, pat welfare ni manisisita adaptasion nu i regulasion ni menos ki 30 (trenta) dihas i nutisia, ya sinangan ginin i tinigi' i rason para atyu i masosodda', siña guí, yan i ina'apruaban i Gubietnu, u makonsigi sin antis di nutisia pat hearing pat gi kuatkuet na abbreviated na nutisia yan hearing atyu i masodda' mapraktika, para u ma'adapta i emergency na regulasion. I regulasion siña mu ifektibu para tiempu ni ti anákkó'-ña ki 120 dihas, lão i adaptasion nu i parehu na regulasion pápa' subsections (a)(1) yan (a)(2) nu esti na seksion ti pumusipbli.

(c) Tãya na regulasion ma'adapta valid solu ma'adapta substantial compliance yan esti na seksion. . . .

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Tilifon: (670) 234-8950 Fax: (670) 233-8756

1 CMC § 9104(b), (c).

I TEMA YAN SUSTANSIAN I PALÁBRA SIHA: Esti na Areklamentu yan Regulasion siha mapribeni para implimentasion nu i ápas siha para i CHCC Presio'n Kwarto Yan Setbisiu, Dental Clinic yan i Hinemlu' i CHCC yan Ufisanan Vital Statistics.

I SUHETU YAN MANERA SIHA NI MANTINEKKA: I ápas Siha para i CHCC Dental Clinic yan i Hinemlu' i CHCC yan Ufisanan Vital Statistics.

I ADÁPTASION NU I EMERGENCY NA REGULASION SIHA PARA 120 (Sientu benti) DIHAS: I Koporasion yan i iyo-niha Chief Executive na Ufisiát matattiyi i manera siha nu i 1 CMC § 9104(b) para u adápta esti i Manmaproponi na Regulasion siha gi emergency basis para 120 (sientu benti) dihas.

RASON SIHA PARA I EMERGENCY NA ADÁPTASION: I CEO masodda' atyu i intires publiku manisisita i adáptasion nu esti siha na regulasion gi emergency basis, para i tinattiyi na rason siha:

1. I Current Procedural Terminology (CPT) Codes maditetmina i estruktura nu i ápas giya i Commonwealth Health Center. I ñuebu na tinilaika siha manisisita para i CHC para u mafa'tinas amendasion siha para iyo-niha Schedule i Ápas, ni ma'eksplika ginin i estrukturan i CPT.
2. I profesionát i CHCC siha ti nisisáriu na u macho'gui i setbisiu siha ni malista gi Manual i CPT. Pues, yanggin i profesionát siha masodda' setbisiu yan manera siha ni manisisita para i inadahin Mediku nu i manmalángu, i CHCC debi na u mapegáyi i presiu ya u ma'inklusi gi hálum i Schedule nu i Ápas siha.

DIREKSION SIHA PARA U MAPO'LU YAN PUPBLIKASION: Esti i Manmaproponi na Emergency na Regulasion siha debi na u mapupblika gi hálom i Rehistran Commonwealth gi hálom i seksion/siha gi emergency yan maproponi na regulasion siha (atan 1 CMC § 9102(a)(1)) ya u mapega gi hálom i mangkumbinienti na lugát gi hálom i Civic Center yan i hálom ufisanan gubietnamentu siha gi kada distritun senadot. (1 CMC § 9104(a)(1))

I CEO debi na u chuli' propiu na aksion para u fa'tinas esti na Areklamentu yan Regulasion siha ni matungu' atyu para i petsona ni siña ina'fekta ginin siha (1 CMC 9105(b)(2)).

INSIGIDAS NA INA'FEKTA: Esti i Emergency na Areklamentu yan Regulasion siha mu ifektibu insigidas gi mapegáña yan i Rehistran Commonwealth yan ma'entrega guatu para i Gubietnu. (1 CMC 9105(b)(2)) Sa' put i CEO ha sodda' atyu i ifektibu na fetcha ni manisisita ginin i intires i publiku pat nisisáriu sa' i nisisáriun i hinemlu', sináfu, pat welfare i publiku. (Id.)

PARA U MAPRIBENIYI OPIÑON SIHA: Tâya opiñon nisisáriu para esti na Emergency na Areklamentu yan Regulasion siha. Láo, i mañechetton na Nutisia nu i Manmaproponi na Areklamentu yan Regulasion siha debi na u kláru ni maneran upiñon siha. Put fabot aligao i nutisia put esti na emergency na regulasion siha ni mapresenta kumu manmaproponi na regulasion, hálum i xxxHulio, 2008, gi Rehistran Commonwealth.



COMMONWEALTH HEALTHCARE CORPORATION

To be Codified at NMIAC Section 140-10.8-301

**ROOM AND BOARD FEES**

PLEASE NOTE THAT THE FEES LISTED BELOW ARE APPLICABLE UNLESS THE CURRENT MEDICARE RATE IS HIGHER, IN WHICH CASE THE CURRENT MEDICARE RATE WILL APPLY INSTEAD OF THE RATE LISTED BELOW.

CODE	DESCRIPTION	RATE
N/A	Room & Board ICU, per day	<b>\$4,000.00</b>
N/A	Room & Board Nursery, per day	<b>\$710.00</b>
N/A	Room & Board NICU, per day	<b>\$2,550.00</b>
N/A	Room & Board Telemetry, per day	<b>\$2,000.00</b>
N/A	Room & Board Private, per day (ISOLATION ROOM)	<b>\$2,800.00</b>
N/A	Room & Board Semi-Private, per day	<b>\$2,550.00</b>
N/A	Delivery Room, per day	<b>\$990.00</b>
N/A	Observation Bed, Labor Room, NO Delivery, per day	<b>\$500.00</b>
N/A	Observation Services at L&D, NO Delivery, per day	<b>\$500.00</b>
N/A	L&D Mid-level Professional Services, per hour, when not included with Obstetrical Care Charges (Private Attending Physician)	<b>\$100.00</b>
360	Operating Room (15 MIN)	<b>\$2,500.00</b>
370	Anesthesia, per 15 min. increment	<b>\$200.00</b>
710	Recovery Room, 1st hour	<b>\$300.00</b>
N/A	Recovery Room, 15-min	<b>\$200.00</b>
N/A	Observation Bed, per hour	<b>\$100.00</b>
N/A	ENBALMING SUPPLIES	<b>\$400.00</b>

To be Codified at NMIAC Section 140-10.8 Part 200

**DENTAL BUREAU FEES**

DESCRIPTION	ADA CODE	CHARGE
<b>DIAGNOSTIC</b>		
Exam, Periodic	0120	\$ 20.00
Emergency Exam	0140	\$ 30.00
Oral Exam	0150	\$ 50.00
Re-Evaluation(limited)	0170	\$ 10.00
<b>PREVENTIVE</b>		
Intraoral-Complete Series (fullmouth)	0210	\$ 90.00
Intraoral-Periapical First Film	0220	\$ 20.00
Intraoral-Periapical Ea. Addtl Film	0230	\$ 15.00
Bitewings-Two Films	0272	\$ 30.00
Bitewings-Four Films	0274	\$ 45.00
Panoramic Films	0330	\$ 80.00
Oral Prophylaxis, Permanent Teeth	1110	\$ 60.00
Oral Prophylaxis, Calculus & Stains (Permanent)	1110	\$ 80.00
Child Prophylaxis, Primary Teeth	1120	\$ 45.00
Child Prophylaxis with Fluoride	1201	\$ 60.00
Sealant Permanent Molar, per tooth	1351	\$ 40.00
Sealant Repair, per tooth	1353	\$ 20.00
Fluoride Varnish	1206	\$ 35.00
Fluoride Topical (not fluoridevarnish)	1208	\$ 35.00
Diamide Silver Fluoride (per tooth)	1354	\$ 35.00
Space Maintainer, Unilateral	1510	\$ 325.00
Space Maintainer, Bilateral	1515	\$ 425.00
Oral Health Instructions	1330	\$ 20.00
<b>RESTORATIONS</b>		
Amalgam, 1 Surface Deciduous	2140	\$ 70.00
Amalgam, 2 Surface Deciduous	2150	\$ 85.00
Amalgam, 3 Surface Deciduous	2160	\$ 105.00
Amalgam, 4 or more Surface Deciduous	2161	\$ 125.00
Amalgam, 1 Surface, Permanent	2140	\$ 80.00
Amalgam, 2 Surface, Permanent	2150	\$ 100.00
Amalgam, 3 Surface, Permanent	2160	\$ 120.00
Amalgam, 4 or more Surface, Permanent	2161	\$ 145.00
Composite, 1 Surface, anterior/posterior	2330/2391	\$ 100.00
Composite, 2 Surface, anterior/posterior	2331/2392	\$ 120.00
Composite, 3 Surface, anterior/posterior	2332/2393	\$ 150.00
Composite, 4 Surface, anterior/posterior	2335/2394	\$ 190.00
Crown-Stainless, primary tooth (per tooth)	2930	\$ 265.00
Crown-Stainless, permanent tooth (per tooth)	2931	\$ 280.00
Prefabricator Resin Crown	2932	\$ 250.00
Temporary Restoration (per tooth)	2940	\$ 50.00
Temporary Restoration, w/ pulp cap	3110	\$ 70.00
<b>ENDODONTICS</b>		
Pulpotomy	3220	\$ 125.00
Root Canal Therapy Anterior	3310	\$ 450.00
Root Canal Therapy Bicuspid	3320	\$ 600.00
Root Canal Therapy Molar	3330	\$ 700.00
<b>PERIODONTICS</b>		
Root Planning & Curettage w/ perio per quadrant	4341	\$ 75.00
Scaling, Gingival Inflammation - Generalized	4910	\$ 60.00
Scaling, Per Quadrant	4342	\$ 45.00

Gingivectomy (Quadrants)	4210	\$ 75.00
Gingivectomy (per tooth)	4211	\$ 20.00
<b>PROSTHETIC</b>		
Denture - Complete Upper	5110	\$ 800.00
Denture - Complete Lower	5120	\$ 800.00
Denture - Immediate Upper	5130	\$ 800.00
Denture - Immediate Lower	5140	\$ 800.00
Denture Partial (one tooth)	5211	\$ 200.00
Maxillary Partial Denture (addtl per tooth)	5211	\$ 50.00
Mandibular Partial Denture (addtl per tooth)	5212	\$ 50.00
Adjust Full Denture, Upper	5410	\$ 50.00
Adjust Full Denture, Lower	5411	\$ 50.00
Adjust Partial Denture, Upper	5421	\$ 50.00
Adjust Partial Denture, Lower	5422	\$ 50.00
Denture Repair Simple - Acrylic	5610	\$ 150.00
Denture Repair w/Impression	5620	\$ 200.00
Denture Reline - Full Upper	5730	\$ 200.00
Denture Reline - Full Lower	5731	\$ 200.00
Denture Reline Partial - Upper	5740	\$ 250.00
Denture Reline Partial - Lower	5741	\$ 250.00
Clasp Wire (per clasp)	5660	\$ 20.00
Recement Bridge	6930	\$ 50.00
Recement Crown	2920	\$ 50.00
<b>ORAL SURGERY</b>		
Extraction, Deciduous (per tooth)	7140	\$ 75.00
Extraction, Simple Permanent (per tooth)	7140	\$ 85.00
Surgical Extraction, Erupted Tooth (per tooth)	7210	\$ 150.00
Surgical Extraction, Soft Tissue Impaction (per tooth)	7220	\$ 175.00
Surgical Extraction, Bony Impaction (per tooth)	7230	\$ 265.00
Surgical Extraction Impaction Sect. (per tooth)	7240	\$ 275.00
Removal Residual Roots, unexposed	7250	\$ 120.00
Removal Residual Roots, exposed	7250	\$ 85.00
Removal of Exostosis (upper or lower)	7471	\$ 100.00
Incision and Drainage of Abscess	7510	\$ 50.00
Unspecified Oral Surgery Procedure	7999	\$ 50.00
Biopsy (Hard Tissue)	7285	\$ 300.00
Biopsy (Soft Tissue)	7286	\$ 300.00
<b>MISCELLANEOUS SERVICES</b>		
Application of Desensitizing Medication	9910	\$ 25.00
Palliative Treatment of Dental Pain	9110	\$ 25.00
Unspecified Adjunctive Procedure	9999	\$ 25.00
Refuse Tx	9991	

Regulation 24. Fees

(Authorization: Section 24 of the Vital Statistics Act )

(a) No certification shall be issued until the fee for such certification is received unless specific approval has been obtained from the Chief Executive Officer or otherwise provided for by statute or regulation.

(b) Fee for services:

- 
- ( 1 ) For issuing a certified copy of birth certificate ..... **\$25.00**
  - ( 2 ) For issuing a certified copy of death certificate..... **\$20.00**
  - ( 3 ) For mailing an Off-island request via US Postal Service..... **\$5.00**
  - ( 4 ) The replacement of a birth certificate subsequent to adoption, legitimation, paternity determination or acknowledgment, [change to acquired sex] or court order, ..... **\$15.00**
  - ( 5 ) For submitting a n application to amend a vital ..... **\$15.00**
  - ( 6 ) Additional charges for expedited certification services that require special attention ..... **\$350.00**
  - ( 7 ) Additional charges for expedited correction and amendment services ..... **\$10.00**
  - ( 8 ) For issuance of a certification letter when no vital record is found..... **\$10.00**
  - ( 9 ) For issuance of a certification letter of authenticity of vital record ..... **\$10.00**
  - ( 10 ) For issuance of a Quarantine Permit\* ..... **\$10.00**
  - ( 11 ) For issuance of a Removal of Human Remain Permit\* ..... **\$10.00**
  - ( 12 ) For issuance of a Burial Transit Permit\* .....**\$10.00**

Footnote “\*” = Permits issued for the removal of human remain from the Commonwealth of the Northern Mariana Islands.

(c) A fee may be charged for special services not specified above. The fee shall be the actual cost for providing the service as determined by the State Registrar.

(d) Fees collected under this section will be deposited into designated account at the Commonwealth Healthcare Corporation.



Commonwealth of the Northern Mariana Islands  
SAIPAN HIGHER EDUCATION FINANCIAL ASSISTANCE

Oscar M. Babauta, Chairman  
P.O. Box 10001 PMB 3648, Beach Road, Saipan, MP 96950  
Tel: 670.233.5995/235-1020/21 Fax: 670.233.5996

**PUBLIC NOTICE OF CERTIFICATION AND ADOPTION  
OF REGULATIONS OF  
Saipan Higher Education Financial Assistance**

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER  
AS PROPOSED REGULATIONS TO THE SAIPAN HIGHER EDUCATION FINANCIAL  
ASSISTANCE REGULATIONS

Volume 39, Number 08, pp 039872-039909, of August 28, 2017

[xxxNOTE: There are 3 alternatives: 1. Reference the proposed, no changes. No AG cert required. 2. Ref the proposed, or proposed as modified for NON-material changes, and attach, using language below that a true copy is attached. Attaching is not necessary. Needs AG signature. 3. No attachments, but there is a modification. This also requires AG certification as to the change.]

**ACTION TO ADOPT PROPOSED REGULATIONS:** The Board of Saipan Higher Education Financial Assistance (the "Board of SHEFA"), 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 Board of SHEFA announced that it intended to adopt them as permanent, and now does so. (Id.) I also certify by signature below that:

As published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Regulations, and that they are being adopted without modification or amendment.

**PRIOR PUBLICATION:** The prior publication was as stated above. The Board of SHEFA adopted the regulations as final at its meeting of October 19, 2017.

**MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY:** None

**AUTHORITY:** The Board of SHEFA is required by the Saipan and Northern Islands Legislative Delegation to adopt rules and regulations regarding those matters over which the Board of SHEFA has jurisdiction. SLL 13-21, as amended, the "Saipan Higher Education Financial Assistance Act of 2003" (10 CMC §§ 3921 – 28, as amended, eff. February 2, 2004).

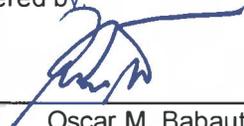
**EFFECTIVE DATE:** Pursuant to the APA, 1 CMC sec. 9105(b), these adopted regulations are effective 10 days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which, in this instance, is 10 days after this publication in the Commonwealth Register.

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

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

I DECLARE under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 19th day of October, 2017, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:

  
\_\_\_\_\_  
Oscar M. Babauta

10/19/17  
Date

Chairman, Board of Saipan Higher Education Financial Assistance

Filed and  
Recorded by:

  
\_\_\_\_\_  
ESTHER SN. NESBITT  
Commonwealth Registrar

10.27.2017  
Date

0 Form Notice of Final Adoption of Regs.wpd



**Commonwealth Healthcare Corporation**  
Commonwealth of the Northern Mariana Islands  
1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



**PUBLIC NOTICE OF CERTIFICATION AND ADOPTION  
OF RULES AND REGULATIONS OF  
THE COMMONWEALTH HEALTHCARE CORPORATION**

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER  
AS PROPOSED RULES AND REGULATIONS  
Volume 39, Number 2, pp 039410-039581, of March 28, 2017

**Amendment to Fees, CHCC Chagemaster and Amendments**

**ACTION TO ADOPT PROPOSED REGULATIONS:** The Commonwealth of the Northern Mariana Islands, COMMONWEALTH HEALTHCARE CORPORATION ("CHCC"), 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 CHCC announced that it intended to adopt them as permanent, and now does so. (Id.) A true copy is attached. I also certify by signature below that:

as published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Regulations,

and that they are being adopted as published.

**PRIOR PUBLICATION:** The prior publication was as stated above.

**MODIFICATIONS FROM PROPOSED REGULATIONS:** Adoption as Revision to Chagemaster and Amendments to Chagemaster.

**AUTHORITY:** The Corporation is empowered by the Legislature to adopt these rules and regulations pursuant to 3 CMC Section 2824(k), (l).

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

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

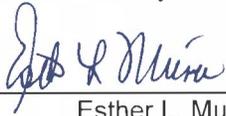
The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC sec. 2153(e)

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P.O. Box 500409 CK, Saipan, MP 96950  
Telephone: (670) 234-8950 FAX: (670) 236-8930

I DECLARE under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 10<sup>th</sup> day of October, 2017, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:



\_\_\_\_\_  
Esther L. Muna  
CEO, CHCC

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

Dated the 23<sup>rd</sup> day of October, 2017.



\_\_\_\_\_  
EDWARD MANIBUSAN  
Attorney General

Filed and  
Recorded by:



\_\_\_\_\_  
ESTHER SN. NESBITT  
Commonwealth Register

10-27-17  
\_\_\_\_\_  
Date

0 Form Notice of Final Adoption of Regs wpd

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P.O. Box 500409 CK, Saipan, MP 96950  
Telephone: (670) 234-8950 FAX: (670) 236-8930



# Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands  
1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



## PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF RULES AND REGULATIONS OF THE COMMONWEALTH HEALTHCARE CORPORATION

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER  
AS PROPOSED RULES AND REGULATIONS  
Volume 39, Number 6, pp 039703, of June 28, 2017

### Revision to the CHCC Human Resource Rules and Regulations

**ACTION TO ADOPT PROPOSED REGULATIONS:** The Commonwealth of the Northern Mariana Islands, COMMONWEALTH HEALTHCARE CORPORATION ("CHCC"), 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 CHCC announced that it intended to adopt them as permanent, and now does so. (Id.) A true copy is attached. I also certify by signature below that:

as published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Regulations,

and that they are being adopted as published.

**PRIOR PUBLICATION:** The prior publication was as stated above.

**MODIFICATIONS FROM PROPOSED REGULATIONS:** Adoption as Revision to CHCC Human Resources Rules and Regulations. The Travel Policy has been deleted.

**AUTHORITY:** The Corporation is empowered by the Legislature to adopt these rules and regulations pursuant to 3 CMC Section 2824(k), (l).

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

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

The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC sec. 2153(e)

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P.O. Box 500409 CK, Saipan, MP 96950  
Telephone: (670) 234-8950 FAX: (670) 236-8930

I DECLARE under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 10<sup>th</sup> day of October, 2017, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:



\_\_\_\_\_  
Esther L. Muna  
CEO, CHCC

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

Dated the 23<sup>rd</sup> day of October, 2017.



\_\_\_\_\_  
EDWARD MANIBUSAN  
Attorney General

Filed and  
Recorded by:



\_\_\_\_\_  
ESTHER SN. NESBITT  
Commonwealth Register

10.27.17

\_\_\_\_\_  
Date

0 Form Notice of Final Adoption of Regs wpd

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P.O. Box 500409 CK, Saipan, MP 96950  
Telephone: (670) 234-8950 FAX: (670) 236-8930



**Ralph DLG. Torres**  
 Governor  
  
**Victor B. Hocog**  
 Lt. Governor

**Frank M. Rabauliman**  
 Administrator  
  
**Ray S. Masga**  
 Director, DEQ  
  
**Janice E. Castro**  
 Acting Director, DCRM

## **NOTICE OF ADOPTION OF RULE ON PESTICIDE ENFORCEMENT**

**ADOPTION OF RULE:** ADOPTION OF “Enforcement Response Policy under the Pesticide Management Regulations”

**ACTION TO ADOPT RULE:** The Commonwealth of the Northern Mariana Islands, Office of the Governor, Bureau of Environmental and Coastal Quality (BECQ) Division of Environmental Quality (DEQ) hereby adopts this Enforcement Response Policy under the Pesticide Management Regulations” pursuant to the procedures of the Administrative Procedure Act (APA), 1 CMC §§ 9102, 9015 and applicable regulations.

**AUTHORITY:** The Administrator of BECQ is empowered by the Legislature to adopt rules and regulations for the administration and enforcement of the Commonwealth Environmental Protection Act, 2 CMC § 3122.

**PURPOSE AND OBJECTIVE OF RULE:** The proposed Pesticide Enforcement Response Policy (“ERP”) serves as a guideline to provide a fair and reasonable response for similar violations by pesticide applicators and businesses while giving the agency the flexibility to consider all circumstances pertinent to a particular issue, as well as improve enforcement integrity. This policy shall provide guidance on how to classify the type of violation and consistently determine the appropriate action and progressive enforcement response. This policy shall provide a means of parity between large, mid-sized, and small companies facing an enforcement action under the pesticide regulations. Penalties shall be based on criteria including (1) harm to human health; (2) potential for harm to human health; (3) contamination of the environment; (4) potential of contamination of the environment; (5) degree of intent or negligence with respect to the violation; (6) history of compliance; (7) size of company. In addition, enforcement shall be progressive, and repeat offenders will be assessed increasingly greater penalties.

**DIRECTIONS FOR FILING AND PUBLICATION:** This Rule shall be published in the Commonwealth Register in the section on newly adopted Rules (1 CMC § 9102(a)(2)).

The Administrator will take appropriate measures to make this Rule is known to the persons who may be affected by them.

EFFECTIVE DATE: Pursuant to the APA, 1 CMC § 9105(b) and applicable regulations, this adopted Rule is effective 10 days after compliance with 1 CMC §§ 9102, 9105 and publication in the Commonwealth Register.

I, Frank M. Rabauliman, Administrator of the Bureau of Environmental and Coastal Quality, hereby repeal the attached Rule.

Submitted by:  FRANK M. RABOULIMAN 9/25/17  
Administrator Date  
CNMI Bureau of Environmental & Coastal Quality

Received by:  SHIRLEY P. CAMACHO-OGUMORO 10/4/17  
Governor's Special Assistant Date  
for Administration

Filed and Recorded by:  ESTHER SN. NESBITT 10.06.2017  
Commonwealth Register Date

Pursuant to 1 CMC § 2153(e) and 1 CMC § 9102(c) 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, pursuant to 1 CMC § 2153(f).

 Edward MANIBUSAN 10/27/17  
Attorney General Date



# Commonwealth of the Northern Mariana Islands

## OFFICE OF THE GOVERNOR

### 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.deq.gov.mp](http://www.deq.gov.mp) and [www.crm.gov.mp](http://www.crm.gov.mp)



## *Enforcement Response Policy*

Date created:

November 20, 2013

Date revised:

June, 2014; May, 2016; September, 2017

### Overview

The goal of the Pesticide Program of the Bureau of Environmental and Coastal Quality (“BECQ”) is to protect public health, property, pesticide handlers and fieldworkers, and the environment of the Commonwealth of the Northern Mariana Islands.

The purpose of the Enforcement Response Policy (“ERP”) serves as a guideline to provide a means of parity between large, mid-sized, and small companies facing an enforcement action. It is also designed to provide a fair and reasonable response for similar violations by applicators and businesses while giving the agency the flexibility to consider all circumstances pertinent to a particular issue, as well as improve enforcement integrity.

This policy shall provide guidance on how to:

1. Classify the type of violation and
2. Consistently determine the appropriate action and use progressive enforcement response.

Nothing in this policy shall be construed to give rise to a cause of action against BECQ. This policy is intended as a guidance document and not legal authority.

### Procedure Of Enforcement Response

Currently, BECQ conducts various inspections:

1. Agricultural Use Inspection, including certified applicator records
2. Non-Agricultural Use Inspection, including certified applicator records
3. Marketplace/Distributors
4. Pesticide Importers

When a routine inspection uncovers deficiencies, the pesticide program staff shall consult with the branch manager to determine what type of enforcement action the branch should take. Ordinarily, the first response to a violation will be a Notice of Violation (“NOV”), which will then be presented to the branch manager. This NOV will then be submitted to legal counsel for review. Upon concurrence of counsel, NOV shall be submitted first to the DEQ Director and then to the BECQ Administrator for his/her signature. The inspector will serve the NOV and ensure that a copy goes to the relevant parties and into the official file.

Pursuant to the Commonwealth Environmental Protection Act, 2 CMC §§ 3101 to 3135, an NOV shall be issued without penalties. A penalty may only be assessed “after notice of failure and the expiration of any reasonable period allowed for corrective action. . . .” 2 CMC §3131(c). A NOV is not a prerequisite to penalties where no corrective action can be taken.

Where a respondent has failed to comply with an NOV or when there is a major violation, the branch shall prepare an Administrative Order (“AO”), and the branch manager will suggest a penalty as appropriate. The review and service of the AO will proceed in the same manner as a NOV. The Respondent may then request a formal administrative hearing, an informal settlement conference, or both.

**Non-Compliance  
with AO**

Where the Respondent has not complied with the Administrative Order (“AO”) or with a final agreement settling the AO, the Administrator shall refer the case to the Office of the Attorney General to file a Petition for Enforcement of Administrative Order or other action as appropriate.

**Definitions**

- **Size of Business:** the size of the company shall be dependent on their annual gross revenues from all revenue sources during the prior calendar year (tax filings). Further, the size of business and annual gross revenue figures are based on the corporate family rather than a specific subsidiary or division of the company, unless the subsidiary or division is independently owned. Small is \$250,000.00 annually or less; Mid-size is between 250,000.00 annually and \$750,000.00 annually; Large is \$750,000.00 annually and above. The penalties assessed will generally decrease as the size of the business decreases.
- **Respondent:** A dealer, manufacturer, firm, applicator, or individual charged with a violation Commonwealth Environmental Protection Act and the CNMI Pesticide Management Regulations.
- **Stop Use/Stop Sale:** A stop use/stop sale order is issued to any person who owns, controls, or has custody of a pesticide or device, when the Respondent is using or selling a pesticide in violation of law. This warning notice is given to the violator at the end of the inspection. It shall be followed by a formal letter, the Notice of Violation.
- **Notice of Violation (NOV):** A NOV is ordinarily the first level of enforcement. The NOV will describe the violation and cite the specific provision of the law violated. The NOV will also identify any corrective action that may be needed and notify the respondent that further violations will result in an elevated enforcement action, such as the Administrative Order. Depending on the type of violation, respondent has up to thirty days to comply. No penalties are included in the NOV.
- **Administrative Order (AO):** The AO is formal enforcement action taking the form of a legal complaint. The AO will include penalties. BECQ may issue an AO for violations that have the potential to affect human health, safety, or the environment or where an elevated enforcement response is required, such as multiple violations and or multiple NOV.s. The AO identifies the specific corrective action needed. Respondent has seven (7) days to respond to the order and request a hearing.
- **Informal settlement conference:** Respondent, when issued an AO may request an informal settlement conference where the Respondent and BECQ shall try to negotiate a settlement. The Administrator or his designee shall preside over this meeting. The intent is to settle or come to an agreement. This process shall also include the walkthrough of the penalty matrix (see Attachment #2a and 2b, Penalty Calculation Worksheet) to describe to the Respondent how the penalty was derived. The settlement shall be solidified with Final Judgement of Consent (see Attachment #3).

- Administrative hearing (formal hearing under the Administrative Procedure Act): the Administrator or his designee will preside over the hearing. The Administrator shall control the taking of testimony and evidence and shall cause to be made an audio, audio-video, or stenographic record the hearing. The type of record made shall be the discretion of the Administrator. Evidence presented at such a hearing need not conform to the prescribed rules of evidence, but may be limited by the Administrator in any manner he reasonably determines to be just and efficient and promote the ends of justice. The Administrator shall issue a written decision within fifteen (15) working days of the close of the enforcement hearing. The decision shall include written findings of fact and conclusions of law. The standard of proof for such a hearing and decisions shall be the preponderance of the evidence.

**Repeat Violator  
(prior violations)**

- A “repeat violator” is a person or company that has received more than one violation of a similar nature within a five (5) year period (including NOV and AO). Violations shall be grouped broadly; violations do not need to be in the exact same area of the law or regulation to be considered repeat violator, so long as the violator has had notice of the prohibited conduct.

**Pesticide Devices**

- A product is a pesticide device if it uses only physical or mechanical means to trap, destroy, repel, or mitigate any pest and does not include any pesticidal substance or mixture of substances. An example is a tamper-proof rodent bait station sold without containing rodenticide. If such is the case, the device has no toxicity and the violations applicable are failure to notify BECQ (NOII and NOA) and importation or sale or use of a cancelled or misbranded device.
- If a device and a pesticide product are packaged together, that combined product is a pesticide product subject to registration requirements. For example, octenol is registered as a pesticide product intended to attract certain species of mosquitoes and biting flies. If octenol is distributed or sold in—or packaged with—a trap for that purpose, the combination product is a pesticide product that must be EPA-registered separately. If the trap is sold without the octenol, it is a device regulated by EPA.

**Determining  
a Penalty**

- Penalties assessed for violations shall range from \$50 to \$3,000 per violation. Penalties shall be based on criteria including (1) harm to human health; (2) potential for harm to human health; (3) contamination of the environment; (4) potential of contamination of the environment; (5) degree of intent or negligence with respect to the violation; (6) history of compliance; (7) size of company.
- In addition, enforcement shall be progressive, and repeat offenders will be assessed increasingly greater penalties.
- Where appropriate, Administrative Orders may contain cumulative penalties for failure to comply with deadlines or terms of the order, and Final Judgement on Consent may provide for liquidated damages.
- BECQ shall consider the size of the respondent’s business, the effect of the penalty on the respondent’s ability to continue business and the gravity of the violation (see attachment #1a and 1b).
- Each violation is associated with a penalty amount.

In some cases, an additional penalty will be assessed for any violation that causes serious damage to the environment, serious injury to property or serious injury to or death of any person. Each serious incident shall be examined on a case-by-case basis, taking into consideration the severity of the damage or injury, the potential long-term effects, and any

economic loss involved. The basis for an additional assessment shall be fully explained and documented in the records of the case. The maximum allowable penalty of \$25,000 per violation per day will be considered.

A violation for the improper disposal of a pesticide shall be referred to the Toxic Waste Management (TWM) branch for additional assessment and enforcement action.

While the base penalty amount serves as the basis in determining a penalty amount, the final penalty amount assessed must outweigh / surpass the economic benefit the violator received in violating the regulation, if such fine is supported by law. The purpose of the penalty amount is to serve as a deterrence in committing another violation in the future.

**Good Faith  
(Reduction of  
Penalty)**

- During the course of the settlement negotiations, BECQ may consider evident of significant good faith efforts by the respondent to comply expeditiously with the CNMI Pesticide Management Regulations after the discovery of the violation(s). In such instances, BECQ may reduce the penalty as much as 20 percent below the proposed penalty, if such a reduction would serve the public interest.
- Such a reduction should only occur where there is an appropriate showing by the Respondent and finding by the BECQ.
- No downward adjustment should be made because the respondent lack knowledge concerning either applicable requirements or violations committed by respondent.
- Reduction shall be based on a showing of "special circumstances," as outlined below.

**Special  
Circumstances**

- The BECQ Administrator or designee may adjust the penalty beyond 20 percent adjustment based on special circumstances.
- The allowable adjustment for special circumstances is up to additional 20 percent.
- Reasons for the extraordinary reduction will need to be documented.
- Substantive reasons why the extraordinary reduction of the civil penalty was appropriate, including: (1) setting forth the facts of the case; (2) why the penalty derived from the FIFRA civil penalty matrices and gravity adjustment was inequitable; (3) how all other methods for adjusting or revising the proposed penalty would not adequately resolve the inequity; and (4) the manner in which the adjustment of the penalty effectuated the purposes of the Act. The FIFRA program manager's concurrence in the extraordinary reduction must be included in the case file.

**Inability to Pay**

- The penalty assessed may be paid in installments or in a manner agreeable to BECQ and the respondent. The ability to pay is applicable to small to medium sized businesses.

**Supplemental  
Environment  
Project**

- BECQ may grant the respondent an opportunity to conduct a supplemental environmental project (SEP) in lieu of the civil penalty. This option shall be available for respondents whose penalty is \$ 3,500.00 or greater. The violator shall submit a project proposal for BECQ's review and approval. Projects may not be engaged or performed in lieu of the penalty until BECQ grants written approval.
- In return, some percentage of the cost of the SEP is considered as a factor in establishing the final penalty to be paid by the respondent. BECQ has broad discretion to settle cases with

appropriate penalties. Evidence of a violator's commitment and ability to perform a SEP is a relevant factor for BECQ to consider in establishing an appropriate settlement penalty

Criteria for a supplement environmental project:

- 1) The project must be related to pesticides or primarily benefit the environment or public health in the CNMI.
- 2) As much money must be spent on the project as the penalty reduction.
- 3) The project cannot be an activity or result that is already required by law or set to become a future requirement.
- 4) The portion of the project attributable to penalty reduction is not funded by government contracts, loans or grants.
- 5) The project does not create a significant market or economic advantage for the violator.
- 6) The project does not result in BECQ controlling the funds or implementing the project.
- 7) If the violator is doing the project itself, the project must be commensurate with the violator's expertise and capabilities.
- 8) The violator must provide a final report on the project.
- 9) If the violator fails to complete the SEP as approved by the BECQ, the violator shall forfeit his/her opportunity and shall pay the original civil penalty in full within 10 calendar days.

Press Release

- When the BECQ and the respondent have agreed on a settlement (or at the time of enforcement action), the agency shall issue a press release to all media outlets, describing the violations and the penalties. This shall be applicable to large size businesses. For small to medium sized businesses, the press release shall be featured on the BECQ website.

Settlement Agreement

- When the BECQ and the respondent have agreed on a settlement both parties shall sign a settlement agreement /Final Judgement on Consent. This shall be maintained in the case file and a copy given to the BECQ Administrative Services for tracking purposes. (see Attachment #3).

Storage of Misbranded Pesticides

- BECQ shall issue the Notice of Detainment – Pesticide Storage Form to the respondent. This form shall explain that BECQ will charge a storage fee while the products are in BECQ custody, awaiting shipment to the country of origin, or other means of disposal.
- The consignee/importer who imports a pesticide or device that has been detained or denied entry and impounded, shall pay a non-refundable storage fee of **\$10 per day for each** storage container (i.e. 55-gal drum) starting from the date of arrival, as intercepted by BECQ or authorized agents, until the pesticides and or devices are returned or disposed. After the initial 30 days, the storage fee shall be increased to **\$20 per day for each** storage container (i.e. 55-gal drum) until the pesticide or device is shipped to a certified disposal facility.
- Consignee/importer who imports a pesticide or device that has been detained or denied entry and impounded, that require special handling, including but not limited to **restricted use pesticides (RUP)**, fumigants, gaseous pesticides, banned pesticides and shall be assessed a non-refundable storage fee of **\$25 per day for each** storage container (i.e. 55-gal drum) starting from the date of arrival, as intercepted by DEQ or authorized agents, until the pesticides and or devices are returned or disposed, for the

first 30 days. After the initial 30 days, the storage fee shall be increased to **\$35 per day for each** storage container (i.e. 55-gal drum) until the pesticide or device is shipped to a certified disposal facility.

- It is within the discretion of BECQ as to how to properly store pesticides, including the necessary number of 55-gallon drums, or their equivalent, to ensure the safety and welfare of BECQ employees and members of the public and the protection of the environment, while awaiting proper disposition of detained, seized or impounded pesticides.

**Shipping Options  
& Procedures**

**Ocean:**

- **Ambyth Shipping** – Tel: (670)322-0970/1 Email: Teresa Gotti [ops@ambythsaipan.com](mailto:ops@ambythsaipan.com) Toll Free Number: 1-888-851-9227
- **CTSI/FedEx** – P.O. Box 501937 Saipan, MP 96950 Tel: (670)322-1690/91 Email: [salespn@ctsi-logistics.com](mailto:salespn@ctsi-logistics.com)
- **UPS** – P.O. Box 506092 Saipan, MP 96950 Tel: (670)233-2877/4877 Email: [jlbaker@jlbakersaipan.com](mailto:jlbaker@jlbakersaipan.com) (accepts hazardous materials)
- **Triple B Forwarders** – P.O. Box 501928 Saipan, MP 96950-1928 Tel: (670)234-5505 Email: Randy Lacay, [rlacay@tripleb.com](mailto:rlacay@tripleb.com) (accepts hazardous materials)
- **Royal Pacific Express** – Middle Road, Gualo Rai, Saipan MP 96950 Tel: (670)234-6526 Email: [cris@royal-pacificexpress.com](mailto:cris@royal-pacificexpress.com) (accepts hazardous materials)
- **APEC** – P.O. Box 10001 PMB A6 Saipan, MP 96950 Tel: (670)322-7709/8 Email: [apecnmi@pticom.com](mailto:apecnmi@pticom.com) (accepts hazardous materials)

**Post:**

- **United States Postal Services** – Chalan Kanoa Bldg., Saipan MP 96950 Tel: (670)234-6270 (\*\*Only Pesticide Devices)

**Air:**

- **United Cargo** – Obyan Saipan MP 96950 Tel: (670)288-0360/3

**Additional  
Documents &  
Reference  
Materials**

- 1a) Gravity of Violation
- 1b) Percent Gravity Adjustment Criteria
- 2a) Penalty Matrix
- 2b) Penalty Calculation Worksheet
- 3) Stipulated Resolution /Consent on Order
- 4) Stop Sale Use or Removal Form
- 5) Notice of Detainment – Pesticide Storage Form
- 6) Delineation of Pesticide Priorities- Memorandum dated January 2012
- 7) Policy Regarding Cancelled Pesticides – Memorandum dated September 2017
- 8) EPA “Existing Stocks of Pesticides Products; Statement of Policy”
- 9) SOP 4.0 Interception of Misbranded Pesticides

- end -

# Gravity of Violation

# Attachment 1a

This chart will be used to determine the gravity of the violation(s). The number shall serve as the reference point in adjusting the final penalty to be assessed in the enforcement action.

Violation	Value	Circumstance
Gravity of Harm - Pesticide (toxicity)	4	Toxicity Category I Pesticides, signal word "Danger," restricted use pesticides (RUPs), pesticides with flammable or explosive characteristics (i.e., signal words "Extremely Flammable" or "Flammable"), or pesticides that are associated with chronic health effects (mutagenicity, oncogenicity, teratogenicity, etc.) or pesticide is unregistered (misbranded) and the ingredients or labeling indicate Category I toxicity. **Applicable for Non sufficient NOII/NOA (RUP)
	3	Toxicity - Category II, , signal word "Warning" or pesticide unregistered and unknown, but not expected to meet Category I toxicity criteria. ** Applicable for Non sufficient NOII/NOA (GUP)
	2	Toxicity – Category III or IV, signal word "Caution" or pesticide unregistered and ingredients lower or minimum risk category.
	1	Toxicity – Category IV, or signal word "Caution" or pesticide device with no toxicity or active ingredient.
	0	No Pesticide involved
Gravity of Harm - Harm to Human Health	5	Actual serious or widespread harm to human health.
	4	Potential serious or widespread harm to the human health.
	3	Unknown harm to the human health.
	2	Minor potential or actual harm to human health anticipated ( <i>minor harm refers to actual or potential harm which is, or would be of short duration, no lasting effects or permanent damage, effects are easily reversible, and harm does not, or would not result in significant monetary loss</i> ).
	1	Negligible harm to human health anticipated ( <i>negligible harm refers to no actual or potential harm or actual or potential harm which is insignificant or unnoticeable and has no lasting effects or permanent damage or monetary loss</i> ).
Gravity of Harm - Harm to Environment	5	Actual serious or widespread harm to the environment (e.g., crops, water, livestock, wildlife, wilderness, or other sensitive natural areas).
	4	Potential serious or widespread harm to the environment. **Applicable for Non sufficient NOII/NOA (GUP/RUP).
	3	Unknown harm to the environment.
	2	Minor potential or actual harm to the environment ( <i>minor harm refers to actual or potential harm which is, or would be of short duration, no lasting effects or permanent damage, effects are easily reversible, and harm does not, or would not result in significant monetary loss</i> )
	1	Negligible harm to the environment anticipated ( <i>negligible harm refers to no actual or potential harm or actual or potential harm which is insignificant or unnoticeable and has no lasting effects or permanent damage or monetary loss</i> )
Gravity of Misconduct - Compliance History	5	Violator has had two (2) Administrative Orders and each Administrative Order has had at least two (2) counts. (≥ AO w/ 2 or more violations)
	4	Violator has had three (3) prior violations. Or if a violator is a commercial applicator or dealer three (3) prior violations. Or if a violator is a private applicator with more than 4 prior violations.
	3	Violator has had two (2) prior violations. Or if a violator is a commercial applicator or dealer with two (2) prior violations. Or if a violator is a private applicator with more than 3 prior violations.
	2	Violator has had one (1) prior violation. Or if a violator is a commercial applicator or dealer with one (1) prior violation. Or if a violator is a private applicator with more than 2 prior violations.
	1	No prior violations. Violator is a private applicator with 1 prior violation.
Gravity of Misconduct - Culpability	5	Knowing or willful violation of the regulation. Knowledge of the general hazardousness of the activity.
	4	Culpability unknown or violation resulting from negligence.
	3	Violation resulted from negligence. Violator instituted steps to correct the violation immediately after discovery of the violation.
	2	Violation was neither knowing nor willful and did not result from negligence, but no steps were taken to correct the violation immediately after discovery of the violation.
	1	Violation was neither knowing nor willful and did not result from negligence. Violator instituted steps to correct the violation immediately after discovery of the violation.

NOTE: Culpability is not required to be determined at the time the complaint is issued (especially if this information is not readily available). The agency may instead assign a weighting factor of 4 (culpability unknown), at the time of the issuance of the complaint. Culpability adjustments may be reconsidered during settlement negotiations.

**Percent Gravity Adjustment Criteria**

<b>Points</b>	<b>Action</b>
0-2	Reduce matrix value by 50%
3-4	Reduce matrix value by 40%
5-6	Reduce matrix value by 30%
7-8	Reduce matrix value by 20%
9-10	Reduce matrix value by 10%
11-13	<b>Assess the matrix value</b>
14-15	<i>Increase</i> matrix value by 10%
16-17	<i>Increase</i> matrix value by 20%
18 – 19	<i>Increase</i> matrix value by 30%
20 – 21	<i>Increase</i> matrix value by 35%
22 and above	<i>Increase</i> matrix value by 40%

**\*\* matrix amount is located in Attachment 2a**

# Pesticide Enforcement Response Policy - Penalty Matrix

Attachment 2a

In most cases, a violator is issued a Notice of Violation (written warning) for the first offense or violation of any section in the CNMI Pesticide Regulation. The violator is considered a repeat violator for violating any section in the CNMI Pesticide Regulation within a five (5) year period and shall be classified as committing a 2nd offense.

In most cases, a violator is issued a Notice of Violation (written warning) for the first offense or violation of any section in the CNMI Pesticide Regulation. In some cases, an additional penalty will be assessed for any violation that causes serious damage to the environment, serious injury to property or serious injury to or death of any person. Each serious incident shall be examined on a case-by-case basis, taking into consideration the severity of the damage or injury, the potential long-term effects, and any economic loss involved. The basis for an additional assessment shall be fully explained and documented in the records of the case. The maximum allowable penalty of \$25,000 per violation per day will be considered.

The penalty amounts listed in this matrix shall be applied for each violation and shall be adjusted according to business size and gravity of the violation (refer to Attachment #1a and 1b). The penalties assessed will generally decrease as the size of the business decreases. The penalties assessed will generally decrease as the gravity of the violation decreases.

VIOLATION	First Offense	2nd Offense		3rd Offense	
	Enforcement Document / Penalty	Enforcement Document	Penalty	Enforcement Document	Penalty
<b><u>I. Use/Misuse (General)</u></b>					
Failure to obtain permit	NOV- no penalty	AO	\$ 500.00	AO	\$ 850.00
Failure to comply with permit conditions	NOV- no penalty	AO	\$ 1,000.00	AO	\$ 1,700.00
Violating a stop sale, use or removal order	NOV- no penalty	AO	\$ 1,000.00	AO	\$ 1,700.00
Improper storage	NOV- no penalty	AO	\$ 500.00	AO	\$ 850.00
Improper transportation	NOV- no penalty	AO	\$ 500.00	AO	\$ 850.00
Improper disposal	NOV- no penalty	AO	\$ 500.00	AO	\$ 850.00
Failure to use a pesticide as specified in the label (inconsistent with label)	NOV- no penalty	AO	\$ 1,000.00	AO	\$ 2,750.00
Manufacture or production of pesticides, including re-packaging, refilling, or relabeling, for sale or resale	NOV- no penalty	AO	\$ 1,500.00	AO	\$ 2,750.00
WPS - failure to provide notification/posting at a central location RE safety, emergency procedures, & recent applications	NOV- no penalty	AO	\$ 500.00	AO	\$ 850.00
WPS - failure to provide training to workers	NOV- no penalty	AO	\$ 500.00	AO	\$ 850.00
WPS - failure to provide medical assistance/treatment	NOV- no penalty	AO	\$ 500.00	AO	\$ 850.00
WPS - failure to provide decontamination site(s)	NOV- no penalty	AO	\$ 500.00	AO	\$ 850.00
WPS - failure to provide PPE to workers	NOV- no penalty	AO	\$ 500.00	AO	\$ 850.00

# Pesticide Enforcement Response Policy - Penalty Matrix

Attachment 2a

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The penalty amounts listed in this matrix shall be applied for each violation and shall be adjusted according to business size and gravity of the violation (refer to Attachment #1a and 1b). The penalties assessed will generally decrease as the size of the business decreases. The penalties assessed will generally decrease as the gravity of the violation decreases.

VIOLATION	First Offense	2nd Offense		3rd Offense	
	Enforcement Document / Penalty	Enforcement Document	Penalty	Enforcement Document	Penalty
<b>II. Importation/Sale/Distribution</b>					
Failure to Submit NOI/NOA	NOV- no penalty	AO	\$ 150.00	AO	\$ 265.00
Cancelled product	NOV- no penalty	AO	\$ 375.00	AO	\$ 637.00
Misbranded/Unregistered product (as defined in 3.23)	NOV- no penalty	AO	\$ 750.00	AO	\$ 1,105.00
Additional Penalty for RUP (Purchase, Sale or Import)		AO	\$ 650.00	AO	\$ 1,275.00
<b>III. Recordkeeping</b>					
No sales records or certified applicator records or RUP records	NOV- no penalty	AO	\$ 375.00	AO	\$ 637.00
Falsification of all or part of any application for certification, license, importation, or use, or any record required	NOV- no penalty	AO	\$ 650.00	AO	\$ 1,105.00
<b>IV. Certification</b>					
Commercial use of GUP w/o certification	NOV- no penalty	AO	\$ 375.00	AO	\$ 637.00
Commercial use of RUP w/o certification	NOV- no penalty	AO	\$ 650.00	AO	\$ 1,105.00
Private use of GUP w/o certification	NOV- no penalty	AO	\$ 375.00	AO	\$ 637.00
Private use of RUP w/o certification	NOV- no penalty	AO	\$ 650.00	AO	\$ 1,105.00
Commercial application w/o correct category	NOV- no penalty	AO	\$ 375.00	AO	\$ 637.00
Improper supervision of non-certified applicator	NOV- no penalty	AO	\$ 375.00	AO	\$ 637.00

# Penalty Calculation Worksheet

**Attachment 2b**

Respondent \_\_\_\_\_  
 Address \_\_\_\_\_  
 \_\_\_\_\_

Case No: \_\_\_\_\_  
 Prepared by: \_\_\_\_\_  
 Date: \_\_\_\_\_

	Count 1	Count 2	Count 3
<b>1 VIOLATION</b> (Specific citation in Pesticide Regulation)			
<b>2 BASE PENALTY</b> (Refer to the Penalty Matrix_Tab2a)	\$	\$	\$
<b>3 SIZE OF BUSINESS</b> (Small-15%; Mid-5%)			
pre-REDUCTION OF AMOUNT	\$	\$	\$
<b>4 GRAVITY ADJUSTMENT</b> (Attachment #1a)			
<i>Pesticide Toxicity</i>			
<i>Human Health</i>			
<i>Environmental Harm</i>			
<i>Compliance History</i>			
<i>Culpability</i>			
TOTAL Gravity Value			
<b>5 PENALTY ADJUSTMENT</b> (Attachment #1b)			
Percent adjustment	____%	____%	____%
Dollar adjustment			
<b>6 COUNT PENALTY</b>			
<b>7 TOTAL PENALTY</b> (Sum of Count 1, Count 2 and Count 3)	\$		-

Previous Violations (5 year period)		
Case No.	Violation	Penalty
		\$
		\$
		\$
		\$
		\$



Commonwealth of the Northern Mariana Islands

OFFICE OF THE GOVERNOR

Bureau of Environmental and Coastal Quality

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Ralph Dlg. Torres  
Governor

Victor B. Hocog  
Lt. Governor

Frank M. Rabauliman  
Administrator

Ray S. Masga  
Director, DEQ

Fran Castro  
Director, DCRM

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS SAIPAN

In Re. the Matter of )

CASE NO. DEQ  
AOFYXX-0XX-PEST

Mr./Ms. FirstName MI LastName )

Owner for \_\_\_\_\_ )

dba \_\_\_\_\_ )

Mailing Address )

Saipan, MP 96950 )

STIPULATED RESOLUTION  
AND FINAL ORDER ON  
CONSENT

\_\_\_\_\_ dba \_\_\_\_\_ (“\_\_\_\_\_”) and the

Commonwealth of the Northern Mariana Islands Office of the Governor, Bureau of Environmental and Coastal Quality, Division of Environmental Quality (“BECQ”) agree and stipulate to the following resolution of Administrative Order AOFYXX-0XX-PEST:

Respondent shall pay a civil fine in the amount of \$X,XXX for . . . [state violation here]  
Respondent shall pay this fine at the BECQ Office on Middle Road, Gualo Rai.

Consideration for the Resolution

1. To pay the civil fine of One Thousand Dollars (\$X,XXX) in no more than three (3) payments: \$XXX on Month XX, 2017; \$XXX on Month XX, 2017; and \$XXX on Month XX, 2017. Payments shall be payable to the CNMI Treasury. Payments made 10 days after the due date shall be assessed a fifty dollar (\$50.00) late fee.
2. To ensure that \_\_\_\_\_ name of company here \_\_\_\_\_ shall not . . . [state violation here].

Once fully executed, this Resolution will result in AOFYXX-0XX-PEST being hereby completely resolved with prejudiced. Nothing in this Stipulated Resolution shall be considered to be an admission by either party of a violation of any laws or regulations.

### General Provisions

- A. No Admission. By entering into this Resolution name of company here does not admit that violated any law, regulation, contract, permit condition, or other requirement and that this Resolution is being entered into purely as a compromise; and that this Resolution shall not ever be used as evidence of liability in any suit or suits, claims, charges, administrative proceedings, or other actions whatsoever. This Resolution shall not be offered or received into evidence or otherwise filed or lodged in any proceeding against any party except as may be necessary to prove and enforce its terms. It is expressly understood and agreed that the consideration referenced herein is in full accord and satisfaction of the disputed asserted claims set forth in the above referenced AO.
- B. Governing Law. This Resolution and all performance hereunder shall be governed by the applicable federal laws and the laws of the Commonwealth of the Northern Mariana Islands.
- C. Costs and Expenses. Each party shall bear its own costs, fees and expenses associated with this Stipulation. All other fees and costs (if any) are waived and forever discharged.
- D. Integration. This Resolution constitutes the entire agreement of the parties and all prior representations and discussions are merged and incorporated herein. This Resolution may not be amended absent a writing evidencing such an amendment executed by the parties.
- E. Breach or Failure of Performance. If either name of company here or BECQ at any time fails to perform any obligation require of such party under this Resolution and the other party seek to or obtains judicial assistance in enforcing such obligation, the party against whom the obligation is sought to be enforced shall pay, in addition to any damages or equitable relief, the reasonable attorneys' fees and related costs of enforcement of the party seeking enforcement is successful in obtaining the relief which it seeks in such judicial action. The Superior Court of the Commonwealth of the Northern Mariana Islands shall have continuing jurisdiction over this Resolution for enforcement purposes only.
- F. Authorization. The parties each represent and warrant that they are legally authorized and competent to execute this Agreement and assumes full responsibility for and assumes the risk of all mistakes in fact or law regarding any damages, losses or injuries, whether disclosed or undisclosed.
- G. Severability. If any provision of this Resolution shall be or become legally void or unenforceable for any reason whatsoever, such invalidity and unenforceability shall not impair the validity or enforceability the provisions of this Agreement. In this event and to this extent only, the objectionable provision shall be severed and the remaining provisions shall be enforced.
- H. Execution in Counterparts. This Resolution may be executed in counterparts and this Resolution shall become binding when executed by all parties hereto without regard to whether such signatures are appended to the original Resolution or to a counterpart thereof. Signatures received by facsimile, or to a facsimile copy hereof, shall be deemed valid and binding as appended to the original when each page has been initialed by all parties hereto.

**SIGNATURES**

By signing this document, name of company here and BECQ attest further that:

1. Each of the parties have read and understood this Stipulated Resolution;
2. Each of the parties agreed to the terms of tis Stipulation of their own free will;
3. The parties enter this Stipulated Resolution for good cause and as a good faith and complete settlement of the AO.

IN WITNESS WHEREOF, the parties hereby affix their signatures on the dates indicated.

**For** name of company here :

**For BECQ:**

\_\_\_\_\_  
 Mr./Ms. FirstName MI LastName  
 Owner for \_\_\_\_\_  
 dba \_\_\_\_\_  
 Mailing Address  
 Saipan, MP 96950

\_\_\_\_\_  
 Frank M. Rabauliman  
 Administrator,  
 Bureau of Environmental and Coastal Quality

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date





Commonwealth of the Northern Mariana Islands  
**OFFICE OF THE GOVERNOR**  
**Bureau of Environmental and Coastal Quality**  
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 www.deq.gov.mp and www.cnm.gov.mp



Frank M. Rabauliman  
Administrator

Ray S. Masga  
Director

**NOTICE OF STOP SALE, USE OR REMOVAL**  
**Pesticide and Pesticide Devices**

**Owner/Establishment Information**

- Agricultural** (farms, greenhouses, nurseries and forests where commodities are produced)
- Non-Agricultural** (golf courses, resorts, institutional, structural, and other sites that are not agricultural)
- Marketplace**
- Dealer**

**Owner/Establishment Name**

**Owner/Establishment Address**  
(Number, Street, State, & Zip Code)

**REASONABLE CAUSE**

- use, importation sale, distribution or delivery of a pesticide or device that is adulterated or misbranded; pesticides that are not labeled in English; banned by DEQ or cancelled, suspended or not registered by EPA; [NMIAC § 65-70-101(a)(1-4)]
- pesticide or device was used in a manner inconsistent with its labeling (pesticide application, storage, disposal, worker protection, PPE, etc.); [NMIAC § 65-70-101(b)(3)]
- certified applicator knowingly falsified all or part of any information on the application for certification, license or importation, or use, or any record required to be maintained [NMIAC § 65-70-101(b)(6)]
- pesticide or device was used or applied for commercial purposes without the direct supervision of a certified applicator [NMIAC § 65-70-101(b)(11)]
- application of pesticides without obtaining a permit; noncompliance of permit conditions [NMIAC § 65-70-101(c)]
- Other: \_\_\_\_\_

**ADDITIONAL REMARKS** (Product Information/Description/EPA Reg Number/Etc.)

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**COMPLIANCE PERIOD.** You are hereby requested to comply with the CNMI Pesticide Regulations by

\_\_\_\_\_ Month \_\_\_\_\_ Day \_\_\_\_\_ Year

**ACKNOWLEDGEMENT**

The undersigned hereby acknowledges this verbal and written Notice of Stop Sale, Use or Removal

Name (please print clearly) \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_

**DEQ Inspector Information**

Shirley Ann L. Taitano \_\_\_\_\_  
 (please print clearly) Signature \_\_\_\_\_ Date \_\_\_\_\_



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Frank M. Rabauliman  
 Administrator

Ray S. Masga  
 Director, DEQ

**NOTICE OF DETAINMENT & STORAGE OF PESTICIDE & PESTICIDE DEVICES**

Pursuant to the CNMI Pesticide Management Regulations as published in the Commonwealth Register Volume 38, Number 12, of December 28, 2016, and Volume 39, Number 03, of March 28, 2017, a consignee/importer that imports a pesticide that has been detained or denied entry and impounded is required to pay a non-refundable storage fee of \$10 per day for each storage container (i.e. 55-gallon drum) starting from the date of interception by DEQ or authorized agents, until the pesticides and or devices are returned or disposed. After the initial 30 days, the storage fee shall be increased to \$20 per day for each storage container until the pesticide or device is shipped to a certified disposal facility.

Consignee/importer who imports a pesticide that require **special handling**, including but not limited to restricted use pesticides (RUP), fumigants, gaseous pesticides and shall be assessed a non-refundable storage fee of \$25 per day for each storage container (i.e. 55-gallon drum) starting from the date of interception by DEQ or authorized agents, until the pesticides and or devices are returned or disposed. After the initial 30 days, the storage fee shall be increased to \$35 per day for each storage container until the pesticide or device is shipped to a certified disposal facility.

It is within the discretion of DEQ as to how to properly store pesticides, including the necessary number of 55-gallon drums, or their equivalent, to ensure the safety and welfare of DEQ employees and members of the public and the protection of the environment, while awaiting proper disposition of detained, seized or impounded pesticides.

**Owner/Establishment Information**

<b>Consignee/Importer Name &amp; Tel No.</b>	<b>Consignee/Importer Address</b>
	(Number, Street, State, & Zip Code)

**REASONABLE CAUSE**

- use, importation sale, distribution or delivery of a pesticide or device that is adulterated or misbranded; pesticides that are not labeled in English; banned by DEQ or cancelled, suspended or not registered by EPA; [NMIAC § 65-70-101(a)(1-4)]
- Other: \_\_\_\_\_

**ADDITIONAL REMARKS** (Product Information/Description/EPA Reg. Number/Etc.)

\_\_\_\_\_

\_\_\_\_\_

**ACKNOWLEDGEMENT**

The undersigned hereby acknowledges this verbal and written Notice of Detainment & Storage of Pesticides & Pesticide Devices

Name (please print clearly)	Signature	Date
-----------------------------	-----------	------

**BECQ Inspector Information**

Name (please print clearly)	Signature	Date
-----------------------------	-----------	------

WHITE – BECQ copy • YELLOW – IMPORTER copy



Commonwealth of the Northern Mariana Islands  
OFFICE OF THE GOVERNOR  
Division of Environmental Quality



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Fax: (670) 664-8540

MEMORANDUM

TO: FILE

FROM: DEQ Director  
Pesticides and Storage Tanks (PeST) Branch Manager  
Legal Counsel

cc: Chief of the Civil Division, OAG

SUBJECT: **Delineation of Priorities for CNMI DEQ Pesticide Branch and Clarification of Policy regarding Bleach, Chlorine and other Sodium Hypochlorite and Related Products and Matters**

DATE: January 30, 2012

---

The purpose of this memo is to set forth clearly the priorities of Division of Environmental Quality (DEQ) with respect to the pesticide program and the process for enforcing violations of the pertinent CNMI regulations. This memo reiterates the priorities in DEQ's December 23, 2010 memo, but specifically serves to clarify DEQ's policy on sodium hypochlorite enforcement and supersedes the December 23, 2010 memo with respect to sodium hypochlorite issues.

**1. Pesticides with the highest priority:**

Restricted use pesticides (RUPs) and highly toxic pesticides not authorized for use in CNMI that have been smuggled or otherwise brought into the CNMI are DEQ's highest enforcement priority.

Illegal import, use, and distribution and sale of general use pesticides are DEQ's secondary enforcement priority.

DEQ's tertiary and lowest enforcement priority includes (1) "dual use" products such as bleaches or cleaning agents that are not considered pesticides unless a pesticidal claim is made on their labeling or in connection with their sale and distribution, and (2) pesticide devices, which do not contain any active ingredients.

The context of the violation may affect DEQ's assessment of a situation and how important it is to utilize scarce resources to pursue a matter. Relevant context includes a pesticide's concentration, toxicity, and possible harm to humans or the environment.

## 2. Prioritizing Activities:

a. Imports. DEQ currently believes that it is very important to target the entry of RUPs and highly toxic pesticides not authorized for use in CNMI at the ports, to stop these dangerous chemicals from entering the Commonwealth before they can cause damage. DEQ has entered into an MOU with CNMI Customs to seize<sup>1</sup> unlawful pesticides. DEQ has worked also the Coast Guard in the past to stop entry of pesticides into the CNMI and hopes to work with them again on this issue.

DEQ faces the following challenges with respect to these import issues: safety training and equipment for the customs officers, storage for the seized pesticides, translators to assist with the inspections. DEQ is also challenged by what to do with these pesticides after customs releases them to DEQ. Finally there seems to be a challenge for the DEQ program because port visits are not considered "inspections" for EPA's recordkeeping system.

DEQ needs more assistance from EPA on import violations.

b. Use. DEQ believes that another important activity to focus on is agricultural/resort and structural use inspections. DEQ also believes it would be useful to have residue testing on the CNMI's agricultural products to get a baseline regarding whether the CNMI may have serious agricultural misuse of pesticides.

c. Distribution and Storage. As a lesser priority, DEQ conducts distribution and storage inspections and would like to do more outreach and educational activities as time allows.

## 3. Enforcement Activities

As an initial matter it is up to the Director, with the advice of his legal counsel, to determine whether to take an enforcement action, either as a Notice of Violation or as an Administrative Order with or without penalties. It is, and has been, a policy of the Director to have legal counsel review all enforcement documents for sufficiency, prior to reaching the Director's desk. Legal Counsel, in consultation with the Pesticides and Storage Tanks (PeST) Branch Manager, the Director and the Office of the Attorney General (OAG), makes the final call on whether the CNMI laws have been violated. The PeST Manager and/or Legal Counsel shall inform the Director of any matter that meets the criteria for a High Level Episode or complaint, so that the DEQ Director can consult with EPA and take appropriate action regarding such an incident.

---

<sup>1</sup> The DEQ is unable to stop pesticides from entering the CNMI, because illegal pesticides are not contraband within the meaning of CNMI law. A change in legislation is necessary to make illegal pesticides contraband that can be stopped at the CNMI border.

The Director may also ask the Office of the Attorney General to prosecute the action, through either a criminal action or a civil action, or a petition to enforce a final administrative order. However, as set forth in the CNMI Constitution, the Office of the Attorney General has absolute prosecutorial discretion regarding which cases the OAG takes.



Frank M. Rabauliman

attachment



Commonwealth of the Northern Mariana Islands

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Frank M. Rabauliman  
Administrator

Ray S. Masga  
Director, DEQ

MEMORANDUM

TO: FILE

FROM: DEQ Director  
Pesticides and Storage Tanks (PeST) Branch Manager  
Legal Counsel

cc: Chief of the Civil Division, OAG

SUBJECT: Policy Regarding Cancelled Pesticides

DATE: September 28, 2017

It is unlawful for any person to use, sell, distribute or import any pesticide that is banned by DEQ or, cancelled, suspended, not registered by EPA. The purpose of this memo is to set forth the corrective actions for the persons that have used, sold or imported pesticide products or pesticide devices that have cancelled or inactive US EPA registrations.

**Pesticide Cancellation Under EPA's Own Initiative**

Section 6(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizes EPA to take the initiative to cancel a pesticide registration when existing risks related to the use of the pesticide are unacceptable, and registrants either have not made, or cannot make, necessary changes to the terms and conditions of the registration to address the unacceptable risks.

- ➔ When a product's cancellation of registration has been initiated by the USEPA, the BECQ shall order the violator/respondent to immediately stop the use or sale or import of that product. The violator/respondent shall be responsible for returning the cancelled product back to the country of origin.

**Pesticide Cancellation by Company's Own Initiative (Voluntary Cancellation)**

A company, of its volition, may cancel a product's registration with the EPA at any time. The company is required to notify EPA and a Notice of Receipt of Request to Voluntarily Cancel Certain Pesticide Registrations is published.

Memorandum  
Page 2 of 2

Section 6(f)(1)(A) of FIFRA provides that a registrant of a pesticide product may, at any time, request that any of its pesticide registrations be canceled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the Federal Register.

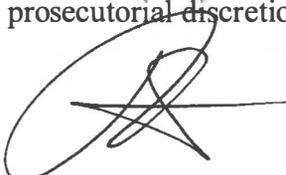
If a registrant requests to voluntarily cancel a registration where the EPA has identified no particular risk concerns, the registrant has complied with all applicable conditions of reregistration, conditional registration and data calling, and the registration is not-subject to a Registration Standard, Label Improvement Program, or reregistration decision, the EPA will generally permit a registrant to sell or distribute existing stocks for 1-year after the cancellation request was received. Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted.

- When a product has been voluntarily cancelled by the registrant, the BECQ shall allow the violator/respondent to continue the use or sale of the cancelled product for up to one-year after the date of cancellation.
- If the product has been cancelled for more than a one-year period, the product shall be treated as a misbranded pesticide product. All misbranded pesticides are to be returned to the country of origin or properly disposed.
- BECQ may on a case by case basis, extend the provision to sell, distribute, or use existing stocks until such stocks are exhausted.
- No person shall be allowed to import a cancelled pesticide product.

### Enforcement Activities

As an initial matter, it is up to the Director, with the advice of his legal counsel, to determine whether to take an enforcement action, either as a Notice of Violation or as an Administrative Order with or without penalties. It is, and has been, a policy of the Director to have legal counsel review all enforcement documents for sufficiency, prior to reaching the Director's desk. Legal Counsel, in consultation with the Pesticides and Storage Tanks (PeST) Branch Manager, the Director and the Office of the Attorney General (OAG), makes the final call on whether the CNMI laws have been violated.

The Director may also ask the Office of the Attorney General to prosecute the action, through either a criminal action or a civil action, or a petition to enforce a final administrative order. However, as set forth in the CNMI Constitution, the Office of the Attorney General has absolute prosecutorial discretion regarding which cases the OAG takes.



Ray S. Masga  
DEQ Director

**ENVIRONMENTAL PROTECTION AGENCY**

[OPP-38509; FRL-3846-4]

**Existing Stocks of Pesticide Products; Statement of Policy**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice; statement of policy.

**SUMMARY:** This Statement summarizes the policies that will generally guide EPA in making individual decisions concerning whether, and under what conditions, the Agency will permit the continued sale, distribution, and use of existing stocks of pesticide products whose registrations under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) are amended, cancelled, or suspended. Although most of the policies reflected in this Statement have already been applied by the Agency on a case-by-case basis, EPA now intends to formalize these policies and is soliciting comments from interested persons. If, after reviewing any comments, EPA determines that changes to this Statement are warranted, the Agency will issue a revised Statement of Policy in the Federal Register.

**DATES:** The policies announced in this Statement are currently in effect. The Agency will review any comments on these policies received by the Agency on or before August 26, 1991. After reviewing such comments, the Agency may issue a revised Statement of Policy.

**ADDRESSES:** By mail, submit comments to: Public Docket and Freedom of Information Section, Field Operations Division (H7508C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington DC 20460. In person, deliver comments to: Rm. 246, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

**FOR FURTHER INFORMATION CONTACT:** By mail: Martha Lamont, Special Review and Reregistration Division (H7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington DC 20460. Office location and telephone number: Special Review Branch, rm. 31L3, Crystal Station 1, 2800 Crystal Drive, Arlington, VA 22202, (703)-308-8033.

**SUPPLEMENTARY INFORMATION:** The general statement of policy on existing stocks of pesticide products whose registrations under FIFRA are amended, cancelled, or suspended follows.

**GENERAL STATEMENT OF POLICY**

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I. Application

This Statement of Policy applies to determinations the Agency will make concerning existing stocks of pesticide products whose registrations have been amended, cancelled, or suspended pursuant to sections 3, 4, or 6 of the Federal Insecticide, Fungicide and Rodenticide Act as amended (FIFRA). This Statement also applies to existing stocks of products sold or distributed under a supplemental distributor agreement. It is the responsibility of the registrant to notify such distributors of any applicable existing stock provisions.

For purposes of this Statement, existing stocks are defined as those stocks of a registered pesticide product which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the action.

This Statement establishes general principles which the Agency generally will apply in determining whether and under what conditions to allow the sale and use of existing stocks. In general, if there are significant risk concerns associated with a cancelled pesticide, the Agency will make a case-by-case determination as to whether to allow the continued sale or use of existing stocks of the pesticide. The Agency will not allow continued sale, distribution, or use of such a pesticide unless the benefits associated with such sale, distribution, or use exceed the risks.

Where there are no significant risk concerns associated with the cancellation of a pesticide, the Agency will generally allow unlimited use of existing stocks, and unlimited sale by persons other than the registrant. A registrant will generally be allowed to

continue to sell existing stocks for 1 year after the date cancellation is requested, or 1 year after the date the registrant has ceased to comply with the responsibilities that are placed upon registrants, whichever date is sooner.

This policy will be implemented on the date of publication of this notice. Because registrants were unaware of the policies contained in this notice, the Agency has decided to provide a 6-month "grace period" before certain aspects of this Policy become fully effective. Specifically, in cases where the Agency has not identified any significant risk concerns, the Agency will allow registrants of products cancelled on or before December 26, 1991 to continue to sell or distribute existing stocks at least until December 26, 1991, notwithstanding the fact that application of the policies set forth in this statement might result in a shorter existing stocks period or an outright prohibition against the sale or distribution by the registrant of any existing stocks.

II. Applicable Statutory Provisions

Under FIFRA section 3, a pesticide product must be registered with EPA before it may be sold or distributed in commerce. EPA may not register a pesticide unless, among other things, it first determines that the product and its use will not cause unreasonable adverse effects on the environment. Once a pesticide product is registered, FIFRA provides a number of different mechanisms for changing the status of a registration. These mechanisms can be grouped into three categories: Changes requested by a registrant; changes imposed by EPA for failure to comply with various obligations imposed upon registrants; and changes imposed by EPA because of a determination by the Agency that use of the pesticide product results in unreasonable adverse effects to man or the environment.

A registrant may request at any time, for any reason, to voluntarily cancel a registration (FIFRA section 6(f)) or to amend the terms and conditions of the registration, most frequently by amending the pesticide product label (FIFRA sections 3(f) and 6(f)). Voluntary amendments to registration can include, among other things, adding or deleting uses, increasing or decreasing application rates, changing the formulation of a pesticide, or changing the label language (such as changing directions for use, warning statements, etc.).

Other changes in registration status are the result of Agency action because of the failure of a registrant to fulfill

certain responsibilities adequately. Each registrant has a continuing obligation to ensure that its registered products comply with the standards for registration. Note that the term "registration" includes reregistration (see FIFRA section 2(z)). As part of this obligation, a registrant may be required to submit to EPA additional information which the Agency considers necessary to support continued registration. See FIFRA section 3(c)(2)(B). Failure to submit information required by the Agency pursuant to section 3(c)(2)(B) may result in the suspension of a registration until the information is provided.

In addition, registrants of pesticide products containing active ingredients first registered before November 1, 1984, must demonstrate, under FIFRA section 4, that their products meet the current standards for registration and should be reregistered. Failure to comply with certain provisions of section 4 can result in the cancellation or suspension of pesticide registrations. For example, registrations may be cancelled if a registrant fails to pay fees mandated by section 4(i) or fails to provide EPA with certain information during the early stages of the reregistration process (see FIFRA sections 4(d)(5), 4(e)(3) and 4(i)(7)(C)). Failure by registrants to supply other information required during reregistration may result in the suspension of registrations until the required information is provided to EPA (see, e.g., FIFRA sections 4(d)(6) and 4(f)(3)).

If a registration is a conditional registration, the Agency may also take action to cancel the registration pursuant to FIFRA section 6(e) if the registrant fails to meet any of the conditions imposed upon the product at the time of registration.

Finally, changes in the status of a registration may be mandated by EPA to assure that the product or its use does not result in unreasonable adverse effects on the environment. The Agency may reevaluate a pesticide at any time. If EPA determines that a pesticide product (without change in its terms of registration) no longer meets the standard for registration, the Agency may propose cancellation of the product under FIFRA section 6(b) or propose to classify the product for restricted use. Such Agency proposals may at times allow changes in the terms of registration (such as the deletion of particular uses or addition of specified protective measures) as alternatives to cancellation or change in classification. If the Agency determines that use may result not only in unreasonable adverse

effects but in an "imminent hazard," EPA may initiate action to suspend the pesticide registration during the pendency of cancellation proceedings (FIFRA section 6(c)).

It is a violation of FIFRA section 12(a)(1)(A) to sell or distribute any pesticide that has been cancelled or suspended, except to the extent that sale or distribution is authorized by EPA. It is also a violation of FIFRA section 12(a)(2)(J) and (K) to violate the terms of a suspension or cancellation order. Thus, unless expressly permitted by the Agency, distribution or sale of existing stocks of cancelled or suspended pesticides is unlawful. Use of such existing stocks, on the other hand, is not unlawful unless specifically prohibited by the Agency in a cancellation or suspension order.

If a pesticide is cancelled under section 6(b) or section 6(e), FIFRA provides in section 6(a)(1) and (e) that the Administrator may permit the continued sale and use of existing stocks of the cancelled pesticide "to such extent, under such conditions, and for such uses as he may specify if he determines that such sale or use is not inconsistent with the purposes of (FIFRA) and will not have unreasonable adverse effects on the environment." FIFRA section 2(bb) defines "unreasonable adverse effects" as "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide." Thus, in determining whether to permit distribution, sale, or use of existing stocks of pesticides cancelled under sections 6(b) or 6(e), EPA must apply the same risk/benefit considerations that are applicable to other Agency actions under FIFRA (except that such considerations would be limited to the context of allowing distribution, sale, or use of existing stocks).

FIFRA does not specify a standard for the Agency to apply in determining whether to allow the distribution, sale, and use of existing stocks of pesticide products cancelled voluntarily pursuant to FIFRA section 6(f) or for failure of the registrant to comply with the requirements of section 4. The Agency has decided to make existing stocks determinations with respect to products cancelled under sections 4 and 6(f) based upon whether distribution, sale, or use of existing stocks would be consistent with the purposes of FIFRA. In determining whether such distribution, sale, or use would be consistent with the purposes of FIFRA, the Agency will first determine whether

there are any significant risk concerns associated with the cancelled product. If there are such risk concerns, the Agency will generally require a risk/benefit analysis before allowing the sale, distribution, or use of existing stocks. If there are no significant risk concerns, the Agency will generally not require a risk/benefit analysis before making an existing stocks determination.

In the case of suspension of pesticide registrations for failure to submit data, FIFRA has explicitly provided the Agency with broad discretion in the area of existing stocks. Section 3(c)(2)(B) provides that the Administrator may make such provisions for the sale and use of existing stocks of a pesticide whose registration is suspended for failure to submit data as EPA "deems appropriate."

As to existing stocks of pesticides that have had their registrations amended, the Agency generally considers sale or distribution of a pesticide bearing a label or containing a formula other than the label or formula currently approved by the Agency to be a violation of FIFRA section 12(a)(1)(B), (C), or (E). The Agency has, however, established regulations (at 40 CFR 152.130) which provide for the continued sale of a product bearing previously approved labeling for certain periods of time depending upon the nature of the amendment. These regulations do not apply to changes in composition. The Agency will treat sale and distribution of products containing a previously accepted formula that is different from the currently accepted formula in the manner described in unit III.C (Amendments of Registration) of this Policy Statement.

### III. General Policies Applicable to All Existing Stocks

This Policy Statement contains the general policies that the Agency intends to apply in making determinations concerning the sale or use of existing stocks of pesticides, as defined in unit I (Application) of this statement. In any individual case, the Agency will consider additional factors if appropriate. To the extent that a particular action or cancellation can fit into more than one category discussed below, EPA will generally select the most restrictive existing stocks provision that may apply. Whenever an existing stocks provision is issued, the Agency reserves the right to amend that provision on its own initiative or at the request of any interested person (either by allowing additional time to sell or use stocks or by placing additional restrictions on the sale or use of existing

stocks) if later circumstances warrant. Finally, unless an existing stocks provision stipulates otherwise, any sale or use of existing stocks must be in accordance with the previously approved label and labeling on, or accompanying, the product.

*A. Cancelled Pesticides*

In determining what existing stocks provision is appropriate with respect to a pesticide whose registration has been cancelled, the Agency generally will base its determination on the total circumstances affecting the cancelled registration. The actual mechanism triggering cancellation will not always be the controlling factor. Instead, the Agency generally will focus on three factors: (1) Whether there are significant potential risks which raise a question as to whether the use of the cancelled pesticide results in unreasonable adverse effects on man or the environment (this category consists primarily of cancellations where the registration is the subject of a notice of intent to cancel issued pursuant to section 6(b) or a special review initiated pursuant to 40 CFR part 154); (2) whether the registrant of the cancelled pesticide has failed to meet an obligation of registration (such as payment of fees under section 4, or submission of data required under section 3(c)(2)(B), 3(c)(7), or (4); and (3) whether the Agency has taken some regulatory position with respect to the cancelled registration (such as issuance of a Registration Standard, Label Improvement Program, or a document describing the reregistration status of a pesticide or active ingredient). Consideration of these factors in a particular case may suggest differing provisions for the sale, distribution, or use of existing stocks. In such situations, the Agency generally will apply the most restrictive existing stocks provision to the cancelled product.

1. *Cancellations where the Agency has identified particular risk concerns.* Whenever a pesticide registration is cancelled, the Agency will determine whether there are significant potential risk concerns associated with the use of the pesticide. If there are such concerns, the Agency generally will make a case-by-case determination as to whether to allow continued distribution, sale, or use of existing stocks of the cancelled pesticide. This likely will be the case whether a product is cancelled by Agency mandate after issuance of a risk-based notice of intent to cancel, whether the product is cancelled because of the registrant's failure to comply with the reregistration requirements of section 4, or whether

the cancellation was requested voluntarily by the registrant.

In most cases, the Agency will not permit continued distribution, sale, or use of existing stocks of a cancelled pesticide raising risk concerns unless it can be demonstrated that the social, economic, and environmental benefits associated with such distribution, sale, or use exceed the social, economic, and environmental risks. A risk/benefit analysis for existing stocks purposes is somewhat different from the analysis that is performed by the Agency in determining whether or not to cancel a registration. In making existing stocks determinations, the Agency may consider any or all of the following criteria, to the extent that information is provided or available:

a. The quantity of existing stocks at each level of the market (i.e., in possession of registrants, distributors, retailers, end-users, etc.)

b. The risks resulting from the use of such stocks. The examination of risk may take into account the limited nature of use of existing stocks where relevant (such as where limited use might result in a level of exposure that may not result in much risk). In many cases, however, it may turn out that the risks posed by use of existing stocks will be similar or identical to the risks posed by continued registration (such as, for example, where the risk is primarily an acute risk from single exposure). In assessing the risks posed by use of existing stocks, the Agency will, to the extent possible, also consider the risks posed by likely alternatives (if any).

c. The benefits resulting from the use of such stocks. In considering the benefits of existing stocks, the Agency may consider the short-term problems (if any) in switching to alternatives, including the length of time before which such alternatives could be available to retailers and users and any hardships that might be presented to users before alternatives are available. The consideration of benefits may also include (insofar as it affects existing stocks) the type of analysis of benefits that the Agency performs in its other risk/benefit analyses (i.e., whether alternatives are available, how any such alternatives compare in terms of cost and efficacy, and what the economic effects to the user will be if the cancelled product is unavailable).

d. The dollar amount users and others have already spent on existing stocks (which would be lost if distribution, sale, or use were not permitted).

e. The risks and costs of disposal or alternative disposition of the pesticide if distribution, sale, or use are not

permitted. The Agency may assess whether existing stocks could be used for other purposes. If disposal appears likely, the Agency may consider relevant aspects of disposal, including the nature, feasibility, and cost of proper disposal of the cancelled product.

f. The practicality of implementing restrictions on distribution, sale, or use of existing stocks. For instance, it may be that in some circumstances the Agency would allow continued use of a product because the product could not, as a practical matter, be retrieved.

In addition to the factors listed above, the Agency may consider any other information relevant to either the risks posed by, or the benefits resulting from, the sale and use of existing stocks.

In performing a risk/benefit analysis the Agency will consider all information and/or comments from registrants and interested persons regarding existing stocks that are received in response to public documents that the Agency issues in the course of its regulatory process. For example, where an active ingredient is in special review, the Agency will often issue a Preliminary Determination (position document (PD) 2/3) and request public comment on all proposed regulatory actions. Where a registrant's request for voluntary cancellation is received prior to initiation of special review, but while one is under consideration, the Agency will publish a notice in the Federal Register acknowledging receipt of the request and may solicit public comments regarding existing stocks provisions.

If registrants or others indicate that there is an interest in the continued sale or use of existing stocks of cancelled pesticides raising risk concerns, and if information is provided to the Agency to support such distribution, sale, or use, the Agency will generally conduct an analysis of the risks and benefits of the distribution, sale, and use of existing stocks. If information is not provided to the Agency or no interest in continued sale, distribution, or use is expressed to the Agency, the Agency will generally not conduct a risk/benefit analysis and will not permit any sale, distribution, or use of existing stocks.

While a risk/benefit analysis will be an important factor in the Agency's determination of whether or not to allow distribution, sale, and use of existing stocks of cancelled pesticides raising risk concerns, the Agency must also determine that further distribution, sale, or use would be consistent with the purposes of FIFRA. There may be unusual circumstances where the Agency will place restrictions on the distribution, sale, and use of existing

stocks beyond those limits otherwise identified in a risk/benefit analysis (e.g., to prevent stockpiling by distributors and users).

In addition, in determining whether distribution, sale, or use of existing stocks would be consistent with the purposes of the Act, the Agency will generally look at the circumstances surrounding the cancellation. If a cancellation is the result of a final Agency action after a special review and a hearing pursuant to section 6(b), the Agency is unlikely to allow continued sale or distribution (and quite possibly, use) of the cancelled pesticide. In such circumstances, registrants, other distributors, and users of the pesticide have had ample notice of the Agency's intentions and sufficient time to take appropriate steps accordingly (such as to procure alternatives, not stockpile large quantities of the pesticide involved, use up stocks already on hand, etc.). On the other hand, where a voluntary cancellation occurs well before the Agency could take final action (i.e., prior to the completion of a special review or in lieu of a hearing under section 6(b)), the Agency may take into consideration the shorter period of notice sellers and users may have had before cancellation, the degree to which the registrant's actions accelerated the removal of the pesticide from the market, and whether the cancellation would have occurred at all without an existing stocks provision.

In a special review situation, the Agency will publish its final determination on whether to allow any sale, distribution, or use of existing stocks of cancelled pesticides, and if so, what conditions to place on such sale, distribution, or use, as part of the Final Determination (PD 4) and any other documents the Agency may issue either with or subsequent to the issuance of the PD 4 (such as notices of intent to cancel, cancellation orders, etc.). If a chemical raising a risk concern is cancelled without issuance of a Notice of Final Determination at the conclusion of a special review, the Agency will include a final existing stocks determination in a cancellation order. Existing stocks determinations contained in cancellation orders will be enforced under section 12(a)(2)(K) or 12(a)(1)(A) of FIFRA.

The Agency may allow the continued sale, distribution, and use of existing stocks of a voluntarily cancelled product raising risk concerns without performing a risk/benefit analysis if similar products with substantial share of the market remain on the market. For example, if a registration raising risk

concerns is cancelled voluntarily, the Agency may examine whether the cancelled registration comprises a significant share of the market for the particular active ingredient and use pattern, and the circumstances surrounding the cancellation. If the cancelled registration does not comprise a significant share of the market, a prohibition on existing stocks would not be likely to significantly reduce environmental risks, because similar products would continue to be sold and used. Further, the Agency believes that it makes sense to encourage the early, voluntary cancellation of registrations when risk concerns arise.

If such an early cancellation is truly voluntary (i.e., the registration is not facing imminent cancellation or suspension), the Agency may allow the registrant to sell and distribute existing stocks for 1 year without performing a detailed risk/benefit analysis, and may allow other persons to distribute, sell, and use existing stocks until the stocks are exhausted. The Agency does not believe it should penalize registrants, distributors, or users in cases where a registrant voluntarily cancels a registration before other registrants are compelled to do so. Moreover, it is unlikely that a detailed risk/benefit analysis would yield a different result; so long as similar registrations comprising a predominant share of the market remain, it is unlikely that distribution, sale, or use of existing stocks of a relatively small volume of cancelled product would significantly (if at all) increase the risk of any unreasonable adverse effect on the environment.

On the other hand, if registrations constituting a dominant share of the market are cancelled, and the Agency does not believe that the remaining registrants can fill the previous demand for the product, the Agency will generally not allow continued sale, distribution, or use of existing stocks unless a risk/benefit analysis supporting such sale, distribution, or use is performed.

In cases where the Agency allows continued sale and use of existing stocks of cancelled products raising risk concerns because of the continuing nature of other registrations, it should be understood that the existing stocks allowance may be amended if the conditions concerning the registrations of the remaining products change. (The Agency in all cases reserves the right to amend existing stocks provisions where appropriate.) If other registrations are cancelled or amended during an existing stocks period for a voluntarily cancelled

product, and the Agency establishes restrictions on existing stocks of these other registrations or requires relabeling of product made prior to the amendment, the Agency will likely impose similar restrictions on the existing stocks of the earlier voluntarily cancelled registration.

2. *Cancellations where a registrant has failed to comply with an obligation of registration.* This category consists of cancellations where the Agency does not have significant risk concerns with respect to the cancelled pesticide, but where the registrant has failed to respond appropriately to an obligation of registration. In these situations, the Agency has no particular reason to believe that continued distribution, sale, or use of the cancelled product would result in unreasonable adverse effects on the environment.

If a cancellation is not triggered by section 6(b) or 6(e) of FIFRA, the Agency is not required to perform a risk/benefit analysis before determining whether to allow continued sale, distribution, or use of existing stocks. Unless there are significant risk concerns associated with the cancelled pesticide, the Agency generally does not intend to perform such an analysis. Even where a cancellation is triggered by section 6(b) or 6(e), the Agency generally intends to make existing stocks decisions for cancelled products without performing a detailed risk/benefit analysis if there are no significant risk concerns associated with the cancelled pesticide. EPA believes it would be a poor use of resources to perform such an analysis when the Agency is not aware of any risk/benefit considerations that would serve as a basis for cancelling a registration. The Agency believes it highly unlikely that any analysis of risks and benefits of products not raising significant risk concerns would result in prohibition of distribution, sale, or use of existing stocks.

EPA does, however, believe that where registrants of cancelled products have failed to comply with requirements of registration, the nature of noncompliance with the particular obligation involved should be taken into account in determining whether distribution, sale, or use of existing stocks would be consistent with the purposes of FIFRA. Since such noncompliance does not itself raise concerns of unreasonable adverse effects on the environment, EPA will generally allow persons other than the registrant to continue to distribute, sell, or use stocks of cancelled products in this category until such stocks are exhausted (although the Agency may

place some restrictions on sale or use if inventories are not exhausted in a reasonable period of time). In the case of the noncompliant registrant, however, EPA will generally apply the policies set forth below in determining whether to allow continued sale and distribution. Those policies would generally prohibit a registrant from selling or distributing existing stocks more than 1 year from the date the registrant first failed to comply with an obligation of registration.

In any given case, multiple existing stocks dates might apply if a registrant has failed to comply with more than one obligation of registration. In such circumstances, the most restrictive date will generally apply, regardless of the triggering mechanism for cancellation. For example, if a registrant of a cancelled product failed to pay a maintenance fee due on March 1, 1990, and a reregistration fee due on June 1, 1990, the registrant would likely not be allowed to sell or distribute any existing stocks of the product after March 1, 1991 (regardless of whether the product was actually cancelled for failure to pay maintenance fees or reregistration fees).

*a. Failure to pay maintenance fees.* FIFRA section 4(i)(5) requires all registrants to pay annually by March 1st certain maintenance fees for registrations. Failure to pay such fees may result in the cancellation of a registration by order without a hearing (although the cancellation itself does not become effective until the Agency issues the cancellation order). If a maintenance fee is not paid for any given year, the Agency will generally not allow a registrant to continue to sell or distribute existing stock of a cancelled product for more than 1 year after the date when payment to support the cancelled registration was due, regardless of when the actual cancellation occurs. For example, if a registrant fails to pay a maintenance fee due March 1, 1991, to support a particular registration, and the registration is later cancelled, the Agency will generally not allow that registrant to sell or distribute existing stocks of the pesticide after March 1, 1992.

*b. Failure to pay reregistration fees.* FIFRA section 4(i) also requires some registrants to pay a reregistration fee (either in one or two deposits). This fee is to be apportioned among the applicable registrants on the basis of market share information that registrants are required to submit to the Agency. Failure to submit market share information or to pay an appropriate fee can lead to cancellation of a registration

by order without a hearing (FIFRA section 4(i)(7)(C)). If a registrant fails to pay the appropriate reregistration fee or submit the required market share information, and an applicable product is later cancelled, a registrant will generally not be allowed to sell or distribute existing stocks of the cancelled product more than 1 year after the date the market share data or fee were due.

*c. Failure to file information during reregistration.* FIFRA section 4 establishes a five-phased process for reregistration activities. If a registrant elects to pursue reregistration, a registrant may have to commit to supply, and then supply, information to the Agency during Phases 2, 3, 4, and 5 (sections 4(d), (e), (f), and (g)). Failure to provide appropriate commitments or information can result in suspension or cancellation of a registration. If a registrant fails to comply fully with any particular phase of reregistration, and an affected product is later cancelled, the Agency will generally not allow a registrant to sell or distribute existing stocks of the cancelled product more than 1 year after the date that a registrant commitment for that particular product was due. For example, if an initial Phase 3 response is due from a registrant on July 24, 1991, the registrant fails to submit an adequate response, and the product is later cancelled, the Agency will generally not allow the registrant to sell existing stocks of the product after July 24, 1992.

Registrants will not be penalized for voluntarily cancelling a product at the beginning of any particular phase of reregistration (i.e., a registrant who cancels as of the commitment date will have a full year from the commitment date to sell or distribute existing stocks). Noncompliance in any phase, however, will generally be treated as if the registrant had requested voluntary cancellation at the beginning of the phase.

Agency policy with respect to existing stocks of suspended products that failed to comply with the requirements of reregistration are discussed later in this document.

*d. Failure to comply with the terms of a conditional registration.* FIFRA section 3(c)(7) allows the Agency to issue registrations before all applicable supporting data are provided. Such registrations, however, are conditional upon submission of the missing data in a timely manner (and upon compliance with any other conditions contained in the registration at the time of issuance). Failure to comply with the terms of a

conditional registration can lead to issuance of a notice of intent to cancel under section 6(e).

Where a conditional registration is cancelled (and the Agency has not identified significant risk concerns), the Agency will base its existing stocks decision on the nature of any conditions that have not been met by the registrant. For purposes of this analysis, conditions of registration can be categorized as "general" conditions or "specific" conditions. A general condition, frequently applied to conditional registrations issued pursuant to FIFRA section 3(c)(7)(A) (i.e., registrations issued to products that are identical or substantially similar in chemical composition and use to one or more existing registered products), requires a registrant to submit required data when all other registrants of the similar product are required to do so. Such a general condition neither establishes specific data requirements nor specific dates; the condition is generally triggered by issuance of a data call-in notice. On the other hand, some conditional registrations, particularly those issued pursuant to FIFRA section 3(c)(7)(B) and (C) (i.e., conditional registrations of products containing new chemicals or bearing significant new uses), contain conditions requiring the submission of specified studies or information by specified dates. Where data requirements and submission dates are specifically identified in the conditional registration, such requirements are considered "specific" conditions.

The Agency will treat the failure to comply with a general condition of a conditional registration in the same manner as a failure by a registrant to comply with the terms of any other data call-in. If a registrant of a conditional registration with a general condition to submit data upon request does not thereafter submit data after issuance of a data call-in, and the registration is cancelled for any reason, the registrant would generally be allowed to continue to sell or distribute existing stocks for 1 year after either the day the 90-day response to the data call-in was due or the date at which the registrant ceased to remain in compliance with the terms of the data call-in, whichever date is later. (See unit III.A.3 below).

On the other hand, if a registrant of a conditional registration fails to comply with a specific condition identified at the time the registration was issued, the Agency does not believe it is generally appropriate to allow any sale and use of existing stocks if the registration is cancelled. Accordingly, the Agency does

not anticipate allowing a registrant to sell or distribute existing stocks of cancelled products that were conditionally registered if the registrant fails to demonstrate compliance with any specific requirements set forth in the conditional registration.

3. *Cancellation of products while subject to data call-in notices under section 3(c)(2)(B).* Section 3(c)(2)(B) allows the Agency to require data from registrants. Registrants are required to make an initial response to data call-in notices in 90 days, and thereafter to submit the required data in accordance with the schedule established by the Agency. Failure to respond appropriately can result in the suspension of any registration subject to the data call-in.

Similar to reregistration, data call-in notices require a commitment from a registrant to supply data, and the timely submission of data, to maintain an active registration. Accordingly, the Agency will generally not allow registrants to sell existing stocks of cancelled products more than 1 year after the date a 90-day response to a data call-in notice is due unless the registrant remains in compliance with the terms of the notice. For example, if a registrant commits to submit a 3-year study and the product registration is thereafter cancelled upon request by the registrant pursuant to section 6(f) 9 months after the 90-day response date, sale and distribution of existing stocks by the registrant will be permitted for no more than 3 months (1 year from the 90-day response date). However, if a product subject to a data call-in is cancelled and the registrant can demonstrate full compliance with the requirements of the data call-in up to a certain date, the Agency will likely allow the registrant to continue to sell and distribute existing stocks for 1 year from the date that compliance ended. For example, if the registrant had contracted with a lab to perform a 3-year study, the lab had commenced work, and the registrant instructed the lab to cease work 6 months later, the registrant would generally be allowed to sell and distribute existing stocks of cancelled products for 1 year from the date the lab was asked to cease work on the required study. The Agency will generally allow persons other than the registrant to continue to distribute, sell, or use stocks of cancelled products in this category until such stocks are exhausted (although the Agency may place restrictions if such stocks are not exhausted in a reasonable time).

The preceding discussion assumes that data generated under the data call-

in have not disclosed significant potential risks associated with the product. Registrants should be advised that voluntary cancellation of a product during a data call-in response period does not excuse the registrant from compliance with the requirements of FIFRA section 6(a)(2) to report to the Administrator any information regarding unreasonable adverse effects on the environment.

4. *Cancellation of registrations subject to reregistration requirements and label improvement programs.* In the case of a registration subject to a Label Improvement Program (LIP) or determination resulting from decisions made during reregistration, the Agency has determined that the registration of the product may continue, provided that certain changes are made to the terms of registration (generally involving the product label). If a product subject to an LIP or reregistration requirement is cancelled, whether voluntarily or upon action by the Agency (e.g., for failure to pay fees), the Agency will generally not allow a registrant or any other person to sell or distribute existing stocks unless such sale or distribution is consistent with the terms of the LIP or reregistration determination.

For example, if an LIP states that registrants may not sell or distribute a product after January 1, 1992, without a certain label change and states that other persons may not sell or distribute product without the new label after January 1, 1994, and a product subject to the LIP is voluntarily cancelled on July 1, 1991, the registrant of the cancelled product will not be allowed to sell or distribute existing stocks of the cancelled product after January 1, 1992, unless the existing stocks are relabeled to be in compliance with the LIP. Similarly, no other persons would likely be allowed to sell or distribute existing stocks of the cancelled product after January 1, 1994, unless the stocks were in compliance with the terms of the LIP.

5. *Other voluntary cancellations.* If a registrant requests to voluntarily cancel a registration where the Agency has identified no particular risk concerns, the registrant has complied with all applicable conditions of reregistration, conditional registration, and data call-ins, and the registration is not subject to a Registration Standard, Label Improvement Program, or reregistration decision, the Agency will generally permit a registrant to sell or distribute existing stocks for 1 year after the cancellation request was received. Persons other than registrants will generally be allowed to sell, distribute,

or use existing stocks until such stocks are exhausted.

#### B. *Suspended Pesticides*

FIFRA provides for two different types of suspension. Under section 6(c), EPA may suspend a pesticide registration if use of the pesticide results in an imminent hazard. Under section 3(c)(2)(B), EPA may suspend a registration if a registrant fails to submit required data to the Agency in a timely fashion. Section 4(d)(6) and 4(f)(3) provide for suspensions pursuant to section 3(c)(2)(B) if registrants fail to make timely progress of data development to meet commitments for data submission, tests are not initiated within 1 year after issuance of a Phase 4 data call-in notice, or data are not submitted by the due date.

Where a pesticide is suspended because of an imminent hazard, EPA will apply the policies applicable to cancellations where the Agency has identified significant risk concerns. The Agency is highly unlikely to allow significant sale, distribution, or use of pesticides suspended because of imminent hazard concerns.

Where a pesticide is suspended because of failure to comply with the provisions of a data call-in or reregistration requirement, the Agency will generally not allow the registrant to sell or distribute any existing stocks during the pendency of the suspension. Registrants who sell or distribute a pesticide which has been suspended under FIFRA section 3(c)(2)(B) will be in violation of FIFRA section 12(a)(2)(J). Unlike imminent hazard suspensions, the Agency does not anticipate generally placing restrictions on the sale, distribution, or use of existing stocks by persons other than the registrant where a pesticide is suspended because of failure to comply with the provisions of a data call-in or reregistration requirement unless risk concerns were identified.

#### C. *Amendments of Registrations*

The Agency has promulgated regulations (at 40 CFR 152.130) dealing with the sale or distribution of products bearing labeling other than the labeling currently approved by the Agency. Section 152.130(c) of the CFR states that the Agency will "normally" allow registrants to sell products bearing old labeling for 18 months after Agency approval of a revised label and allow others to sell products bearing the old label until all such products are sold, if the product labeling is amended "on the initiative of the registrant." Section 152.130(d) goes on to say that if a

revision is the result of a Registration Standard, Label Improvement Program, or notice concluding a Special Review, the Agency may establish alternate dates after which product sold by a registrant, or sold by others, must bear currently approved labeling.

The regulations do not address the issue of time periods for sale of products bearing a different composition or packaging from that currently approved by the Agency. The Agency believes that if the composition or packaging is required to be changed by the Agency, the policies expressed below concerning label changes should apply. However, if the composition or packaging of a product is changed by a registrant voluntarily, the Agency will generally allow registrants to sell or distribute product for 18 months after the Agency approves the change; other persons will generally be allowed to sell product using the old composition or packaging until all such product is sold.

Changes in labeling made at the behest of the Agency are covered by paragraph (d) rather than paragraph (c) of 40 CFR 152.130. Thus, if label changes are imposed in a document issued during Phase 5 of reregistration (under FIFRA section 4(g)(2)(A)) or if label revisions (or other changes) are in part attributable to concerns that the product may pose unreasonable adverse effects without the change, the Agency may impose appropriate restrictions on the sale or distribution of products not only by the registrant but by others in the distribution chain as well ("channels of trade" dates).

The Agency believes that, although such channels of trade dates may be relatively lengthy, they are necessary to effective enforcement, serving as a form of "closure" on old labeling. In the Agency's enforcement experience, products bearing old labels can be found in channels of trade far longer than foreseen. Besides enforcement difficulties, lack of an absolute cutoff point for needed label changes prolongs inconsistency among similar products, leading to confusion among users as to what label instructions are correct. More importantly, the lack of a channels of trade date creates uncertainty that product labels actually represent current and protective standards. Under FIFRA, the assurance of risk reduction depends heavily on expectations that labeling instructions will be followed. Uncertainty that such compliance is occurring and inconsistency among labels can frustrate efforts by both the Agency and registrants to effect real and consistent risk reduction. Accordingly, in each label change either imposed by

the Agency, or attributed in part to risk concerns under review by the Agency, EPA intends to impose both a date for introduction of new labeling into channels of trade (a registrant sale and distribution date), and a date for removing old labeling from channels of trade. Except in the case of labeling changes imposed through Special Review, EPA is unlikely to impose restrictions upon use of product bearing old labeling.

The exact restrictions that the Agency may impose will, of course, depend upon the particular circumstances involved. Nonetheless, the Agency can identify certain principles it generally will apply to label changes directed by the Agency. Label changes directed by the Agency are currently imposed under three specific activities:

1. *The Special Review Process.* Special reviews often culminate in an Agency determination that use of the pesticide without labeling changes would cause unreasonable adverse effects. Also, registrants of pesticides in special review may propose label changes prior to the conclusion of a special review to reduce the risks that are the focus of the review. When label changes are approved in such situations, existing stocks provisions will be determined on a case-by-case basis. In determining what provisions are appropriate, the Agency may consider any or all of the following factors:
  - a. The nature of the risk posed by the pesticide.
  - b. The nature of the labeling change required.
  - c. Whether an amendment to effect the labeling change was submitted in a timely manner.
  - d. The potential adverse effects associated with continued sale of product not bearing the revised labeling.
  - e. The volume and location of affected products in the distribution chain.
  - f. The feasibility, expense, and effectiveness of either requiring relabeling of existing stocks, or of restricting sale and distribution of product not bearing the revised labeling.

2. *Reregistration of current products.* Under FIFRA section 4(g), Phase 5 of the reregistration scheme requires that products containing active ingredients first registered before November 1, 1984, be reregistered. The Agency anticipates that labeling changes (amendments) will likely be required upon issuance of a document stating the Agency's determination of the reregistrability of an active ingredient under FIFRA section 4(g)(2)(A). This Reregistration Eligibility Document (RED) will ask for label changes to be submitted within

one of two timeframes—normal or expedited.

In the first instance, the reregistration process envisioned in Phase 5 will normally encompass changes in labeling, composition, or packaging. These changes will be of a more routine nature, or will depend upon the development of product-specific data, such as acute toxicity or efficacy data. Dates for submission of labeling, timeframes for Agency review of labeling changes, and existing stocks provisions will be specified in the RED. Generally, submission of labeling changes will be required 8 months from the date of submission of the RED, and Agency review will be completed 6 months following submission. Registrants will generally be permitted to sell or distribute products bearing old labeling (or composition or packaging) for 1 year after the timeframe established in the RED for Agency approval, and persons other than registrants will generally be permitted to sell or distribute those products for an additional 24 months. Thus, existing stocks dates for sale and distribution of products bearing old labeling will generally be 28 months from the date of issuance of the RED for registrants and 50 months from the date of issuance of the RED for persons other than registrants.

In the second instance, the Agency may require expedited labeling changes if it has significant concerns about the risks of the active ingredient that do not warrant placing it into the Special Review process, but that labeling changes could mitigate. Although EPA believes this situation will be rare, nonetheless the significance of Agency concerns will dictate early submission and review of labeling, and relatively short existing stocks provisions. Existing stocks timeframes will be established case-by-case, depending on the number of products involved, the number of label changes needed, and other factors.

3. *The Label Improvement Program (LIP).* An LIP provides a framework for upgrading labeling that is unconnected with reregistration, and can be initiated at any time that circumstances warrant. The LIP was established to provide a mechanism for the Agency to target a particular labeling problem or a group of products having a common label element and to implement a labeling solution uniformly for all affected products. In that respect it should be viewed as neither active ingredient-specific nor product-specific, but rather "problem-specific." Fundamental to this approach is that the program does not depend upon the development or

interpretation of data, such as is required for reregistration. With such a cross-cutting but focussed approach, the LIP generally endeavors to impose labeling requirements that can be specified exactly or with a minimum of variability. Although labeling may be required to be submitted and reviewed in a LIP, EPA's preferred approach is to obtain agreement via certification that registrants will make the changes. Thus, registrants can rapidly begin implementing the changes in products they distribute and sell. EPA anticipates that any submission of labeling or certification would be required in a comparatively short time after issuance of the LIP. Unless the LIP is a singularly

complex one or involves large numbers of products or registrants, submissions of labeling or certifications will normally be required within 3 months. Registrants will generally be allowed to sell or distribute products bearing old labeling for 1 year after issuance of the LIP and persons other than registrants for 3 years after issuance of the LIP.

The Agency acknowledges the impact multiple and frequent required label changes have in escalating registrant costs, potentially disrupting the distribution chain, and creating user confusion. EPA will make every effort to consolidate labeling efforts resulting from reregistration with those that may

be under way from LIPs or from parallel regulatory activities.

Interested persons are invited to submit written comments on this notice of statement of policy on or before December 26, 1991. Comments must bear a notation indicating the document control number, (OPP-38509). Written comments should be addressed to the Public Docket and Freedom of Information Section, Field Operations Division, at the address given above.

Dated: June 17, 1991.

**Douglas D. Camp**,  
*Director, Office of Pesticide Programs.*

[FR Doc. 91-14958 Filed 6-25-91; 8:45 am]

BILLING CODE 6560-50-F



## Commonwealth of the Northern Mariana Islands

## OFFICE OF THE GOVERNOR

## 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.deq.gov.mp](http://www.deq.gov.mp) and [www.cnm.gov.mp](http://www.cnm.gov.mp)

# STANDARD OPERATING PROCEDURES:

## 4.0 INTERCEPTION OF MISBRANDED PESTICIDES & PESTICIDE DEVICES

**Date Revised:** January 2015,  
August 2017

**Revisions performed by:** Lareina C. Camacho,  
Zabrina Shai

**Other Agencies Involved**

1. Customs (Department of Finance)
2. Quarantine (Division of Agriculture)

**Introduction**

The Department of Lands and Natural Resources (“DLNR”), Department of Finance (“DOF”) and the Bureau of Environmental and Coastal Quality (BECQ) entered into a Memorandum of Understanding (“MOU”) for enhanced collaboration and delegation of authority to the CNMI Customs and Quarantine Inspectors for the control of imported pesticides.

Through the MOU signed on March 2015, BECQ delegates its authority under the Pesticide Regulations to the Customs and Quarantine inspectors to conduct inspections of imported pesticides and seize them when necessary. Specifically, upon the arrival of all cargo and passengers into the CNMI, Customs and Quarantine personnel shall conduct inspections for imported and illegal pesticides in accordance with applicable law and regulations.

**Procedure**

**Customs or Quarantine** officer/inspector completes the Notice of Interception & Detainment of Pesticides and Devices. This form requires the identity of the importer, his/her residence or location of business, interception location, date and time, as well as includes description of the item(s) imported that are suspected misbranded pesticides.

**Division of Environmental Quality (DEQ)** receives call from Customs and/or Quarantine officers that suspected misbranded pesticides were imported in to the CNMI.

DEQ inspects the intercepted products. [FORMS needed: Notice of Interception & Detainment of Pesticides and Devices and attachments.]

1. If it is determined that the product is not a pesticide or pesticide device, release the product to the importer.
2. If it is determined that the product is a pesticide or pesticide device and is

- actively registered by the US EPA, release the product to the importer.
3. If it determined that the product is a pesticide or pesticide device and is not actively registered by the US EPA or is misbranded. The product is confiscated and taken into DEQ custody.
    - DEQ meets and interviews the importer [responsible party] within 10-15 days to arrange proper disposal or to export of the misbranded pesticides to country of origin.
    - If the importer has left the CNMI, the pesticides are left in DEQ custody until means of proper disposal are available.

**Tracking Interception Facility Folders**

When uploading inspection photos or documents, save to the appropriate facility folder. If facility does not have a folder, ensure that facility number and name is present. When the inspection report is finalized save PDF version in the facility folder.

*For example: 0123 – Bureau of Environmental and Coastal Quality*  
<Z:\AUPM\PESTICIDES\INSPECTIONS>

**Inspection Tracking**

Enter inspection information in this tracking sheet

<Z:\AUPM\PESTICIDES\TRACKING and ENFORCEMENT>

**Interception Tracking**

Enter interception information to the interception tracking sheet. File location:

<Z:\AUPM\PESTICIDES\TRACKING and ENFORCEMENT\TRACKING Interceptions>

**BECQ Pesticide Storage Inventory Tracking**

1. Enter interception information into the BECQ Storage Tracking sheet. File location: <AUPM\PESTICIDES\BECQ Storage\FY 2017\BECQ Pesticide Storage Inventory>
2. Submit a photo of the products that are stored in the BECQ Pesticide Storage Inventory folder. Folder location: <AUPM\PESTICIDES\BECQ Storage\FY 2017\BECQ Pesticide Storage Inventory\BECQ Pesticide Storage Inventory Photos>

*Note: If pesticides/pesticide devices have been properly dispose of or exported update tracking sheets to reflect compliance actions.*

**Misbranded Pesticides in DEQ Custody**

Upon return to the office DEQ shall contact the importer and schedule a meeting to discuss the violation(s) made, to address corrective action(s), and to assess DEQ storage fees.

DEQ Storage Policy:

- **General Use Pesticide - \$10 per day** for each storage container (i.e. 55-gallon drum) starting from the day of interception by DEQ or authorized agents, until the pesticides are returned or disposed.
- **Restricted Use Pesticide - \$25 per day** for each storage container (i.e. 55-gallon drum) starting from the date of arrival, as intercepted by DEQ or authorized agents, until the pesticides and or devices are returned or disposed.

DEQ initial interview with the importer and/or responsible party for the Importation of Misbranded Pesticides or Pesticide Devices:

- I. Issues Notice of Detainment & Storage of Pesticide & Pesticide Devices
- II. Explained the CNMI Pesticide Regulations, specifically on the following:
  - A. Reason(s) for confiscation
  - B. Misbranded pesticides
  - C. DEQ storage fee to be assessed while the product(s) is/are in DEQ custody
  - D. It is the responsibility of the importer to set a date to properly dispose of or export the misbranded pesticides back to the country of origin (suggest within 10-15 business days).
  - E. Collect the most of following information from the importer:
    - Photo of the Importer,
    - Copy of a valid ID,
    - Copy of other documents that may include but are not limited to: Bill of Lading; Shipping Manifest; Copy of Business License; Declaration Form,
    - Photos or images of seized items;
    - Transcripts of interviews, in any; etc.
  - F. Arrange for proper disposal or exportation of the misbranded pesticides to country of origin. Inform the Importer that he/she has 30 days to export the misbranded pesticides or pesticides devices out of the CNMI before enforcement action is taken.

Writing the Interception Report

DEQ shall write an inspection report containing the following:

- A. Narrative:
  - ✓ Introduction
  - ✓ Site Inspection: Initial receipt of the misbranded pesticides
  - ✓ Misbranded Pesticides in DEQ Custody
  - ✓ Disposal or Export of Misbranded Pesticides
- B. Findings
- C. Attachments

**Determination of Action & Follow Up** DEQ shall draft and issue a Notice of Violation, if the importer has exceeded the 30-day compliance period. The NOV will state the following:

- A. Description of Violation
- B. Findings of Violation
- C. Corrective action required
- D. Date of compliance period
- E. Notification of the increase of storage fee after the initial 30-day.

DEQ enters the NOV to the enforcement tracking sheet. File location: <Z:\AUPM\PESTICIDES\TRACKING and ENFORCEMENT\FY17-Inspections and Enforcement Actions.xls>  
DEQ issues NOV via postal or hand delivery.

If items are not returned by the date stated on the NOV, DEQ drafts Administrative Order (A/O).

DEQ issues A/O to responsible party; writes addendum to initial inspection report to include the enforcement action and applicable fines.

DEQ enters the A/O to the enforcement tracking sheet. File location: <Z:\AUPM\PESTICIDES\TRACKING and ENFORCEMENT\FY17-Inspections and Enforcement Actions.xls>

DEQ conducts follow up inquiry with the responsible party until products are proper disposed or exported to the country of origin.

**Tracking Enforcement Actions** **Enforcement Tracking**  
When the enforcement document is delivered and signed, convert the document to PDF and file the electronic copy to the enforcement actions folder <Z:\AUPM\PESTICIDES\TRACKING and ENFORCEMENT\FY17 - Enforcement Actions>

Upon issuance of enforcement actions/verification of compliance complete information in this tracking sheet <Z:\AUPM\PESTICIDES\TRACKING and ENFORCEMENT>

**Annual Performance Indicators**  
When a Notice of Violation or Administrative Order is given to the responsible party, enter information in this tracking sheet [Z:\AUPM\BRANCH MATTERS\REPORTS\\_FY 2017](Z:\AUPM\BRANCH MATTERS\REPORTS_FY 2017)

**Related Documents:**

1. Memorandum of Agreement (March 2015)
2. Notice of Interception and Detainment of Pesticides and Devices
3. Notice of Detainment & Storage of Pesticide & Pesticide Devices
4. Interception Report (sample copy)

**Reference Materials:**

1. CNMI Pesticide Regulations <https://www.cnmilaw.org/admincode/Title5/165.html>
2. 40 CFR 150-180 [https://www.ecfr.gov/cgi-bin/lexi-sls?SID=4d543e597be707174b093d3907ab8312&mc=true&tpl=/ecfr/browse/Title40/40cfrv24\\_02.tpl](https://www.ecfr.gov/cgi-bin/lexi-sls?SID=4d543e597be707174b093d3907ab8312&mc=true&tpl=/ecfr/browse/Title40/40cfrv24_02.tpl)
3. BECQ Guidance Policy – Cancelled Pesticides and EPA “Existing Stocks of Pesticide Products; Statement of Policy” saved to folder:  
Z:\AUPM\PESTICIDES\Regulations



# Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands  
1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



## PUBLIC NOTICE OF INTENT TO NOT ADOPT PREVIOUSLY PUBLISHED REVISION TO THE THE COMMONWEALTH HEALTHCARE CORPORATION PROCUREMENT RULES AND REGULATIONS

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER  
AS PROPOSED RULES AND REGULATIONS  
Volume 39, Number 6 pp 039707 – 039713, of June 28, 2017

### Revision of CHCC Procurement Rules and Regulations

**ACTION TO ADOPT PROPOSED REGULATIONS:** The Commonwealth of the Northern Mariana Islands, COMMONWEALTH HEALTHCARE CORPORATION ("CHCC"), **HEREBY DOES NOT ADOPT AS PERMANENT** regulations the Revision to 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 CHCC announced that it intended to adopt them as permanent, but has chosen not to adopt this revision.

**PRIOR PUBLICATION:** The prior publication was as stated above.

**MODIFICATIONS FROM PROPOSED REGULATIONS:** Revision to the Small Purchase Provisions of the CHCC Procurement Rules and Regulations.

**AUTHORITY:** The Corporation is empowered by the Legislature to adopt or not adopt these rules and regulations pursuant to 3 CMC Section 2824(k), (l).

**EFFECTIVE DATE:** This revision to the CHCC Procurement Rules and Regulations does not become effective.

**COMMENTS AND AGENCY CONCISE STATEMENT:** Pursuant to the APA, 1 CMC sec. 9104(a)(2), the Corporation has considered fully all written and oral submissions respecting the proposed regulations.

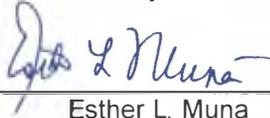
The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC sec. 2153(e)

I DECLARE under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 10th day of December, 2017, at Saipan, Commonwealth of the Northern Mariana Islands.

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P.O. Box 500409 CK, Saipan, MP 96950  
Telephone: (670) 234-8950 FAX: (670) 236-8930

Certified and ordered by:



Esther L. Muna  
CEO, CHCC

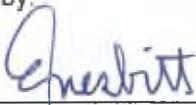
Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the certified final regulations, modified as indicated above from the cited proposed regulations, have been reviewed and approved as to form and legal sufficiency by the CNMI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

Dated the 23<sup>rd</sup> day of October, 2017.



EDWARD MANIBUSAN  
Attorney General

Filed and  
Recorded by:



ESTHER SN. NESBITT  
Commonwealth Register

10.27.2017

Date

0 Form Notice of Final Adoption of Regs wpd

P.O. Box 500409 CK, Saipan, MP 96950  
Telephone: (670) 234-8950 FAX: (670) 236-8930



# COMMONWEALTH PORTS AUTHORITY

Main Office: FRANCISCO C. ADA/SAIPAN INTERNATIONAL AIRPORT

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

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

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

Website: www.cpa.gov.mp



## PUBLIC NOTICE

### PROPOSED CONCESSION REGULATIONS for the Commonwealth Ports Authority (CPA)

**INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS:** Notice is hereby given pursuant to 1 CMC § 9104(a) of the Administrative Procedure Act that the Commonwealth Ports Authority publishes the following regulations for the agency and its intended action to become the complete Concession Regulations.

**AUTHORITY:** At its Regular Board meeting held August 22, 2017, the Board of Directors, vested with authority as the governing body, approved to promulgate the Concession Regulations for publication and notice in the Commonwealth Register and in line with Public Law 19-76. The authority for the promulgation of regulations for the Commonwealth Ports Authority is set forth in 2 CMC § 2122(j) as an autonomous agency of the Commonwealth of the Northern Mariana Islands. 2 CMC § 2111(b)

The Board hereby approves for the publication in the Commonwealth Register for Notice and Comment pursuant to the Administrative Procedure Act and as administered by the CNMI Law Revision Commission to be incorporated in Title 40 of the NMI Administrative Code and for approval by the Attorney General pursuant to 1 CMC § 2153(e).

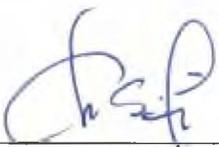
**THE TERMS AND SUBSTANCE:** The newly proposed regulations will be an added chapter to Title 40, Commonwealth Ports Authority Rules and Regulations, to provide rules and regulations for CPA to implement and fairly administer the port concessions program.

**THE SUBJECTS AND ISSUES INVOLVED:** The Concession Regulations consists of Part 001 – General Provisions (Authority/Purpose/Applicability/Definitions), Part 100- Determination of Scope of Concession (Scope of Concession/Change of the Scope of a Concession; Elimination of a Concession/Establishment of Concession Fee), Part 200- Concession Award and Renewal (New Concession via Bid/New Concession via Request for Proposal/Concession Renewal), Part 300- Cancellation of Invitation for Bid or Request for Proposal (Cancellation), Part 400- Qualification and Duties (Responsibility of Bidders and Proposers), Part 500- Protests, Disputes, and Appeals (Protests Prior to Award/Protests After Award/Disputes with Concession Grantee or Concessionaire), Part 600- Signatures, Ethics, Good Faith, and Required Concession Agreement Language (Execution and Administration of Concession Agreements/Authority Ethics/Gratuities and Kickback/Prohibition Against Contingent Fees/Contract Clauses/Requirement of Good Faith), Part 700- Information Storage and Access (Public Access to Information

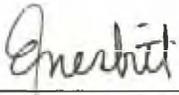
Regarding Concession Solicitation/Right to Audit Records/Retention of Concession Records).

**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 submit it in writing to Mr. Christopher S. Tenorio, Executive Director, Commonwealth Ports Authority, via U.S. Mail to P.O. Box 501055, Saipan, MP 96950; or via hand delivery to Administration Office located at the Francisco C. Ada/Saipan International Airport; or via email at [cpa.admin@cpa.gov.mp](mailto:cpa.admin@cpa.gov.mp); or via facsimile at (670) 234-5962. **All written comments are due 30 days after publication of this notice.**

Submitted by:  \_\_\_\_\_ Date 9/20/17  
CHRISTOPHER S. TENORIO  
Executive Director, CPA

Received by:  \_\_\_\_\_ Date 09/29/17  
SHIRLEY CAMACHO-OGUMORO  
Special Assistant for Administration

Filed and Recorded by:  \_\_\_\_\_ Date 10-13-2017  
ESTHER SN. NESBITT  
Commonwealth Register

I certify, pursuant to 1 CMC § 2153(e) and 1 CMC §9104 (a)(3), that the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency and shall be published (1 CMC § 2153 (f)).

 \_\_\_\_\_ Date 10-10-17  
EDWARD MANIBUSAN  
Attorney General

## NUTISIAN PUBLIKU

### I MAN MAPROPONI NA REGULASION SIHA I CONCESSION

Para i Commonwealth Ports Authority (CPA)

#### **I AKSION NI MA INTENSIONA NI PARA U'MA ADAPTA ESTI SIHA NA**

**AREKLAMENTU YAN REGULASION SIHA:** I nutisia gi momentu ma nã'i sigun para i 1 CMC § 9104 (a) nu I Åktun Administrative Procedure na i Commonwealth Ports Authority ma pupblisa i tinatitiji na regulasion siha para i ahensia yan i ma intensiona na aksion ni para hu kompli i Regulasion Concession siha.

**ATURIDÁT:** Gi regulât na Huntan i Kuetpu gi Agosto 22, 2017, I Kuetpu Direktot siha, ma aprueba yan aturisa nu i governing body, ma aprueba para u'ma cho'gue i publikasion para i Regulasion Concession yan nutisia giya i Rehistran Commonwealth yan tinatitiji yan i Lai Publiku 19-76. I Aturidât para i macho'guin i regulasion siha para i Commonwealth Ports Authority ma pega mona gi 2 CMC § 2122 (j) kumu autonomous agency nu i Commonwealth gi Sangkattan na Islas Mariãnas siha. 2 CMC § 2111 (b)

I Kuetpu ma aprueba para i publikasion giya i Rehistran Commonwealth para Nutisia yan Upiñon sigun para i Åktun Administrative Procedure yan i ma kondukta ginen i CNMI Law Revision Commission para u'ma na'hålum gi Titilu 40 nu i NMI Administrative Code yan para i ma aprueba ginen i Abugâdu Hinerât sigun para i 1 CMC § 2153 (e).

**I TEMA YAN SUSTÂNSIA I PALÂBRA SIHA:** I nuebu na regulasion siha ni maproponi siempre u'ma daña'i seksiona para i Titilu 40, Areklamentu yan Regulasion i Commonwealth Ports Authority siha, para u fan manã'i areklamentu yan regulasion siha para i CPA para ma implimenta yan *fairly administer i port concession na prugrâma siha.*

#### **I SUHETU NI MASUMÂRIA YAN ASUNTU NI MANTINEKKA:**

I Regulasion Concession siha ha konsisisti pot pâtti 001-General Provisions(Atturidât/Rason/Aplikâo/Definitions), pâtti 100- Ditetminasion i Scope of Concession (Scope i Concession/Tinulaika nu i scope para i Concession; Mana'suhan i Concession/Establishment i Concession Fee), pâtti 200- Concession Award yan Renewal (Nuebu na Concession via Bid/Nuebu na Concession via Request para i maproponi/Rinueba i Concession), pâtti 300- Cancellation i Inbitasion para i Bid pat Request para maproponi (Cancellation), pâtti 400- kuâlifikasion yan obligasion siha (Risponsibilidât i Bidders yan Proposers), pâtti 500- Protests, Disputes, yan Appeals (Protests Prior to Award/protests after Award/Disputes yan i Concession Grantee pat Concessionaire), pâtti 600- Signatures, Ethics, Good Faith, yan Required Concession Agreement Lingguãhi (Execution yan Atministrasion i Concession Agreement/Atturidât Ethics/Gratuities yan kickback Prohibition kontra contingent Fees/ clauses kontrâta/nisisidât para Good Faith, pâtti 700- Infotmasion storage yan Access (Access

pupbliku para Infotmasion pot i Concession Solicitation/Direchu para i Audit Records/Retention i Concession Records).

**DIREKSION PARA U'MA POLU YAN MAPUPBLIKA:** Esti i manmaproponi na regulasion siha debi u'ma pupblika giya i Rehistran Commonwealth gi seksiona nu i maproponi yan Nuebu na Adâptasion i Regulasion siha. (1 CMC § 9102 (a) (1)) yan u'ma pe'ga gi hâlum i man kumbinienti na lugât siha giya i Civic Center yan gi hâlum Ufisinan Gubietnu siha gi kada distritun Senadot, yan todû i dos gi English yan gi lengguâhin natibu.(1 CMC § 9104(A)(1))

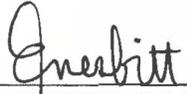
**PARA U MAPRIBENIYI UPIÑON SIHA:** Petsona pat entities ni mu malagu'gui para u'ma na hâlum upiñon siha debi u mana hâlum gi tinigi para si Siñot Christopher S. Tenorio, Eksikatibu Direktot, i Commonwealth Ports Authority, via U.S Mail para P.O. Box 501055, Saipan MP 96950; pat via hand delivery para ufisinan Atministrasion ni gaigi giya as Francisco C. Ada/Saipan International Airport; pat via email gi [cpa.admin@cpa.gov.mp](mailto:cpa.admin@cpa.gov.mp); pat via facsimile gi (670) 234-5962. Todû i tinigi na upiñon siha man ma ekspepekta trenta (30) dihas dispues i publikasion esti na nutisia.

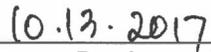
Nina hâlum as:   
CHRISTOPHER S. TENORIO  
Eksikatibu Direktot, CPA

Fetcha

Nirisibi as:   
SHIRLEY CAMACHO-OGUMORO  
Espisiât na ayudânti para i Atministrasion

  
Fetcha

Pinelo' yan Ninota as:   
ESTHER SN. NESBITT  
Rehistran Commonwealth

  
Fetcha

Hu setifika, sigun para i 1 CMC § 2153 (e) yan i 1 CMC § 9104 (a) (3), na i manmaproponi na regulasion siha ni mañechettun guini ginen ma rebisa yan aprueba tât kumu ligât yan sufisienti yan debi na u'ma pupblisa (1 CMC § 2153 (f)).

  
EDWARD MANIBUSAN  
Abugâdu Hinerât

  
Fetcha

## ARONGORONGOL TOULAP

### **POMMWOL MWÓGHUT REEL CONCESSION** **ngáli Commonwealth Ports Authority (CPA)**

**POMMWOL MWÓGHUT REEL IGHA REBWE ADÓPTÁALI POMMWOL ALLÉGH ME MWÓGHUT:**  
Arongorong yeel nge sáangi 1 CMC § 9104(a) reel Administrative Procedure Act bwe Cmmonwealth Ports Authority rebwe akkatéewow mwóghut ikka e amwirimwiritiw ngáli bwulasiyo me re mángemángil rebwe mwóghut bwe ebwe ffil me ebwe mwutch Mwóghutughutúl Concession.

**BWÁNGIL:** Igha re yéélágh Board wóól Agosto 22, 2017, Board-il Directors, iye eyoor bwángiir bwe iir schóól lemelem, e átirow reel arongowowul Mwóghutughutúl Concession ngáli akkatéewowul me arongowowul me llól Commonwealth Register e weewe me Alléghúl Toulap 19-76. E bwááng bwe e fil reel fféerúl mwóghutughut ngáli Commonwealth Ports Authority nge ebwe mweteló mmwal llól 2 CMC § 2122(j) bwe autonomous bwulasiyol reel Commonwealth Téél Falúw kka Efáng llól Marianas. 2 CMC § 2111(b)

Board re átirow reel arongowowul me llól Commonwealth register ngáli Arongorong me Kkapas sáangi Administrative Procedure Act iye re lemeli reel CNMI Law Revision Commission iye e bwal toolong Titile 40 reel NMI Administrative Code me átirow merel Soulemelemil Allégh Lapalap sáangi 1 CMC §2153(e).

**KKAPASAL ME WEEWEL:** Ebwe sóóbweeytá eew chapter ngáli Titile 40 reel pommwol mwóghut ikka e ffé, Allégh me Mwóghutughutúl Commonwealth Ports Authority, ebwe ayoorai ngáli allégh me mwóghut ngáli CPA bwe ebwe yoor mwóghutughutúl me ghatchúl progróomal port concessions.

**KKAPASAL ME ÓUTOL:** E toolong reel Mwóghutughutúl Concession Part 001 – General Provisions (Bwángil/Bwulul/Applicability/Weewel), Part 100- Itittiwel Scope of Concession (Scope of Concession/Liiwelil Scope of Concession; Elimination reel Concession/Aghiliwelil Concession Fee), Part 200-Concession Award me Rebwe Fféerú Sefááliy (Ffél Concession via Bid/ Ffél Concession via Request ngáli Pommwol/Concession Renewal), Part 300- Cancellation reel Invitation ngáli Bid ngáre Tingór reel Pommw (Cancellation), part 400- Fil me Angaang (Lemelemil Bidders me Proposers), Part 500- Protests, Dispute me Appeals (Protests mmwalil Award/Protests Mwiril Award/Disputes me Concession Grantee ngáre Concessionaire), Part 600- Ghikkil, Ethics, Good Faith, me Required Concession Abwungubwungul Kkapas (Execution me Administration-il Abwungubwungul Concession/Authority Ethics/gratuities me Kickback/Prohibition Kontura Contingent Fees/Contract Clauses/Requirement of Good Faith), Part 700- Arongorongol Storage me Access ngáli Arongorong iye e súllú ngáli Concession Solicitation/Righ to Audit Records/Retention-il Pappidil Concession).

**AFAL REEL AMMWELIL ME AKKATÉÉWOWUL:** Ebwe akkatééwow pommwol mwóghutughut kkal llól Commonwealth Register llól táilil Pommwol me Ffél Mwóghutughut ikka ra Adóptáali (1 CMC § 9102(a)(1)) me ebwe appaschetá llól civic center me bwulasiyol gobetnameento llól senatorial district, fengál reel kkasal English me mwáliyash. 1 CMC §9104(a)(1))

**ISIISILONGOL KKAPAS:** Aramas ngáre schóó kka re mwuschel rebwe isiisilong mwálili ubwe ischi ngáli Mr. Christopher S. Tenorio, executive Director, Commonwealth Ports Authority, via U.S. Mail ngáli P.O. Box 501055, Saipan, MP 96950; ngáre bwughiló reel bwulasiyol Administration iye e lo Francisco C. Ada/Saipan International Airport, ngáre via email me [cpa.admin@cpa.gov.mp](mailto:cpa.admin@cpa.gov.mp); ngáre via facsimile me (670) 234-5962. **Ebwe toolong alongal ischiil mángemáng eliigh (30) ráál mwiril aal akkatééwow arongorong yeel.**

Isáliyalong:   
CHRISTOPHER S. TENORIO  
Executive Director, CPA

9/26/17  
Ráál

Bwughiyal:   
SHIRLEY P. CAMACHO-OGUMORO  
Special Assistant ngáli Administration

09/29/17  
Ráál

Ammwelil:   
ESTHER SN. NESBITT  
Commonwealth Register

10.13.2017  
Ráál

I alúghúlúgh, sáangi 1 CMC §2153(e) me 1 CMC §9104 (a)(3), bwe pommwol mwóghutughut ikka e appaschetó ighal ra takkal amwuri fischiiy me aa átirow bwe aa lléghló reel fféerúl me legal sufficiency me ebwe akkatééwow (1 CMC § 2153 (f)).

  
EDWARD MANIBUSAN  
Soulemelemil Allégh Lapalap

10-10-17  
Ráál

## Concession Regulations

### **Part 001 – General Provisions**

#### **§ 40-\_\_-001 Authority**

The rules and regulations in this chapter are promulgated by the Authority in accordance with 4 CMC § 2209 and the Authority's power and duty to administer port concessions as set forth in 2 CMC § 2122(s) and 4 CMC § 2202.

#### **§ 40-\_\_-005 Purpose of Regulations**

The purpose of this chapter is to provide rules and regulations to implement the concessions program set forth in 4 CMC §§ 2201–13 and to provide for fair, equitable, and effective administration of port concessions by the Authority on behalf of the Commonwealth.

#### **§ 40-\_\_010 Applicability**

(a) **Applicability.** This chapter applies to concessions granted by the Authority. These provisions shall be construed and applied in a manner consistent with all federal laws and regulations, including, but not limited to 49 C.F.R. Part 23 Participation of Disadvantaged Business Enterprise in Airport Concessions requirements relating to recipients of Department of Transportation financial assistance through the programs of the Federal Aviation Administration. This chapter does not apply to contracts between the Authority and the government or its political subdivisions or other governments. Nothing in this chapter shall be construed to prevent the Authority from complying with the terms and conditions of any grant, cooperative agreement, or memoranda of understanding.

(b) **Existing Rights.** Any concession shall not become effective in any manner that would impair the rights granted to any person by the Authority or the Commonwealth under a contract in existence on January 12, 2017. Rights of a concessionaire in existence on January 12, 2017, shall exist until those rights conclude under the terms of the concessionaire's then-existing contract with the Authority.

#### **§ 40-\_\_-015 Definitions**

(a) **“Appeal Committee”** means the special committee of the Board authorized to hear appeals. It shall be comprised of three (3) members of the Authority Board of Directors appointed by the Chairman of the Authority Board of Directors to hear any appeal under this chapter. There shall be an Appeal Committee Chairman selected from the three appointed members of the Authority Board of Directors by their agreement or selection by vote. The Chairman of the Authority Board of Directors shall not be a member of the Appeal Committee.

(b) **“Authority”** means the Commonwealth Ports Authority.

(c) "Authority Concession Grant" means the writing by the Authority Board of Directors in which a determination to grant a concession is made and the reasoning for the determination to grant the concession is explained.

(d) "Concession" means a privilege of establishing, operating, and maintaining facilities at a port of entry for the sale or delivery of merchandise (including food and beverages for on-premises consumption) and/or the provision of retail services (including advertising). The scope of a concession shall be determined by the Authority.

(e) "Concession agreement" means a contract between the Authority and a person awarded a concession in accordance with the provisions of this chapter delineating the terms upon which facilities operating under a concession shall be established, operated, and maintained.

(f) "Concession Grantee" means a person who has been granted a concession by the Authority through the invitation for bid or request for proposal processes set forth in this chapter but has not yet executed a concession agreement with the Authority.

(g) "Concessionaire" means a person operating under the privilege of a concession.

(h) "Dispute" means a disagreement concerning the legal rights and obligations of the parties to a concession agreement.

(i) "Executive Director" means the Executive Director of the Authority.

(j) "Person" means any individual, partnership, proprietorship, company, corporation, joint venture, association, or other enterprise or entity.

(k) "Port of entry" means any publicly owned or operated seaport or airport in the Commonwealth, together with all related lands and facilities. These include, but are not limited to:

(i) Saipan:

- (1) Port of Saipan; and
- (2) Francisco C. Ada/ Saipan International Airport.

(ii) Tinian:

- (1) Tinian Harbor; and
- (2) Tinian International Airport.

(iii) Rota:

- (1) Rota West Harbor; and
- (2) Benjamin Taisacan Manglona International Airport.

(l) "Prospective concessionaire" means any actual or prospective bidder or proposer responding to an invitation for bid or request for proposal issued pursuant to this chapter.

(m) "Solicitation" means an invitation for bid or request for proposal issued pursuant to this chapter.

(n) "Ungranted," as used in describing a concession, means a concession that has not been granted.

## **Part 100 – Determination of Scope of Concession**

### **§ 40-\_\_-101 Scope of Concession**

The scope of every concession granted by the Authority shall be approved in writing by the Authority Board of Directors. The determination of the scope of the concession shall also be made in writing, and the writing shall explain the reasoning for the scope of the concession. The writing shall include the concession fee for the concession and whether the Authority requires bids or proposals on the basis of a prepaid concession fee. Adequate notice of this determination shall be provided to potential bidders or proposers via a meeting of the Authority Board of Directors and through a publicly posted notice made available at the Authority's office located in the Francisco C. Ada/Saipan International Airport. The publicly posted notice shall be made available for a period of fourteen (14) calendar days. The scope of a concession shall be announced prior to the commencement of the process to award the concession via bid or request for proposal.

### **§ 40-\_\_-105 Change of the Scope of a Concession; Elimination of a Concession**

The Authority shall not change the scope of a granted concession or eliminate a granted concession, unless the granted concession has been rescinded per NMIAC § 40-\_\_-505(c)(1). If a concession is ungranted, upon recommendation of the Executive Director or her/his authorized designee the Authority Board of Directors may change the scope of the ungranted concession or eliminate the ungranted concession. The determination to change the scope of an ungranted concession or eliminate an ungranted concession shall be made in writing explaining the reasoning for the determination. Adequate notice of this determination shall be provided to potential bidders or proposers via a meeting of the Authority Board of Directors and by publicly posting notice of such determination at the Authority's office in the Francisco C. Ada/Saipan International Airport for a period of fourteen (14) calendar days.

### **§ 40-\_\_-110 Establishment of Concession Fee**

The concession fee for a concession shall be established by the Authority Board of Directors and included in the determination of the scope of the concession.

## **Part 200 – Concession Award and Renewal**

### **§ 40-\_\_-201 New Concession via Bid**

(a) A new concession may be awarded by bid. The Executive Director or her/his authorized designee may issue an invitation for bid for a new concession when the Authority Board of Directors determines in writing that the best interests of the Authority are served by awarding the new concession by bid. Adequate notice of this determination shall be provided to potential

bidders via a Authority Board of Directors meeting and by publicly posting notice of such determination at the Authority's office in the Francisco C. Ada/Saipan International Airport for a period of fourteen (14) calendar days.

- (b) Invitation for Bid. An invitation for bid shall be issued and shall include at the minimum:
- (1) An invitation for bid's number or "CPA Concession No." designation
  - (2) Date of issuance;
  - (3) Name, address, and location of issuing office;
  - (4) Specific location where bids must be submitted;
  - (5) Date, hour, and place of bid opening;
  - (6) The scope of the concession as determined by the Authority;
  - (7) A full statement of the requirements of a responsive bid corresponding to the concession's determined scope;
  - (8) Whether bids are required to include a prepaid minimum concession fee;
  - (9) The time, place, and method of delivery or performance requirements;
  - (10) The essential contractual terms and conditions for the concession agreement;
  - (11) The amount of the concession fee as established by the Authority;
  - (12) Statement of any reasonable administrative fee for costs associated with handling and consideration of the bid, such as for scanning, duplication, or preparation depending on the nature or complexity of the invitation for bid;
  - (13) An accurate reflection of the Authority requirement to allow bidders to properly respond and evaluations to be made on a uniform basis; and
  - (14) A detailed explanation of how the Authority will calculate the total amount of the bid in order to determine the highest responsive bid that fully meets the requirements of the invitation for bid.

(c) Public Notice and Bidding Period.

(1) The Executive Director or her/his authorized designee shall publicize the invitation for bid in order to increase competition, broaden industry participation, and provide adequate notice of the opportunity to bid to potential bidders. The Executive Director or her/his authorized designee shall publish notice of the invitation for bids in two newspapers of general circulation in the Commonwealth at least twice each week from the time the invitation for bid is issued, including the week when the bidding period expires. This published notice shall include the information on the invitation for bid as set forth in subsections (b)(1) through (b)(5), (b)(8), (b)(9), (b)(11), and (b)(12) of this section.

(2) The invitation for bid shall provide for a bidding period of at least thirty (30) calendar days, unless the Executive Director or her/his authorized designee certifies that a shorter time period is reasonable and necessary. The bidding period shall never be less than fourteen (14) calendar days.

(3) The Executive Director or her/his authorized designee may, upon consultation and approval by the Authority Board of Directors, extend the bidding period for up to an additional ninety (90) calendar days for good cause. The length of the extension and the justification for the extension shall be in writing. Examples of good cause include but are not limited to the degree of urgency, the complexity of the contract requirements, the anticipated need and extent for subcontracting, the geographical distribution of bidders, and the transmittal time of the invitation for bid and bids.

(d) Bid Receipt.

(1) All bids shall be submitted to the Authority Administration Section, Office of the Executive Director of the Authority at the Francisco C. Ada/Saipan International Airport unless otherwise designated by the Executive Director or her/his authorized designee. Bids shall be submitted in sealed envelopes and unopened so as to avoid disclosure of contents to competing bidders. Sealed bid envelopes shall have conspicuous markings that indicate the invitation for bid's number or "CPA Concession No.," state that it is an "Invitation for Bid Submission: Confidential," and be directed to the attention of the Executive Director or her/his authorized designee. Bids shall be received prior to the time set for opening and shall be maintained sealed in a locked receptacle until the time set for opening.

(2) If a bid is opened by mistake, it shall be resealed and the person who opened the bid shall write his signature and print his title on the envelope and deliver it to the Executive Director or her/his authorized designee. No information contained in the bid shall be disclosed prior to the bid opening. The Executive Director or her/his authorized designee shall cause the opened bid to be placed into a sealed receptacle and cause it to be sealed until the bid opening.

(e) Bid Opening; Public Inspection of Bids. The bid opening shall be conducted by the Executive Director or her/his authorized designee at the Conference Room of the Authority at the Saipan International Airport or some other pre-designated location. Bids shall be opened publicly at the time and place designated in the invitation for bids. The total amount of each bid, together with the name of each bidder, shall be recorded on a "Bidder's Submission List." The Bidder's Submission List shall be open to public inspection. However, the content of each bid submitted may only be subject to public inspection after the Executive Director has awarded the concession to the highest responsive bidder pursuant to this chapter and 4 CMC § 2206(a). After such award, the content of each bid submitted shall be open to public inspection pursuant to the Open Government Act subject to any applicable exemptions.

(f) Bid Acceptance and Bid Evaluation. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this chapter. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria as is necessary to reasonably permit a determination as to the acceptability of the bid for the particular purpose intended. A bid may only be considered by the Authority if the bidder accepts all material terms and conditions of the invitation for bid. Any award based upon the bid shall result in negotiation for a concession agreement with essential contractual terms and conditions which follow and do not vary from the requirements of the invitation for bid.

(g) Bid Rejection.

(1) The Authority, through the Executive Director or her/his authorized designee, may reject any or all bids if it determines to do so would be in the best interests of the Commonwealth. The determination to reject any bid shall be made in writing explaining the reasoning for the determination. Adequate notice of such determination shall be accomplished by informing the corresponding bidder of the determination in writing and publicly posting notice of such determination at the Authority office at the Francisco C. Ada/Saipan International Airport for a period of fourteen (14) calendar days. Further, the Authority has determined that any bid may be rejected for any one of the following reasons, as doing so would be in the best interests of the Commonwealth:

- (i) Failure to conform to the requirements of a responsive bid corresponding to the concession's determined scope;
- (ii) Failure to meet the requirements of the invitation for bid;
- (iii) Imposition of conditions or restrictions in the bid which modify or alter requirements of the invitation for bid, modify or alter requirements the scope of the concession, or limit the bidder's liability to the Authority;
- (iv) Unreasonableness as to prices charged;
- (v) The bidder is a non-responsible bidder according to this chapter;
- (vi) The bid states a price but qualifies it as subject to a price in effect at time of delivery;
- (vii) The bid protects against future changes in conditions, such as increased costs;
- (viii) The bid limits the rights of the Authority;
- (ix) A change in requirements for the invitation for bid;
- (x) Any material confusion relating to the invitation for bid;
- (xi) A change or modification in the scope of the concession;
- (xii) Necessary additional requirements for bidders or bids; or
- (ix) Any other reason determined by the Authority, through the Executive Director or her/his authorized designee, to be in the best interests of the Commonwealth.

(2) Should the Authority reject all bids responding to an invitation for bid, the Executive Director or her/his authorized designee may re-issue the invitation for bid, issue a new invitation for bid corresponding to the concession's determined scope, recommend a change in the concession's determined scope in writing to the Authority Board of Directors, or recommend elimination of the concession in writing to the Authority Board of Directors.

(h) Correction or Withdrawal of Bids; Cancellation of Awards.

(1) Correction or Withdrawal of Bids. Prior to the bid submission deadline, any bidder may withdraw its bid or submit a replacement bid to correct inadvertent errors in the original bid in accordance with the terms of the invitation for bid. After the bid submission deadline, no changes in bid price or other provisions of bids prejudicial to the interest of the Authority or fair competition shall be allowed. Whenever an inadvertently erroneous bid is suspected by the Authority, the Authority shall request confirmation of the bid from the bidder in writing prior to award and shall not proceed to award the concession until receiving a response from the bidder in the timeframe set forth in that writing, which shall be within seven (7) days from the bidder's receipt of that writing. In such an instance, if the bidder alleges an error, the Authority shall only permit correction of the bid or withdrawal of the bid in accordance with the following:

- (i) Correction of bids. Correction of bids shall only be permitted when:
  - (a) An obvious clerical mistake is clearly evident from examining the bid materials. Examples of such mistakes are errors in addition or the obvious misplacement of a decimal point; or
  - (b) The otherwise highest responsive bidder alleges a mistake and the intended bid is evident from the bid materials or is otherwise supported by clear and convincing evidence as to the bid intended and the corrected bid remains the

highest responsive bid. A high bidder may not be permitted to correct a bid mistake resulting from an error in judgment.

(ii) **Withdrawal of Bids.** Withdrawal of a bid shall only be permitted where the otherwise highest responsive bidder alleges a mistake and there is clear and convincing evidence as to the existence of a mistake.

(2) **Cancellation of Awards.** The cancellation of an award or a concession agreement shall only be permitted when:

(i) Evidence as to the existence of the inadvertently erroneous bid is not discovered until after the award;

(ii) There exists clear and convincing evidence to support the bid was unintended; and

(iii) Performance of the concession agreement at the award price would be unconscionable.

(3) **Writing Required.** Correction or withdrawal of inadvertently erroneous bids after the bid submission deadline, or cancellation of awards or concession agreements based on the existence of an inadvertently erroneous bid, must be approved by the Executive Director or her/his authorized designee in writing. Such writing shall state the reason for the determination to allow the correction of the bid, the withdrawal of the bid, or the cancellation of the award.

(i) **Award.**

(1) A concession awarded by bid shall be awarded by the Authority Board of Directors by granting the concession to the highest responsive bidder whose bid fully meets the requirements of the invitation for bid and who is determined to be a financially responsible person of good moral character and reputable experience as determined by the Executive Director or her/his authorized designee in accordance with this chapter. This person shall be referred to as the "Concession Grantee." The determination to grant the concession shall be made in writing explaining the reasoning for the determination. This writing shall be referred to as the "Authority Concession Grant."

(2) The Executive Director or her/his authorized designee shall send written notice of the award of the concession, along with a copy of the Authority Concession Grant, with reasonable promptness to the Concession Grantee. This written notice must contain the reasoning for the determination of the Authority to grant the concession to the Concession Grantee and to enter into the concession agreement with the Concession Grantee. Unsuccessful bidders shall receive a similar written notice, sent on the same day as the written notice to the Concession Grantee, containing the reasoning for the determination of the Authority to grant the concession to the Concession Grantee and to enter into the concession agreement with the Concession Grantee. These writings constitute adequate notice of this determination by the Authority.

(3) Notice of the award granting the concession to the Concession Grantee shall be accompanied with the presentation of a concession agreement with all of the required Authority signatures to the Concession Grantee or an invitation to receive such a concession agreement from the Authority. No acceptance of an offer shall occur nor shall any contract be formed until the concession agreement is written and has been approved of and signed by all required personnel of the Authority and the Concession Grantee.

## § 40-\_\_-205 New Concession via Request for Proposal

(a) A new concession may be awarded via request for proposal. The Executive Director or her/his authorized designee may issue request for proposal for a new concession when the Authority Board of Directors determines in writing that the best interests of the Authority are served by awarding the new concession via request for proposal. Adequate notice of this determination shall be provided to potential proposers via a meeting of the Authority Board of Directors and by publicly posting notice of such determination at the Authority office at the Francisco C. Ada/Saipan International Airport for a period of fourteen (14) calendar days.

(b) Request for proposal. Proposals shall be solicited through a Request for Proposal or "RFP".

(c) Public Notice. The Executive Director or her/his authorized designee shall publicize the request for proposal in order to increase competition, broaden industry participation, and provide adequate notice of the opportunity to submit proposals to potential proposers. The Executive Director or her/his authorized designee shall publish notice of the request for proposal in two newspapers of general circulation in the Commonwealth at least twice each week from the time the request for proposal is issued, including the week when the proposal period expires. This published notice shall include the following information:

- (1) A RFP number or "CPA Concession No." designation
- (2) Date of issuance of the RFP;
- (3) Name, address, and location of issuing office;
- (4) Specific location where proposals must be submitted;
- (5) Date and time the proposal period expires;
- (6) Whether proposals are required to include a prepaid minimum concession fee;
- (7) The time, place, and method of delivery or performance requirements;
- (8) The amount of the concession fee as established by the Authority;
- (9) Statement of any reasonable administrative fee for costs associated with handling and consideration of the proposal, such as for scanning, duplication, or preparation depending on the nature or complexity of the RFP and that such a fee is non-refundable.

(d) Receipt of sealed proposals. Proposals shall be submitted in sealed envelopes and unopened so as to avoid disclosure of contents to competing proposers during the process of negotiation of the concession agreement. Proposals shall be restricted to the members of the Evaluation Committee and shall not be disclosed nor discussed to anyone outside of the Evaluation Committee until after the completion of the evaluation and ranking of proposals. After the concession is granted and the concession agreement is executed, proposals, excluding materials protected as confidential, private, or exempt per NMIAC § 40-\_\_-701, may be prepared and opened for public inspection.

(e) Evaluation Factors and Plan.

(1) The Executive Director, or her/his authorized designee, will determine the factors the Authority will employ to evaluate proposals for a concession. The request for proposal for the concession shall state these factors. These factors shall correspond to the concession's

determined scope. These factors shall be publicly announced prior to or concurrently with the release of the request for proposal.

(2) Before conducting an evaluation of proposals pursuant to an RFP, the Executive Director or her/his authorized designee shall develop, and the Authority Board of Directors shall approve, an evaluation plan for evaluating submitted proposals. This evaluation plan at a minimum shall include:

- (i) A statement of the evaluation factors;
- (ii) A description of the evaluation process, including a tentative timeline and the composition of the evaluation committee;
- (iii) The point system to be used in scoring the evaluation factors, the methodology to be employed in considering the evaluation factors, and/or the techniques to be used in considering the evaluation factors; and
- (iv) Documentation requirements.

(f) Discussion with responsible proposers and revisions to proposals. As provided in the request for proposal, discussions may be conducted with responsible proposers who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification and to insure full understanding of, and responsiveness to, solicitation requirements. The Executive Director may initiate such discussions or any proposing party may request such discussions. However, such discussions may only occur after advance written notice to all proposers as to the nature of the discussion and issues to be clarified and the date and time for such discussion(s). There shall be no separate discussions nor communications between the Executive Director with any proposer at any time. Proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submission and prior to award for the purpose of obtaining the best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing proposers. The Executive Director may, after such discussions, invite "Best and Final Offers" from each proposer to be submitted on a certain date. The Executive Director may only receive best and final offers from each proposer where, after discussions, there is clarification of the request for proposal and resolution of any ambiguities or vagaries in the request by the Authority for such proposals.

(g) Evaluation Committee:

(1) Composition. The Executive Director or her/his authorized designee shall designate an Evaluation Committee to evaluate proposals responding to a specific RFP. The Evaluation Committee shall be comprised of no less than three of the following Authority sections/divisions:

- (i) Accounting Section;
- (ii) Administration Section;
- (iii) Engineering Section;
- (iv) Ports Police;
- (v) Aircraft Rescue & Firefighting (ARFF);
- (vi) Operations Section; and
- (vii) Maintenance Section.

The Evaluation Committee may also include willing non-Authority employees, such as and for example a representative from the Commonwealth Development Authority, the Office of the Public Auditor, or the Department of Public Works Technical Services Division, if the Authority

Board of Directors determines, in writing, that the participation of the non-Authority employee(s) would be in the best interest of the Commonwealth. Non-Authority employees shall be compensated for their time spent and expenses incurred in service on an evaluation committee in the same manner as Authority Board members are compensated under 2 CMC § 2125. The Evaluation Committee shall be composed of no less than three (3) members and no more than five (5) members. Whenever practical, members of the Evaluation Committee should have some training, familiarity, or experience with the proposals being reviewed. The Executive Director shall not serve on an Evaluation Committee.

(2) Interaction with Executive Director. The Executive Director shall, by Memorandum, direct the Evaluation Committee to convene as soon as practical following the close of the period for submission of proposals. The Evaluation Committee and the Executive Director may communicate regarding the proposals under its consideration only insofar as to facilitate discussions with responsible proposers who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification and to insure full understanding of, and responsiveness to, solicitation requirements. After these discussions have concluded, the Evaluation Committee may recommend to the Executive Director that the Executive Director invite "Best and Final Offers" from each proposer to be submitted on a certain date.

(3) Evaluation and Report. After reviewing and deliberating the proposals, applying the evaluation factors as set forth in the evaluation plan, applying any additional requirements set forth in the RFP, and determining whether each proposer is a financially responsible person of good moral character and reputable experience, the Evaluation Committee shall rank the proposals meeting the minimum requirements of the RFP from financially responsible persons of good moral character and reputable experience according to the quality of their proposals as measured by the evaluation plan. After completing this ranking, the Evaluation Committee shall report its ranking to the Executive Director or her/his authorized designee.

(h) Award.

(1) Upon consideration of the rankings provided by the Evaluation Committee, a concession awarded by request for proposal shall be awarded by the Authority Board of Directors by granting the concession to the ranked proposer who, in the sole opinion of the Authority, makes the best proposal in accordance with this chapter. This person shall be referred to as the "Concession Grantee." The determination to grant the concession shall be made in writing explaining the reasoning for the determination. This writing shall be referred to as the "Authority Concession Grant."

(2) The Executive Director or her/his authorized designee shall send written notice of the award of the concession, along with a copy of the Authority Concession Grant with reasonable promptness to the Concession Grantee. This writing must contain the reasoning for the determination of the Authority to grant the concession to the Concession Grantee and to enter into negotiations for a concession agreement with the Concession Grantee. Unsuccessful proposers shall receive a similar written notice, sent on the same day as the written notice to the Concession Grantee, containing the reasoning for the determination of the Authority to grant the concession to the Concession Grantee and to enter into negotiations for a concession agreement with the Concession Grantee. The notice to an unsuccessful proposer shall also inform the unsuccessful proposer of the number of proposals received, the name and address of the Concession Grantee, and in general terms the reason why the unsuccessful proposer's proposal was not accepted. These writings constitute adequate notice of this determination by the

Authority. In no event shall any proposer's cost breakdown, profit, overhead rates, trade secrets, manufacturing processes and techniques, or other confidential business information be disclosed to any other proposer.

(3) Upon grant of the concession to the Concession Grantee, the Authority shall commence negotiations with the Concession Grantee for a concession agreement. The concession agreement shall include the terms set forth in the RFP and the Concession Grantee's bid, encompassing the aspects of the Concession Grantee's bid required to be in the concession agreement. The concession agreement file shall contain the basis on which the award was made, all evaluation sheets, and the report of the Evaluation Committee. The concession agreement file shall also contain the selected proposal and the information and basis on which the award was made.

(4) If the Concession Grantee and the Authority cannot come to an agreement as to the terms of the Concession Agreement within forty-five (45) days from the grant of the concession to the Concession Grantee, the Executive Director may cancel the award of the concession per § 40-\_\_\_\_-301 of this chapter. Upon such cancellation, the Executive Director shall inform the Authority Board of Directors of the cancellation and the reasoning for the cancellation in writing, and may recommend changing the scope of the concession, eliminating the concession, or proceeding to award the concession by granting it to another ranked proposer. The Authority Board of Directors shall then decide to either award the concession by granting it to another ranked proposer, change the scope of the concession, eliminate the concession, or determine that the concession should be awarded via a new request for proposal. Such determination shall be made in a writing explaining the reasoning for the determination. Adequate notice of this determination shall be provided to potential proposers via a meeting of the Authority Board of Directors and by publicly posting notice of such determination at the Authority office at the Francisco C. Ada/Saipan International Airport for a period of fourteen (14) calendar days.

#### **§ 40-\_\_-210 Concession Renewal**

(a) The Authority may renew concessions with existing concessionaires only if the then-incumbent concessionaire is in compliance with its current concession agreement and the Authority determines that renewal of the concession by negotiation is in the best interests of the Commonwealth. This determination, including an assessment of whether the then-incumbent concessionaire is in compliance with its current concession agreement, shall be made by the Authority Board of Directors in writing explaining the reasoning for the determination. This determination shall be made and communicated to the then-incumbent concessionaire no sooner than one (1) year before and no later than ninety (90) days before the expiration of the then-incumbent concessionaire's concession agreement. Adequate notice of this determination shall be provided via a meeting of the Authority Board of Directors and by publicly posting notice of such determination at the Authority office at the Francisco C. Ada/Saipan International Airport for a period of fourteen (14) calendar days. The term of a renewed concession agreement shall not exceed 20 (twenty) years from the renewal of the concession.

(b) If the then-incumbent concessionaire and the Authority cannot agree upon terms and conditions for renewal of the concession and execute a new concession agreement by 11:59 PM ChST on the last day of the then-incumbent concessionaire's existing concession agreement, the

opportunity for renewal of the concession will have expired, the concession will expire, and the Authority may award a new concession pursuant to procedures set forth in 4 CMC § 2206(a).

## **Part 300 - Cancellation of Invitation for Bid or Request for Proposal**

### **§ 40-\_\_-301 Cancellation**

(a) An invitation for bid or request for proposal may be cancelled prior to award of the corresponding concession, and any and all bids or proposals may be rejected, by the Executive Director or her/his authorized designee, or the Board upon the consideration of an appeal by the Appeals Committee, when it is determined to do so would be in the best interests of the Commonwealth. Further, the Authority has determined that any and all bids or proposals may be rejected for any one of the following reasons, as doing so would be in the best interests of the Commonwealth:

(1) Inadequate or ambiguous specifications contained in the invitation for bid or request for proposal;

(2) Requirements of the responsive bid or factors employed to evaluate the proposals have been revised;

(3) Inadequate consideration given to all factors of cost to the Authority in the invitation for bid or request for proposal;

(4) Bids or proposals received indicate that the Authority can achieve greater benefit for the Commonwealth by changing the scope of the corresponding concession;

(5) Bids were collusive;

(6) Any reason set forth in section 201(d) of this chapter;

(7) Any other reason determined by the Authority, through the Executive Director or her/his authorized designee, or the Board on appeal, to be in the best interests of the Commonwealth.

(b) The Executive Director or her/his authorized designee, or the Board on appeal, shall have the right to cancel an award of a concession without any liability to the bidder or proposer including, but not limited to, interest charges, compensatory damages, consequential damages, attorneys' fees, restocking charges, shipping charges, surety or bonding charges, taxes, or any other costs, except the return of any deposit, guarantee, or other security, at any time before a concession agreement has been fully executed by all parties.

(c) The determination to cancel an invitation for bid, cancel a request for proposal, reject any or all bids, reject any or all proposals, or cancel an award of a concession made pursuant to this Part shall be made in writing explaining the reasoning for the determination. Adequate notice of such determination shall be accomplished by informing the corresponding bidder, bidders, proposer, proposers, or Concession Grantee of the determination in writing and publicly posting notice of such determination at the Authority office at the Francisco C. Ada/Saipan International Airport for a period of fourteen (14) calendar days.

## Part 400 - Qualifications and Duties

### § 40-\_\_-401 Responsibility of Bidders and Proposers

(a) Concessions shall be granted only to a financially responsible person of good moral character and reputable experience. Although the below-listed factors are not deemed to be exclusive, in order to be determined a financially responsible person of good moral character and reputable experience, a bidder or proposer must:

- (1) Have adequate financial resources to perform its bid or proposal, or the ability to obtain them;
- (2) Be able to comply with the method of delivery or performance requirements;
- (3) Have a satisfactory performance record;
- (4) Have a satisfactory record of integrity and business ethics including a current tax clearance; no adverse record relating to employment matters including but not limited to matters before the CNMI Department of Labor, Federal Immigration Laws, Davis Bacon Act, the CNMI Division of Environmental Quality or the U.S. Environmental Protection Agency, U.S. Department of Labor, U.S. Department of Commerce, the Federal Aviation Administration; the Federal Maritime Commission; the United States Coast Guard and the United States Equal Employment Opportunity Commission; or the U.S. Internal Revenue Service;
- (5) Have the necessary organization, experience and skills, (or the ability to obtain them) required to successfully perform as a concessionaire;
- (6) When required by the Authority, have a valid CNMI Business License and, whenever practical, an office in the CNMI; and
- (7) Be otherwise qualified and eligible to be granted a concession under applicable laws and rules.

(b) Obtaining information. Prior to award, the Executive Director or her/his authorized designee shall obtain information from the bidder or proposer necessary to make a determination of responsibility using the factors in subsection (a) above. The unreasonable failure of a bidder or proposer to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for determination of non-responsibility with respect to that bidder or proposer.

(c) Right of non-disclosure. Information furnished by a bidder or proposer pursuant to subsection (b) may not be disclosed outside of the office of the Authority without prior consent by the bidder or proposer.

(d) Non-responsibility determination. When a bid or proposal on which a concession would otherwise be granted is rejected because the prospective concessionaire is found to be non-responsible, a written determination shall be signed by the Executive Director or her/his authorized designee stating the basis for the determination. This determination shall be communicated to the prospective concessionaire and shall be placed in the contract file.

## Part 500 - Protests, Disputes, and Appeals

### § 40-\_\_-501 Protests Prior to Award

(a) Procedure for Protest.

(1) Prior to an award of a concession, any actual or prospective bidder or proposer for that concession who asserts a claim or asserts that it has been aggrieved in connection with an invitation for bid or request for proposal may protest to the Executive Director. The protest shall be received by the Executive Director in writing within ten (10) days after such aggrieved actual or prospective bidder or proposer knows or should have known of the facts giving rise thereto. The written protest shall state fully the factual and legal grounds for the protest. The Executive Director shall consider all protests.

(2) Other persons, including other actual or prospective bidders or proposers known to the protesting party, involved in or affected by the protest shall be given notice of the protest and its basis in appropriate cases. The protesting party shall provide such notice and a copy of its protest to all proposers or bidders involved in or affected by the protest and shall file a declaration or proof of service with the Executive Director. Proof of Notice is required by the protesting party to these actual or prospective bidders or proposers within three (3) calendar days of filing its protest. These actual or prospective bidders or proposers shall also be advised that they may submit their views and relevant information to the Executive Director within ten (10) calendar days of their receipt of notice of the protest.

(3) The Executive Director shall decide the protest in writing within thirty (30) calendar days after all interested parties have submitted their views unless the Executive Director certifies that the complexity of the matter requires a longer time, in which event the Executive Director shall specify the appropriate longer time. The decision of the Executive Director shall constitute a final agency action by the Authority on the protest.

(4) If the Executive Director fails to render a decision within the time allotted, the protesting party may renew its protest to the Appeal Committee of the Authority's Board of Directors, as set forth in NMIAC § 40-50-925, by filing its protest renewal with the Chairperson of the Authority's Board of Directors through the Board Secretary at the Authority Administration Section, Saipan International Airport. Upon receipt of such protest renewal, jurisdiction over the protest shall transfer to the Appeal Committee and the Appeal Committee shall compel the Executive Director to provide to the Appeal Committee all materials necessary to consider the protest, including all submissions on the protest made by actual or prospective bidders or proposers. The Appeal Committee shall consider the protest upon their receipt. The Appeal Committee shall decide the protest in writing within thirty (30) calendar days after its receipt of these materials unless it certifies that the complexity of the matter requires a longer time, in which event the Appeal Committee shall specify the appropriate longer time. The decision of the Appeal Committee under this procedure shall constitute a final agency action by the Authority on the protest.

(b) Award Pending Protest.

(1) When a protest or appeal has been filed before award, the Authority Board of Directors will not make an award prior to resolution of the protest except if, upon recommendation of the Executive Director, the Authority Board of Directors determines that:

- (i) Fulfillment of the scope of the concession is urgently required;
- (ii) Delivery or performance will be unduly delayed by failure to make an award promptly; or
- (iii) A prompt award will be advantageous to the Authority.

(2) In the event the Authority Board of Directors determines that an award is to be made during the pendency of a protest, the Authority Board of Directors shall notify the Executive Director and the Appeal Committee of this determination in writing stating the reasoning for the determination. This writing shall be included in the protest file to explain the need for the immediate award. The Authority Board of Directors shall also give written notice to the protester and others concerned of the decision to proceed with the award. Adequate notice of such determination shall be accomplished by the foregoing and by publicly posting notice of such determination at the Authority office at the Francisco C. Ada/Saipan International Airport for a period of fourteen (14) calendar days.

**§ 40-\_\_-505 Protests After Award**

(a) Procedure for Protest.

(1) After an award of a concession, any actual bidder or proposer for that concession who asserts a claim or asserts that it has been aggrieved in connection with an invitation for bid or request for proposal may protest to the Executive Director. The protest shall be received by the Executive Director in writing within ten (10) days after such aggrieved bidder or proposer knows or should have known of the facts giving rise thereto. The written protest shall state fully the factual and legal grounds for the protest. The Executive Director shall consider all protests.

(2) Other persons, including other actual bidders or proposers known to the protesting party, involved in or affected by the protest shall be given notice of the protest and its basis in appropriate cases. The protesting party shall provide such notice and a copy of its protest to the Concession Grantee and shall file a declaration or proof of service with the Executive Director. Proof of Notice is required by the protesting party to these actual bidders or proposers, including the Concession Grantee, within three (3) calendar days of filing its protest. These bidders or proposers and the Concession Grantee shall also be advised that they may submit their views and relevant information to the Executive Director within ten (10) calendar days of their receipt of notice of the protest;

(3) The Executive Director shall decide the protest in writing within thirty (30) calendar days after all interested parties have submitted their views unless the Executive Director certifies that the complexity of the matter requires a longer time, in which event the Executive Director shall specify the appropriate longer time. The decision of the Executive Director shall constitute a final agency action by the Authority on the protest.

(4) If the Executive Director fails to render a decision within the time allotted, the protesting party may renew its protest to the Appeal Committee of the Authority's Board of Directors, as set forth in NMIAC § 40-50-925, by filing its protest renewal with the Chairperson

of the Authority's Board of Directors through the Board Secretary at the Authority Administration Section, Saipan International Airport. Upon receipt of such protest renewal, jurisdiction over the protest shall transfer to the Appeal Committee and the Appeal Committee shall compel the Executive Director to provide to the Appeal Committee all materials necessary to consider the protest, including all submissions on the protest made by bidders or proposers or the Concession Grantee. The Appeal Committee shall consider the protest upon their receipt. The Appeal Committee shall decide the protest in writing within thirty (30) calendar days after its receipt of these materials unless it certifies that the complexity of the matter requires a longer time, in which event the Appeal Committee shall specify the appropriate longer time. The decision of the Appeal Committee under this procedure shall constitute a final agency action by the Authority on the protest.

(b) When it appears likely that an award may be invalidated and a delay in operations under the concession is not prejudicial to the Authority's interest, the Executive Director should consider seeking a mutual agreement with the Concession Grantee to suspend performance on a no-cost basis.

(c) Remedies after Award.

(1) If after an award the Executive Director or the Appeal Committee determines that an invitation for bid, request for proposal, or award of a concession is in violation of regulation, then:

(i) If the Concession Grantee has not acted fraudulently or in bad faith:

(a) The grant of concession or the concession agreement may be ratified and affirmed, provided it is determined that doing so is in the best interests of the Commonwealth, that the reasoning for this determination is set forth in writing, and that adequate notice of this determination is accomplished by publicly posting notice of such determination at the Authority office at the Francisco C. Ada/Saipan International Airport for a period of fourteen (14) calendar days; or

(b) The grant of concession may be rescinded or the concession agreement may be terminated and the person awarded the concession shall be compensated for the actual expenses reasonably incurred under the concession;

(ii) If the Concession Grantee has acted fraudulently or in bad faith:

(a) The grant of concession may be rescinded; or

(b) The grant of concession or the concession agreement may be ratified and affirmed provided it is determined that doing so is in the best interests of the Commonwealth, that the reasoning for this determination is set forth in writing, and that adequate notice of this determination is accomplished by publicly posting notice of such determination at the Authority office at the Francisco C. Ada/Saipan International Airport for a period of fourteen (14) calendar days, without prejudice to the Authority's rights to such damages as may be appropriate.

#### § 40-\_\_-510 Disputes with Concession Grantee or Concessionaire

(a) Any dispute between the Authority and a concessionaire relating to the performance

under or interpretation of a concession agreement must be filed in writing with the Executive Director within ten calendar days after knowledge of the facts surrounding the dispute.

(b) When a claim by or against a concessionaire cannot be satisfied or settled by mutual agreement and a decision on the dispute is necessary, the Executive Director shall review the facts pertinent to the dispute, secure necessary legal assistance and prepare a written description within thirty (30) calendar days of receipt of the dispute that shall include:

- (1) A description of the dispute;
- (2) Reference to pertinent concession agreement terms;
- (3) A statement of the factual areas of disagreement or agreement; and
- (4) A statement of the decision as to the factual areas of disagreement and conclusion of the dispute with any supporting rationale.

(c) Appeals.

(1) A written appeal to the Appeal Committee from a decision by the Executive Director on a concessionaire's dispute may be taken provided that the concessionaire taking the appeal has first submitted a written dispute to the Executive Director and the Executive Director has issued a written decision on the dispute as set forth in NMIAC § 40-\_\_-510(b) or has failed to timely act on the dispute. An appeal from the Executive Director's decision must be received by the Appeal Committee not later than ten calendar days after the concessionaire receives the decision of the Executive Director, or, in the event that the Executive Director has not decided the dispute within ten calendar days from the date that the Executive Director should have decided the dispute as set forth in NMIAC § 40-\_\_-510(b). Any appeal received after these time limits shall not be considered by the Appeal Committee unless good cause is shown or unless the Appeal Committee determines that the appeal presents issues significant to concession practices that are not outweighed by the detriment to the Authority should the appeal be considered.

(2) When a dispute has been appealed to the Appeal Committee, the Executive Director shall provide the Appeal Committee a copy of its written description, as set forth in NMIAC § 40-\_\_-510(b), as well as any other documents that are relevant to the dispute. The Appeal Committee may request additional information from the Executive Director or the concessionaire as it sees fit.

(3) The Appeal Committee shall hear, review and render a decision on an appeal from an adverse decision timely taken by a concessionaire. The Appeal Committee shall hold a hearing on the appeal. The Appeal Committee shall provide the concessionaire and the Executive Director with adequate notice of this hearing, including the process established by the Appeal Committee for acceptance and consideration of evidence, both exhibits and testimony, to be followed at the hearing. The Appeal Committee shall review the Executive Director's decision *de novo*. The Appeal Committee may affirm, reverse or modify the decision of the Executive Director, or remand that decision back to the Executive Director for further consideration.

(4) The Appeal Committee shall, if possible, issue a decision on the appeal within thirty (30) calendar days after all information necessary for the resolution of the appeal has been received. A copy of the decision shall immediately be mailed or otherwise transmitted to the concessionaire and the Executive Director. Unless the concessionaire or the Executive Director

timely requests reconsideration of the decision, the decision shall constitute a final agency action by the Authority on the dispute.

(5) Reconsideration of a decision of the Appeal Committee may be requested by the concessionaire or the Executive Director. The request for reconsideration shall contain a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted, specifying any errors of law made or information not previously considered. Request for reconsideration of a decision of the Appeal Committee shall be filed not later than ten calendar days after the decision. There shall be no further hearing nor conference on any request for reconsideration and the Appeal Committee shall decide the request for reconsideration within five (5) calendar days. This decision shall be made in writing, shall immediately be mailed or otherwise transmitted to the concessionaire and the Executive Director, and shall constitute a final agency action by the Authority on the dispute.

(d) **Duty to Continue Performance.** A concessionaire that has a dispute pending before the Executive Director or an appeal before the Appeal Committee must continue to perform according to the terms of the concession agreement and failure to so continue shall be deemed to be a material breach of the concession agreement unless the concessionaire obtains a waiver of this provision from the Authority Board of Directors.

(e) A determination of an issue of fact by the Appeal Committee under this part shall be final and conclusive unless arbitrary, capricious, fraudulent, or clearly erroneous. Any aggrieved party may thereafter seek judicial review of such a determination as a final agency action per 1 CMC § 9112 with the CNMI Superior Court.

## **Part 600 - Signatures, Ethics, Good Faith, and Required Concession Agreement Language**

### **§ 40-\_\_-601 Execution and Administration of Concession Agreements**

All concession agreements executed under this chapter shall be executed, applied, overseen, and enforced by the Authority in the same manner as procurement contracts per §§40-50-101, 40-50-105, and 40-50-110. Ultimately, the Executive Director shall have the responsibility for compliance with this chapter and its application or enforcement. The Executive Director may direct the establishment of Standard Operating Procedures for Concessions, which shall contain the developed and approved forms and procedures consistent with this chapter.

### **§ 40-\_\_-605 Authority Ethics**

All rules and regulations on ethics in contracting set forth in Chapter 40-50 Part 1000 shall be applicable to the concession program set forth in this chapter, except for § 40-50-1030.

### **§ 40-\_\_-610 Gratuities and Kickbacks**

(a) **Gratuities.** The members of the Authority Board of Directors and Authority employees cannot accept from any person any gift of value given to them with the intent to influence their business judgment. It shall be a breach of ethical standards for any person to offer, give or agree

to give any member of the Authority Board of Directors or Authority employee or for the same to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation influencing the content of any concession requirement, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any concession or to any solicitation, bid, or proposal therefore.

(b) Kickbacks. It shall be a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a sub-concessionaire under a concession to a higher tier concessionaire or any person associated therewith as an inducement for the award of a sub-concession or order.

#### **§ 40-\_\_-615 Prohibition Against Contingent Fees**

(a) Contingent Fees. It shall be a breach of ethical standards for a person to be retained or to retain a person to solicit or secure Authority concessions upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

(b) Representation of Prospective Concessionaire. Every person, before being granted an Authority concession, shall represent, in writing that such person has not retained anyone in violation of this section. Failure to do so constitutes a breach of ethical standards.

#### **§ 40-\_\_-620 Contract Clauses**

The prohibitions against gratuities, kickbacks, and against contingent fees contained in this part shall be conspicuously set forth in every concession agreement, invitation for bid, and request for proposal made under this chapter.

#### **§ 40-\_\_-625 Requirement of Good Faith**

This chapter requires all parties involved in the negotiation, bidding, performance, proposal for or administration of Authority concessions to act in good faith.

### **Part 700 - Information Storage and Access**

#### **§ 40-\_\_-701 Public Access to Information Regarding Concession Solicitations**

Information regarding concession solicitations, whenever practical, shall be a matter of public record and shall be available for public inspection pursuant to the CNMI Open Government Act at 1 CMC § 9901 et seq. Information regarding concession solicitations may be kept confidential when necessary to insure proper bidding procedures or to protect private; confidential; financial or technical data; trade secrets; or other proprietary information submitted by a proposing party

or bidder or any other applicable exemption under the Open Government Act. This decision shall be made only by the Executive Director or her/his authorized designee.

Further, any prospective concessionaire submitting information, whether technical or proprietary as to price, shall so indicate to the Authority through the Executive Director in any submission and explain the nature of the information and why it must be designated as private or confidential/exempt under the Open Government Act. Any request for public records of exempt or private materials shall also require reasonable notice to any prospective concessionaire whose information is requested so the prospective concessionaire may be allowed to respond or undertake measures to protect such information.

**§ 40-\_\_-710 Right to Audit Records**

The Public Auditor of the Commonwealth of the Northern Mariana Islands shall, pursuant to 1 CMC § 7845, shall have the right to examine and copy any records, data or papers relevant to an Authority Concession Grant or concession agreement until the expiration of three (3) years after final payment under the concession agreement. A statement to this effect shall be included as a clause in any Authority Concession Grant or concession agreement.

**§ 40-\_\_-715 Retention of Concession Records**

All records regarding a concession and the corresponding concession agreement shall be retained by the Executive Director or her/his authorized designee within a designated office or location in hard-copy format and digital format until the expiration of three (3) years after final payment under the concession agreement, three (3) years after the change in the concession's determined scope, or three (3) years after elimination of the concession, whichever occurs later. After expiration of the applicable three-year (3-year) time period, the Authority may, at its discretion, retain all such records in digital format only and dispose of the corresponding hard copies.



# Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands

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



## **PUBLIC NOTICE OF INTENT TO PROMULGATE AS PERMANENT REGULATIONS FEES FOR CHCC ROOM AND BOARD, DENTAL CLINIC, AND HEALTH AND VITAL STATISTICS OFFICE**

### **INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS:**

The Commonwealth Healthcare Center (CHCC) intends to adopt as permanent regulations the attached Proposed Rules and Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Rules and Regulations will become effective 10 days after adoption and publication in the Commonwealth Register (1 CMC § 9105(b)) and will be codified at NMIAC Sections 140-10.8-301, 140-10.8- Part 200, and 140-10.8-375.

**AUTHORITY:** CHCC is authorized to adopt rules and regulations as may be necessary for the implementation of this chapter. 3 CMC Section 2824(l). Pursuant to PL 19-78, CHCC is directed to “[e]stablish a market oriented set of fees to be charged for care and services at its facilities.” Section 2824(c).

**THE TERMS AND SUBSTANCE:** The Rules and Regulations provide the rate of fees for the CHCC Room and Board, Dental Clinic, and the Health and Vital Statistics Office.

**THE SUBJECTS AND ISSUES INVOLVED:** Fees.

**DIRECTIONS FOR FILING AND PUBLICATION:** These Notice of 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)) Copies are available upon request from Janet Guerrero at 236-8202. CHCC, at its option, may choose to furnish documents electronically rather than hard or paper copies.

**TO PROVIDE COMMENTS:** Send or deliver your comments to Esther Muna, *Attn: Fees*, at the above address, fax or email address, with the subject line “Fee Promulgation”. 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)).

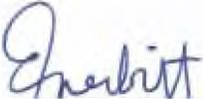
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P.O. Box 500409 CK, Saipan, MP 96950  
Telephone: (670) 234-8950 FAX: (670) 236-8930

These proposed regulations were approved by the CEO on 2 of October, 2017.

Submitted by:  10/02/17  
ESTHER MUNA, CEO Date

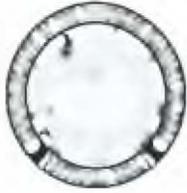
Received by:  10/02/17  
SHIRLEY CAMACHO-OGUMURO Date  
Governor's Special Assistant for Administration

Filed and Recorded by:  10.27.17  
ESTHER SN. NESBITT Date  
Commonwealth Register

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

Dated the 29 day of October, 2017.

  
EDWARD J. MANIBUSAN  
Attorney General



# Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands  
1 Lower Navy Hill Road Navy Hill, Saipan, MP 96950



## Commonwealth Healthcare Corporation

Commonwealth Gi Sangkattan Na Islas Mariãnas Siha  
1 Lower Navy Hill Road, Saipan, MP 96950

### NUTISIAN PUPBLIKU NI MANMAPROPONI NU I ÂPAS ESPITÂT CHCC YAN HINEMLU' YAN PRESIO'N KUATTO YAN SETBISIU, SAGAN DENTISTA, OFISINAN VITAL STATISTIC SIHA

**I AKSION NI MA'INTENSIONA PARA U MA'ADÂPTA ESTI I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA:** I Commonwealth Healthcare Center (CHCC) ha intensiona para u ma'adâpta komu petmanienti i regulasion siha i mañechetton nu i Manmaproponi na Areklamentu yan Regulasion siha, sigun gi manera siha gi Âkton Atministrasion Procedure, 1 CMC § 9104(a). I Areklamentu yan Regulasion siha para u ifektibu gi hãlom dies (10) dihas dispues di adâptasion yan publikasion gi hãlom i Rehistran Commonwealth. (1 CMC § 9105(b))

**ÂTURIDÂT:** I CHCC ma'aturisa para u adâpta i areklamentu yan regulasion siha komu nisisãriu para i implimentasion nu i esti na pãtti. 3 CMC Seksion 2824(l). Sigun para PL 16-51, ma'aturisa i CHCC para u "[e]stapblisi i market oriented set of fees ni para u ma'apãsi para inadahi yan setbisiu gi fasilidãt siha." Seksion 2824(c).

**I TEMA YAN SUSTÂNSIAN I PALÂBRA SIHA:** I Areklamentu yan Regulasion siha mapribeni i rate nu i âpas siha para i CHCC, Primet i espitãt yan clinic siha, yan kontodu para i Hinemlu' yan Presio'n Kuarto Yan Setbisiu, Sagan Dentista, Ofisinan Vital Statistics.

**I SUHETU YAN MANERA SIHA NI MANTINEKKA:** Âpas Siha

**DIREKSION SIHA PARA U MAPO'LU YAN PUPBLIKASION:** Esti na Nutisia nu i Manmaproponi na Regulasion siha debi na u mapupblika gi hãlom i Rehistran Commonwealth gi hãlom i seksiona gi maproponi yan nuebu na ma'adâpta na regulasion siha (1 CMC § 9102(a)(1) yan u mapega gi hãlom i mangkumbinienti na lugãt gi hãlom i Civic Center yan i hãlom ufisinan gubietnamentu siha gi kada distritun senadot, parehu English yan i dos na linguãhi Chamorro yan Refaluwasch. (1 CMC § 9104(a)(1) Managuaha kopia siha yanggin manrikuesta hao ginen as Janet Guerrero gi

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P.O. Box 500409 CK, Saipan, MP 96950  
Telephone: (670) 234-8950 FAX: (670) 233-8756

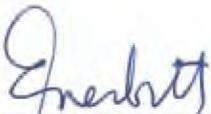
236-8202. I CHCC, gi inayek-ña, siña ha ayik para u pribeni dokumentu siha electronically adimås ki ma´impresa pat kopian pãppit.

**PARA U MAPRIBENIYI OPIÑON SIHA:** Na´hãno pat intrega i opiñon-mu siha guatu gi as Esther Muna; Attn: *Presiu*, gi sanhilo´ na address, fax pat email address, yan i subject line “Macho´guin Presiu Siha” Todu upiñon debi na u fanhãlom trenta (30) dihas ginen i fetchan publikasion esti na nutisia. Pot fabot na´hãlom iyon-mu data, upiñon, yan kuintestasion siha. (1 CMC § 9104(a) (2))

Esti siha i manmaproponi na regulasion ma´aprueba ginen i CEO gi diha dos gi Oktubre, 2017.

Nina'hãlom as:   
ESTHER MUNA, CEO  
Commonwealth Healthcare Corp. 10/02/17  
Fetcha

Rinisibi as:   
SHIRLEY P. CAMACHO-OGUMORO  
Espisiãt Na Ayudãnti Para I Atministrasion 10/02/17  
Fetcha

Pine'lu Yan  
Ninota as:   
ESTHER SN. NESBITT  
Registran Commonwealth 10.27.17  
Fetcha

Sigun i 1 CMC § 2153(e) (I Abugãdu Henerãt ha aprueba i regulasion siha na para u macho´gui kumu fotma) yan 1 CMC § 9104(a)(3) (hentan inaprueban Abugãdu Henerãt) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan ma´aprueba kumu para fotma yan sufisienti ligãt ginin i CNMI Abugãdu Henerãt yan debi na u mapublika sigun gi , 1 CMC § 2153(f) (publikasion areklamentu yan regulasion siha).

Mafetcha gi diha 29 gi Oktubre, 2017.

  
EDWARD J. MANIBUSAN  
Abugãdu Henerãt Fetcha

P.O. Box 500409 CK, Saipan, MP 96950  
Telephone: (670) 234-8950 FAX: (670) 233-8756

COMMONWEALTH HEALTHCARE CORPORATION

To be Codified at NMIAC Section 140-10.8-301

**ROOM AND BOARD FEES**

PLEASE NOTE THAT THE FEES LISTED BELOW ARE APPLICABLE UNLESS THE CURRENT MEDICARE RATE IS HIGHER, IN WHICH CASE THE CURRENT MEDICARE RATE WILL APPLY INSTEAD OF THE RATE LISTED BELOW.

CODE	DESCRIPTION	RATE
N/A	Room & Board ICU, per day	\$4,000.00
N/A	Room & Board Nursery, per day	\$710.00
N/A	Room & Board NICU, per day	\$2,550.00
N/A	Room & Board Telemetry, per day	\$2,000.00
N/A	Room & Board Private, per day (ISOLATION ROOM)	\$2,800.00
N/A	Room & Board Semi-Private, per day	\$2,550.00
N/A	Delivery Room, per day	\$990.00
N/A	Observation Bed, Labor Room, NO Delivery, per day	\$500.00
N/A	Observation Services at L&D, NO Delivery, per day	\$500.00
N/A	L&D Mid-level Professional Services, per hour, when not included with Obstetrical Care Charges (Private Attending Physician)	\$100.00
360	Operating Room (15 MIN)	\$2,500.00
370	Anesthesia, per 15 min. increment	\$200.00
710	Recovery Room, 1st hour	\$300.00
N/A	Recovery Room, 15-min	\$200.00
N/A	Observation Bed, per hour	\$100.00
N/A	ENBALMING SUPPLIES	\$400.00

To be Codified at NMIAC Section 140-10.8 Part 200

**DENTAL BUREAU FEES**

DESCRIPTION	ADA CODE	CHARGE
<b>DIAGNOSTIC</b>		
Exam, Periodic	0120	\$ 20.00
Emergency Exam	0140	\$ 30.00
Oral Exam	0150	\$ 50.00
Re-Evaluation(limited)	0170	\$ 10.00
<b>PREVENTIVE</b>		
Intraoral-Complete Series (fullmouth)	0210	\$ 90.00
Intraoral-Periapical First Film	0220	\$ 20.00
Intraoral-Periapical Ea. Addtl Film	0230	\$ 15.00
Bitewings-TwoFilms	0272	\$ 30.00
Bitewings-Four Films	0274	\$ 45.00
Panoramic Films	0330	\$ 80.00
Oral Prophylaxis, Permanent Teeth	1110	\$ 60.00
Oral Prophylaxis, Calculus & Stains (Permanent)	1110	\$ 80.00
Child Prophylaxis, Primary Teeth	1120	\$ 45.00
Child Prophylaxis with Fluoride	1201	\$ 60.00
Sealant Permanent Molar, per tooth	1351	\$ 40.00
Sealant Repair, per tooth	1353	\$ 20.00
Fluoride Varnish	1206	\$ 35.00
Fluoride Topical (not fluoridevarnish)	1208	\$ 35.00
Diamide Silver Fluoride (per tooth)	1354	\$ 35.00
Space Maintainer, Unilateral	1510	\$ 325.00
Space Maintainer, Bilateral	1515	\$ 425.00
Oral Health Instructions	1330	\$ 20.00
<b>RESTORATIONS</b>		
Amalgam, 1 Surface Deciduous	2140	\$ 70.00
Amalgam, 2 Surface Deciduous	2150	\$ 85.00
Amalgam, 3 Surface Deciduous	2160	\$ 105.00
Amalgam, 4 or more Surface Deciduous	2161	\$ 125.00
Amalgam, 1 Surface, Permanent	2140	\$ 80.00
Amalgam, 2 Surface, Permanent	2150	\$ 100.00
Amalgam, 3 Surface, Permanent	2160	\$ 120.00
Amalgam, 4 or more Surface, Permanent	2161	\$ 145.00
Composite, 1 Surface, anterior/posterior	2330/2391	\$ 100.00
Composite, 2 Surface, anterior/posterior	2331/2392	\$ 120.00
Composite, 3 Surface, anterior/posterior	2332/2393	\$ 150.00
Composite, 4 Surface, anterior/posterior	2335/2394	\$ 190.00
Crown-Stainless, primary tooth (per tooth)	2930	\$ 265.00
Crown-Stainless, permanent tooth (per tooth)	2931	\$ 280.00
Prefabricator Resin Crown	2932	\$ 250.00
Temporary Restoration (per tooth)	2940	\$ 50.00
Temporary Restoration, w/ pulp cap	3110	\$ 70.00
<b>ENDODONTICS</b>		
Pulpotomy	3220	\$ 125.00
Root Canal Therapy Anterior	3310	\$ 450.00
Root Canal Therapy Bicuspoid	3320	\$ 600.00
Root Canal Therapy Molar	3330	\$ 700.00
<b>PERIODONTICS</b>		
Root Planning & Curettage w/ perio perquadrant	4341	\$ 75.00
Scaling, Gingival Inflammation - Generalized	4910	\$ 60.00
Scaling, Per Quadrant	4342	\$ 45.00

Gingivectomy (Quadrants)	4210	\$	75.00
Gingivectomy (per tooth)	4211	\$	20.00
<b>PROSTHETIC</b>			
Denture - Complete Upper	5110	\$	800.00
Denture - Complete Lower	5120	\$	800.00
Denture - Immediate Upper	5130	\$	800.00
Denture - Immediate Lower	5140	\$	800.00
Denture Partial (one tooth)	5211	\$	200.00
Maxillary Partial Denture (addtl per tooth)	5211	\$	50.00
Mandibular Partial Denture (addtl per tooth)	5212	\$	50.00
Adjust Full Denture, Upper	5410	\$	50.00
Adjust Full Denture, Lower	5411	\$	50.00
Adjust Partial Denture, Upper	5421	\$	50.00
Adjust Partial Denture, Lower	5422	\$	50.00
Denture Repair Simple - Acrylic	5610	\$	150.00
Denture Repair w/Impression	5620	\$	200.00
Denture Reline - Full Upper	5730	\$	200.00
Denture Reline - Full Lower	5731	\$	200.00
Denture Reline Partial - Upper	5740	\$	250.00
Denture Reline Partial - Lower	5741	\$	250.00
Clasp Wire (per clasp)	5660	\$	20.00
Recement Bridge	6930	\$	50.00
Recement Crown	2920	\$	50.00
<b>ORAL SURGERY</b>			
Extraction, Deciduous (per tooth)	7140	\$	75.00
Extraction, Simple Permanent (per tooth)	7140	\$	85.00
Surgical Extraction, Erupted Tooth (per tooth)	7210	\$	150.00
Surgical Extraction, Soft Tissue Impaction (per tooth)	7220	\$	175.00
Surgical Extraction, Bony Impaction (per tooth)	7230	\$	265.00
Surgical Extraction Impaction Sect. (per tooth)	7240	\$	275.00
Removal Residual Roots, unexposed	7250	\$	120.00
Removal Residual Roots, exposed	7250	\$	85.00
Removal of Exostosis (upper or lower)	7471	\$	100.00
Incision and Drainage of Abscess	7510	\$	50.00
Unspecified Oral Surgery Procedure	7999	\$	50.00
Biopsy (Hard Tissue)	7285	\$	300.00
Biopsy (Soft Tissue)	7286	\$	300.00
<b>MISCELLANEOUS SERVICES</b>			
Application of Desensitizing Medication	9910	\$	25.00
Palliative Treatment of Dental Pain	9110	\$	25.00
Unspecified Adjunctive Procedure	9999	\$	25.00
Refuse Tx	9991		

Regulation 24. Fees

(Authorization: Section 24 of the Vital Statistics Act )

(a) No certification shall be issued until the fee for such certification is received unless specific approval has been obtained from the Chief Executive Officer or otherwise provided for by statute or regulation.

(b) Fee for services:

- ( 1 ) For issuing a certified copy of birth certificate ..... **\$25.00**
- ( 2 ) For issuing a certified copy of death certificate..... **\$20.00**
- ( 3 ) For mailing an Off-island request via US Postal Service..... **\$5.00**
- ( 4 ) The replacement of a birth certificate subsequent to adoption, legitimation, paternity determination or acknowledgment, [change to acquired sex] or court order, ..... **\$15.00**
- ( 5 ) For submitting an application to amend a vital ..... **\$15.00**
- ( 6 ) Additional charges for expedited certification services that require special attention ..... **\$350.00**
- ( 7 ) Additional charges for expedited correction and amendment services ..... **\$10.00**
- ( 8 ) For issuance of a certification letter when no vital record is found..... **\$10.00**
- ( 9 ) For issuance of a certification letter of authenticity of vital record ..... **\$10.00**
- ( 10 ) For issuance of a Quarantine Permit\* ..... **\$10.00**
- ( 11 ) For issuance of a Removal of Human Remains Permit\* ..... **\$10.00**
- ( 12 ) For issuance of a Burial Transit Permit\* ..... **\$10.00**

Footnote "\*" = Permits issued for the removal of human remains from the Commonwealth of the Northern Mariana Islands.

(c) A fee may be charged for special services not specified above. The fee shall be the actual cost for providing the service as determined by the State Registrar.

(d) Fees collected under this section will be deposited into designated account at the Commonwealth Healthcare Corporation.



**Commonwealth of the Northern Mariana Islands  
COMMONWEALTH CASINO COMMISSION**

Juan M. Sablan, Chairman  
Commonwealth Casino Commission  
P.O. Box 500237  
Saipan, MP 96950  
Tel. 233-1857



**PUBLIC NOTICE OF ADOPTION OF PROPOSED RULES AND  
REGULATIONS FOR THE COMMONWEALTH CASINO COMMISSION**

**INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS:** The Commonwealth of the Northern Mariana Islands, Commonwealth Casino Commission (“the Commission”) intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). Once finally adopted, the Regulations would become effective 10 days after adoption and publication in the Commonwealth Register. (1 CMC § 9105(b)).

**AUTHORITY:** The Commission has the authority to adopt rules and regulations in furtherance of its duties and responsibilities pursuant to Public Laws 18-56 and Public Law 19-24, including but not limited to 4 CMC 2314(b).

**THE SUBJECTS AND ISSUES INVOLVED:** These rules and regulations:

1. Amend §175-10.1-635 Initial Gaming Facility.
2. Amend §175-10.1-801 Temporary Live Training Facility Authorized.
3. Amend §175-10.1-815 Cessation of Live Training Facility.

**THE TERMS AND SUBSTANCE:** The attached Rules and Regulations amend the regulations to conform to the recent amendments of the Casino License Agreement adopted by the Lottery Commission.

CCC Regulation 635(d) is amended to require completion of the initial gaming facility by no later than August 31, 2018.

CCC Regulation 801 and 815 are amended to allow the transfer of the live gaming facility to the casino portion of the unfinished initial gaming facility prior to the completion of the required number of five star quality hotel rooms, and to allow the live training facility to operate until not later than August 31, 2018.

These regulations were adopted on an emergency basis in 2017 CR V39 #07 pp 039755-039757. The Commonwealth Casino Commission approved the attached Regulations on or about September 21, 2017.

**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; the notice shall be both in English and in the principal vernacular. (1 CMC § 9104(a)(1)).

**TO PROVIDE COMMENTS:** Send or deliver your comments to Commonwealth Casino Commission, *Attn: New Casino Commission Rules and Regulations*, at the above address, fax or email address, with the subject line "New Casino Commission Rules and Regulations". Comments are due within 30 days from the date of publication of this notice. Please submit your data, views or arguments. (1 CMC § 9104(a)(2)).

The Commonwealth Casino Commission approved the attached Regulations on the date listed below.

Submitted by:  \_\_\_\_\_ Date Oct. 19 2017  
JUAN M. SABLAN  
Chairman of the Commission

Concurred by:  \_\_\_\_\_ Date 10/19/17  
Hon. ARNOLD I. PALACIOS  
Acting Governor

Filed and Recorded by:  \_\_\_\_\_ Date 10.27.2017  
ESTHER SN NESBITT  
Commonwealth Register

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 27 day of October, 2017.



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Hon. EDWARD MANIBUSAN  
Attorney General



**Commonwealth gi Sangkattan na Islas Mariãnas Siha  
COMMONWEALTH KUMISION HUEGUN SALÏPPI'**

Juan M. Sablan, Kabesiyu  
Commonwealth Kumision Huegun SalÏppi'  
P.O. Box 500237  
Saipan, MP 96950  
Tilifon: 233-1857



**NUTISIAN PUPBLIKU NU I ADÏPTASION NI MANMAPROPONI NA  
AREKLAMENTU YAN REGULASION SIHA PARA I COMMONWEALTH KUMISION  
HUEGUN SALÏPPI'**

**I MA'INTENSIONA NA AKSION NI PARA U MA'ADÏPTA ESTI SIHA I  
MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA:** I Commonwealth  
gi Sangkattan na Islas Mariãnas, Commonwealth Kumision Huegun SalÏppi' ("i Kumision") i  
ma'intensiona ni para u ma'adÏpta kumu petmanienti na regulasion siha ni mañechettun i  
manmaproponi na Regulasion, sigun gi manera siha gi Æktun Administrative Procedures gi, 1  
CMC § 9104(a). I regulasion siha para u ifektibu gi hãlum 10 dihas dispues di adÏptasion yan  
pupplikasion gi hãlum i Rehistran Commonwealth. (1 CMC § 9105(b))

**ÆTURIDÏT:** I Kumision guaha ÆturidÏt-ña para u adÏpta i areklamentu yan i regulasion siha ni  
para u makonsigi i obligasion yan i responsapblidÏt siha sigun gi Lai Pupbliku 18-56 yan Lai  
Pupbliku 19-24, iningklusi lão ti chi-ña para 4 CMC 2314(b).

**I SUHETU NI MASUMÏRIA YAN ASUNTU NI TINEKKA:** Esti siha na Areklamentu yan  
Regulasion:

1. Amenda § 175-10.1-635 Tutuhon i FasilidÏt Gaming
2. Amenda § 175-10.1-801 Ma'aturisa Tempurãriu i FasilidÏt Live Training
3. Amenda § 175-10.1-815 Uttimon i FasilidÏt Live Training

**I TEMA YAN SUSTÏNSIAN I PALÏBRA SIHA:** I mañechettun na Areklamentu yan  
Regulasion siha ha amenda i regulasion siha para u tattiyi i mãs ñuebu na amendasion i  
Kontrãtamientu Lisensian Casino ni ma'adÏpta ni Kimision Lottery.

I regulasion CCC 635(d) ma'amenda para u dimãnda i kumplidun i tutuhon fasilidÏt gaming  
ãntis di Agustu 31, 2018.

I regulasion CCC 801 yan 815 ma'amenda para u petmiti i transfiri nu i fasilidÏt live training  
para i bãndan i tutuhon fasilidÏt gaming ni ti manafunãyan Æntis di manakumplidu i madimãnda  
na numiru nu i singku estreyas (five star) kuãlidÏt kuãtton hotel siha, yan para u petmiti  
mamanea i fasilidÏt live training esta ki Agustu 31, 2018.

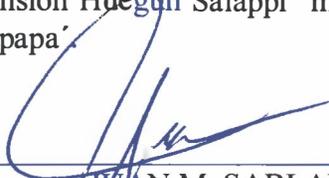
Esti na regulasion siha manma'adÏpta gi emergency basis gi hãlum 2017 CR V39 #07 pp  
039755-039757. I Commonwealth Kumision Huegun SalÏppi' ma'aprueba i mañechetton na  
Regulasion siha gi pat kãsi Septembri 21, 2017.

**DIREKSION PARA U MAPO'LU YAN MAPUPBLIKA:** Esti i manmaproponi na Regulasion siha debi na u mapupblika gi hálum i Rehistran Commonwealth gi hálum i seksiona ni maproponi na regulasion siha yan ñuebu na ma'adápna na regulasion siha (1 CMC § 9102(a)(1)) yan u mapega gi hálum i kumbinienti na lugát siha gi hálum i civic center yan i ufisinan gubietnamentu siha gi kada distritun senadot, i nutisia debi na parehu Englis yan i prinsipát na lingguáhin natibu. (1 CMC § 9104(a)(1)).

**PARA U MAPRIBENIYI UPIÑON SIHA:** Na'hánáo pat intrega i upiñon-mu guatu gi Commonwealth Kumision Huegon Saláppi', *Attn: Kumision Huegon Saláppi' i Ñuebu na Areklamentu yan Regulasion Siha*, gi sanhilu' na address, fax pat email address, yan i ráyan suhetu "*Kumision Huegon Saláppi' i Ñuebu na Areklamentu yan Regulasion Siha*". I upiñon siha debi na u fanhálum gi hálum 30 dihas ginin i fetchan publikasion esti na nutisia. Put fabot na'hálum iyo-mu data, views, pat kinentestan kinentra siha. (1 CMC § 9104(a)(2)).

I Commonwealth Kumision Huegon Saláppi' ma'aprueba i mañechettun na Regulasion siha gi fetcha ni malista gi sanpapa'.

Nina'hálom as:

  
\_\_\_\_\_  
JUAN M. SABLAN  
Kabesiyun i Kumision

Oct. 19, 2017  
Fetcha

Kinunfotmi as:

  
\_\_\_\_\_  
Hon. ARNOLD I. PALACIOS  
Acting Gubietnu

10/19/17  
Fetcha

Pine'lu yan  
Ninota as:

  
\_\_\_\_\_  
ESTHER SN. NESBITT  
Rehistran Commonwealth

10.27.2017  
Fetcha

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

Mafetcha gi diha 27, gi October, 2017.



---

Hon. EDWARD MANIBUSAN  
Abugâdu Henerât



Commonwealth Téel Falúw kka Efáng llól Marianas  
COMMONWEALTH CASINO COMMISSION  
Juan M. Sablan, Chairman  
Commonwealth Casino Commission  
P. O. Box 500237  
Saipan, MP 96950  
Tel. 233-1857



ARONGORONGOL TOULAP REEL IGHA REBWE ADÓPTÁÁLI POMMWOL  
ALLÉGH ME MWÓGHUT NGÁLI COMMONWEALTH CASINO COMMISSION

MÁNGEMÁNGIL MWÓGHUT REEL IGHA REBWE ADÓPTÁÁLI POMMWOL ALLÉGH ME MWÓGHUT: Commonwealth Téel Falúw kka Efáng llól Marianas, Commonwealth Casino Commission (“Commission”) re mángemángil rebwe adóptááli bwe ebwe lléghló mwóghut ikka e appasch bwe Pommwol Mwóghutughut, sáangi Administrative Procedure Act, 1 CMC § 9104(a). mwiril aal adóptááli, ebwe bwunguló Mwóghut kkal llól seigh (10) ráál mwiril aal adóptáánil me akkatééwowul me llól Commonwealth Register. (1 CMC §9105(b)).

BWÁNGIL: Eyoor bwángil Commission bwe rebwe adóptáánil allégh me mwóghutughut reel angaangil me lemelemil sáangi Alléghúl Toulap 18-56 me Alléghúl Toulap 19-24, ebwal toolong nge ese mwutch ngáli 4 CMC 2314(b).

KKAPASAL ME ÓUTOL: Allégh me mwóghut kkal:

1. Siiweli § 175-10.1-635 Bweletáál Leeliyál Gaming.
2. Siiweli § 175-10.1-801 Temporary Live Training Facility Authorized.
3. Siiweli § 175-10.1-815 Cessation of Live Training Facility.

KKAPASAL ME WEEWEL: Allégh me Mwóghut ikka e appasch ebwe siiweli mwóghut bwe ebwe attabweey ngáli liiwel ikka e gheláál toolong reel Abwungubwungul Casino License iye re adóptááli sáangi Lottery Commission.

Mwóghutughutúl CCC 635(d) ebwe siiwel bwe re tipáli ebwe mwutchuló bweletáál leeliyál gaming mmwalil Agosto 31, 2018.

Mwóghutughutúl CCC 801 me 815 e siiwel bwe ebwe lighiti reel igha rebwe siiweli leeliyál live gaming ngáli leeliyál casino iye ese takk leeliyál igha e bweletáál mmwalil igha ebwe mwutchuló reel mille re tipáli bwe five star quality hotel rooms, me lighiti rebwe mwóghut leeliyál live training mmwalil ráánil Agosto 31, 2018.

Re adóptáánil mwóghutughut kkal llól ghitipwotch llól 2017 CR V39 #07 pp 039755-039757. Re átirow Commonwealth Casino Commission reel Mwóghut ikka e appasch wóól ngáre arol Settembre 21, 2017.

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow Pomwol Mwóghutughut kkal me llól Commonwealth Register llól tánil pommwol mwóghutughut ikka ra adóptááli (1 CMC § 9102(a)(1)) me ebwe appaschetá llól bwuleey ikka e ffil reel civic center me bwal llól bwulasiyol gobetmeento llól senatorial district; ebwe toowow arongorong yeel fengál reel kkasal English me mwályaasch. (1 CMC §9104(a)(2)).

ISIISILONGOL KKAPAS: Afanga ngáre bwughiló yóómw ischiil mángemáng ngáli Commonwealth Casino Commission, Attn: New Casino Commission Rules and Regulations, reel féféféel iye e lo weiláng, fax ngáre email address, e bwe lo wóól subject line bwe “New casino Commission Rules and Regulations”. Ebwe toolong ischil mángemáng llól eliigh (30) ráál mwiril aal akkatééwow arongorong yeel. Isiisilong yóómw data, views ngáre angiingi. (1 CMC § 9104(a)(2)).

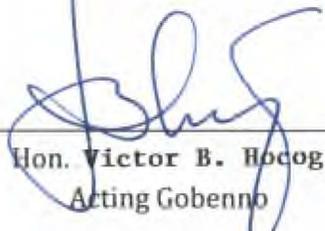
Commonwealth Casino Commission re átirow reel Mwóghutughut ikka e appasch wóól ráál iye e lo faal.

Isáliyalong:

  
\_\_\_\_\_  
JUAN M. SABLAN  
Chairman of the Commission

Oct. 19, 2017  
Ráál

E Llégghló Sáangi:

  
\_\_\_\_\_  
Hon. Victor B. Hocog  
Acting Gobenno

10/20/17  
Ráál

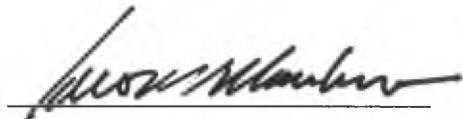
Ammwelil:

  
\_\_\_\_\_  
ESTHER SN NESBITT  
Commonwealth Register

10-27-2017  
Ráál

Sáangi 1 CMC § 2153(e) (sáangi aal átirow mwóghutughut kkal sáangi AG bwe aa fil reel fféerúl) me 1 CMC § 9104(a)(3) (sáangi átirowal AG) reel pommwol mwóghutughut ikka e appascheto bwe ra takkal amwuri fischiiy bwe aa llégghló reel fféerúl me legal sufficiency sáangi Soulemelemil Allégh Lapalapa CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (arongowowul allégh me mwóghut).

Aghikkilátiw wóol 27 rááílil October, 2017.



Hon. EDWARD MANIBUSAN  
Soulemelemil Allégh Lapalap

**“§ 175-10.1-635 Initial Gaming Facility.**

[(a)-(c) unchanged]

...

(d) The initial gaming facility must be fully constructed and operations must begin ~~within twenty-four months of land acquisition~~ but not no later than August 42, 2017 31, 2018.”

**“§ 175-10.1-801 Temporary Live Training Facility Authorized.**

(a) Prior to the opening of the initial gaming facility, the licensee may establish and operate a temporary live training facility on the first floor of the T Galleria, Garapan.

(b) Notwithstanding any other regulation to the contrary, upon issuance of all required CNMI Government permits and consent from the Casino Commission, the Licensee may transfer the operations of the temporary live training facility authorized to operate on the first floor of the T Galleria under this section to the completed casino portion of the initial gaming facility project at any time prior to completion of the required 250 five star quality rooms of the hotel portion of the initial gaming facility.”

**“§ 175-10.1-815 Cessation of Live Training Facility.**

(a) The casino licensee shall cease operations at the temporary live training facility prior to the opening of the initial gaming facility, whether located in the T Galleria facility or in the casino portion of the initial gaming facility project. In no event shall the licensee operate the temporary live training facility beyond ~~April 30, 2017~~ August 31, 2018. The Commission may extend this date for good cause shown. If the casino licensee transfers operations of the live training facility to the initial gaming facility project pursuant to §175-10.1-801(b), operations at the live training facility need not cease prior to the opening of the initial gaming facility.

(b) Nothing herein relieves the casino licensee from its obligation to complete the initial gaming facility project and commence operations at the initial gaming facility by not later than August 31, 2018.”



**Commonwealth of the Northern Mariana Islands  
COMMONWEALTH CASINO COMMISSION**

Juan M. Sablan, Chairman  
Commonwealth Casino Commission  
P.O. Box 500237  
Saipan, MP 96950  
Tel. 233-1857



**PUBLIC NOTICE OF ADOPTION OF PROPOSED RULES AND  
REGULATIONS FOR THE COMMONWEALTH CASINO COMMISSION**

**INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS:** The Commonwealth of the Northern Mariana Islands, Commonwealth Casino Commission ("the Commission") intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Regulations would become effective 10 days after adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

**AUTHORITY:** The Commission has the authority to adopt rules and regulations in furtherance of its duties and responsibilities pursuant to Public Laws 18-56 and Public Law 19-24, including but not limited to 4 CMC 2314(b).

**THE TERMS AND SUBSTANCE:** The attached Rules and Regulations supplement the current regulations which govern and regulate the Casino Gaming Industry on Saipan. The amendments declare unsuitable certain methods of operation which would negatively affect the gaming industry in the CNMI.

**THE SUBJECTS AND ISSUES INVOLVED:** These rules and regulations:

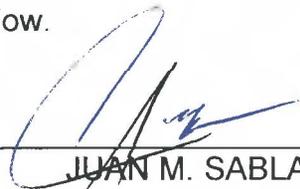
1. Amend §175-10.1-595(a) to require casino licensee to annually submit projected cashflow statement. Further requires casino licensee to submit operational budget schedules and updated quarterly reports.
2. Amend §175-10.1-595(b) to require casino licensee to annually submit capital investment expenditures.
3. Amend §175-10.1-920(b)(4) to increase look-back and disqualification period for casino key employee, junket operator or other licensees from five years to ten years.
4. Amend §175-10.1-1501 to explicitly allow for filing of amended complaints in enforcement actions before the Commission.
5. Amend §175-10.1-1510 to allow for extending time for filing Notices of Defense in enforcement actions before the Commission.
6. Amend §175-10.1-1805(b) to declare failure to make efforts to collect gaming credit an unsuitable method of operation.
7. Amend §175-10.1-1830(c) to prohibit licensees from retaliating against whistleblowers.

8. Amend §175-10.1-1855(d) to increase gaming collection period from ninety to one hundred twenty days.
9. Amend §175-10.1-1855(e) to provide schedule for required actions for collection of gaming credit.
10. Amend §175-10.1-2535(c) to allow for determination of occurrence of offense.
11. Amend §175-10.1-2555 to allow for determinations to be made prior to hearing if hearing is subsequently offered.

**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; the notice shall be both in English and in the principal vernacular. (1 CMC § 9104(a)(1)).

**TO PROVIDE COMMENTS:** Send or deliver your comments to Commonwealth Casino Commission, *Attn: New Casino Commission Rules and Regulations*, at the above address, fax or email address, with the subject line "New Casino Commission Rules and Regulations". Comments are due within 30 days from the date of publication of this notice. Please submit your data, views or arguments. (1 CMC § 9104(a)(2))

The Commonwealth Casino Commission approved the attached Regulations on the date listed below.

Submitted by:   
 \_\_\_\_\_  
 JUAN M. SABLAN  
 Chairman of the Commission

Oct. 19 2017  
 Date

Concurred by:   
 \_\_\_\_\_  
 Hon. ARNOLD I. PALACIOS  
 Acting Governor

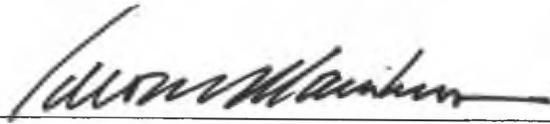
19 OCT 2017  
 Date

Filed and Recorded by:   
 \_\_\_\_\_  
 ESTHER SN NESBITT  
 Commonwealth Register

10.27.2017  
 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 27 day of October, 2017.



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Hon. EDWARD MANIBUSAN  
Attorney General



Commonwealth gi Sangkattan na Islas Mariñas  
COMMONWEALTH KUMISION HUEGUN SALÁPPI'

Juan M. Sablan, Kabesiyu

Commonwealth Kumision Huegun Saláppi'

P.O. Box 500237

Saipan, MP 96950

Tilifon: 233-1857



**NUTISIAN PUBLIKU NU I ADÁPTASION NI MANMAPROPONI NA AREKLAMENTU YAN  
REGULASION SIHA PARA I COMMONWEALTH KUMISION HUEGUN SALÁPPI'**

**I MA'INTENSIONA NA AKSION NI PARA U MA'ADÁPTA ESTI SIHA I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA:** I Commonwealth gi Sangkattan na Islas Mariñas , Commonwealth Kumision Huegun Saláppi' ("i Kumision") i ma'intensiona ni para u ma'adápta kumu petmanienti na regulasion siha ni mañechettun i manmaproponi na Regulasion, sigun gi manera siha gi Áktun Administrative Procedures gi, 1 CMC § 9104(a). I regulasion siha para u ifektibu gi hálum 10 dihas dispues di adáptasion yan publikasion gi hálum i Rehistran Commonwealth. (1 CMC § 9105(b))

**ÁTURIDÁT:** I Kumision guaha áturidát-ña para u adápta i areklamentu yan i regulasion siha ni para u makonsigi i obligasion yan i responsapblidát siha sigun gi Lai Publiku 18-56 yan Lai Publiku 19-24, iningklusi lão ti chi-ña para 4 CMC 2314(b).

**I TEMA YAN SUSTANSIAN I PALÁBRA SIHA:** I mañechettun na Areklamentu yan Regulasion siha manadaña yan i ñuebu na regulasion siha ni magubietna yan maregulát i Industrian Huegon Saláppi' giya Saipan. I amendasion ha diklãra i manfitmi na maneran fonksion siha ni ti manpropiu ni siña ha afekta gi binãba i Industrian Huegu gi hálum i CNMI.

**I SUHETU NI MASUMÁRIA YAN ASUNTU NI TINEKKA:** Esti siha na Areklamentu yan Regulasion:

1. Amenda i §175-10.1-595(a) para u dimãnda i casino licensee para u na'hálum kada sãkkan i ma-project na nina'hálum saláppi'.
2. Amenda i §175-10.1-595(b) para u dimãnda i casino licensee para u na'hálum kada sãkkan i kapitát gãstan saláppi'.
3. Amenda i §175-10.1-920(b)(4) para u ma'aomenta i inatan-tãtti yan i diskuãlifikasion na tiempu para i mantakhilu' na impli'ão, junket operator pat otru licensees ginin singku (five) para dies (ten) na sãkkan.
4. Amenda i §175-10.1-1501 para u klãruyi i mapetmiti para pine'lu i ma'amenda na situasion sinangan ni madimãnda na aksion siha ántis di i Kumision.
5. Amenda i §175-10.1-1510 para u mapetmiti i ekstendin tiempun pine'lu i Nutisian Defense ni madimãnda na aksion siha ántis di i Kumision.
6. Amenda i §175-10.1-1805(b) para u madiklãra i ti ma'kumpli siha na ánimu ni mafa'tinas para u marikohi i gaming credit i ti propiu na maneran fonksion siha.

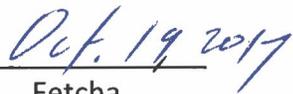
7. Amenda i §175-10.1-1830(d) para u pruhibi i licensees para u deskita kontra i whistleblowers.
8. Amenda i §175-10.1-1855(d) para u ma'aomenta i tiempón gaming collection ginin nubenta (ninety) para sientus benti (one hundred twenty) dihas.
9. Amenda i §175-10.1-1855(e) para u mapribeni schedule para i madimánda na aksion para i collection nu i gaming credit.
10. Amenda i §175-10.1-2535(c) para u masedi para ditetminasion nu i masusedi na offense.
11. Amenda i §175-10.1-2555 para u masedi para ditetminasion siha para i mafa'tinas ántis di hearing kumu ma'ofresi gi dispues.

**DIREKSION PARA U MAPO'LU YAN MAPUPBLIKA:** Esti i manmaproponi na Regulasion siha debi na u mapupblika gi hálum i Rehistran Commonwealth gi hálum i seksiona ni maproponi na regulasion siha yan ñuebu na ma'adápata na regulasion siha (1 CMC § 9102(a)(1)) yan u mapega gi hálum i kumbinienti na lugát siha gi hálum i civic center yan i ufisinan gubietnamentu siha gi kada distritun senadot, i nutisia debi na parehu Englis yan prinsipát na lingguáhin natibu. (1 CMC § 9104(a)(1)).

**PARA U MAPRIBENIYI UPIÑON SIHA:** Na'hánao pat intrega i upiñon-mu guatu gi Commonwealth Kumision Huegon Saláppi', *Attn: Kumision Huegon Saláppi' i Ñuebu na Areklamentu yan Regulasion Siha*, gi sanhilu' na address, fax pat email address, yan i ráyan suhetu "*Kumision Huegon Saláppi' i Ñuebu na Areklamentu yan Regulasion Siha*". I upiñon siha debi na u fanhálum gi hálum 30 dihas ginin i fetchan publikasion esti na nutisia. Put fabot na'hálum iyo-mu data, views, pat kinentestan kinentra siha. (1 CMC § 9104(a)(2)).

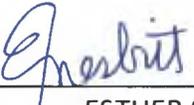
I Commonwealth Kumision Huegon Saláppi' ma'aprueba i mañechettun na Regulasion siha gi fetcha ni malista gi sanpapa'.

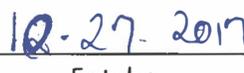
Nina'hálom as:   
 \_\_\_\_\_  
 JUAN M. SABLÁN  
 Kabesiyun i Kumision

  
 \_\_\_\_\_  
 Fetcha

Kinunfotmi as:   
 \_\_\_\_\_  
 Hon. ARNOLD I. PALACIOS  
 Acting Gubietnu

  
 \_\_\_\_\_  
 Fetcha

Pine'lu yan  
 Ninota as:   
 \_\_\_\_\_  
 ESTHER SN. NESBITT  
 Rehistran Commonwealth

  
 \_\_\_\_\_  
 Fetcha

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

Mafetcha gi diha 27, gi October 2017.



Hon. EDWARD MANIBUSAN  
Abugådu Heneråt



Commonwealth Téel Falúw kka Efáng llól Marianas

COMMONWEALTH CASINO COMMISSION

Juan M. Sablan, Chairman

Commonwealth Casino Commission

P. O. Box 500237

Saipan, MP 96950

Tel. 233-1857



**ARONGORONGOL TOULAP REEL IGHA REBWE ADÓPTÁÁLI POMMWOL  
ALLÉGH ME MWÓGHUT NGÁLI COMMONWEALTH CASINO COMMISSION**

**MÁNGEMÁNGIL MWÓGHUT REBWE ADÓPTÁÁLI POMMWOL ALLÉGH ME MWÓGHUT  
KKAL:** Commonwealth Téel Falúw kka Efáng llól Marianas, Commonwealth Casino  
Commission (“Commission”) re mángemángil rebwe adóptááli bwe ebwe lléghló mwóghut ikka  
e appasch bwe Pommwol Mwóghutughut, sáangi Administative Procedure Act, 1 CMC § 9104(a).  
Ebwe bwunguló mwóghut kka llól seigh (10) ráál mwiril aar adóptááli me arongowow me llól  
Commonwealth Register. (1 CMC § 9105(b))

**BWÁNGIL:** Eyoor bwángil Commission bwe rebwe adóptááilil allégh me mwóghutughut  
reel angaangil me lemelemlil sáangi Alléghúl Toulap 18-56 me Alléghúl Toulap 19-24, ebwal  
toolong nge ese mwútch ngáli 4 CMC 2314(b).

**KKAPASAL ME WEEWEL:** Allégh me Mwóghutughut ikka e appasch nge e ayoorai ngáli  
mwóghut ikka e lo bwe e lemeli me aghatchú Casino gaming Industry wóól Seipél. Liiwel kkal  
aa arongowow bwe eseffil mwóghutughutúl gaming industry llól CNMI.

**KKAPASAL ME ÓUTOL:** Allégh me mwóghutughut kkal:

1. Siiweli § 175-10.1-595(a) re tipáli bwe casino licensee rebwe atolongow alongal ráágh  
reel alléghúl kkapasal toolongol selaapi. Rebwal tipáli casino licensee bwe rebwe  
atoolongow mille operational budget schedules me updated quarterly reports.
2. Siiweli § 175-10.1-595(b) re tipáli bwe casino licensee rebwe atoolongow méel mille  
capital investment.
3. Siiweli § 175-10.1-920(b)(4) ebwe lapaló mille look-back me tiempool disqualification  
ngáli schóól angaangil casino, junket operator ngáre ákkááw licensees mereel limoow  
ngáli seigh ráágh.
4. Siiweli § 175-10.1-1501 ebwe ffat bwe rebwe lighiti ngáli ammwelil angiingi kka ra  
liiweli llól mwóghutughutúl mmwalil Commission.
5. Siiweli § 175-10.1-1510 lighiti ngáli igha rebwe ayoorai ooral Arongorongol Defense  
llól mwóghutughutúl enforcement mmwalil Commission.
6. Siiweli § 175-10.1-1805(b) ebwe arongowow bwe ngáre use fféerú yóómw angaang  
igha rebwe bwughi gaming credit bwe ese fil mwóghutughutúl.
7. Siiweli § 175-10.1-1830(c) ayúghúúlór licensees reel igha rebwe retaliate sáangiir  
whistleblowers.

Peigh 1

8. Siiweli § 175-10.1-1855(d) ebwe lapaló tiempool gaming collection reel tiweigh ngáli ebwúghúw me reweigh ráál.
9. Siiweli § 175-10.1-1855(e) ebwe ayoorai schedule ngáli mwóghutughutúl ngáli collection reel gaming credit.
10. Siiweli § 175-10.1-2535(c) lighiti reel ittittel igha e láál bwá reel mil nngaw.
11. Siiweli § 175-10.1-2555 lighiti ngáli ebwe yoor ittittel rebwe ghommwal fféerú mmwalil hearing ngáre re ai ngáliir alililil hearing.

**AFAL REEL AMMWELIL ME AKKATÉÉWOWUL:** Ebwe akkatééwow Pommwol Mwóghutughut kkal me llól Commonwealth Register llól tálil pommwol mwóghutughut ikka ra adóptááil ikka e ffé (1 CMC § 9102(a)(1)) me ebwe appaschetá llól bwuleey ikka e ffil reel civic center me bwal llól bwulasyol gobetnameento llól senatorial district; ebwe toowow arongorong yeel fengál reel kkasal English me mwáliyaasch. (1 CMC § 9104(a)(1)).

**ISIISILONGOL KKAPAS:** Afanga ngáre bwughiló yóómw ischiil mángemáng ngáli Commonwealth Casino Commission, *Attn: New Casino Commission Rules and Regulations*, reel féféfé iye e lo weiláng, fax ngáre email address, e bwe lo reel subject line bwe “New Casino Commission Rules and Regulations”. Isiisilongol mángemáng ebwe toolong llól eliigh (30) ráál mwiril aal akkatééwow arongorong yeel. Isiisilong yóómw data, views ngáre angiingi. (1 CMC § 9104(a)(2))

Commonwealth Casino Commission re átirow reel Mwóghutughut ikka e appasch wóól ráál iye e lo faal.

Isáliyalong: \_\_\_\_\_

  
 JUAN M. SABLAN  
 Chairman of the Commission

Oct. 19 2017  
 Ráál

E Lléghló Sáangi: \_\_\_\_\_

  
 HON. ARNOLD I. PALACIOS  
 Acting Gobenno

10/19/17  
 Ráál

Ammwelil: \_\_\_\_\_

  
 ESTHER SN NESBITT  
 Commonwealth Register

10.27.2017  
 Ráál

Sáangi 1 CMC § 2153(e) (ebwe bwunguló sáangi AG bwe e fil reel fféerúl) me 1 CMC §9104(a)(3) (sáangi átiroal AG) ra takkal amuri fischiit me aa lléghló fféerúl me legal sufficiency sáangi Soulemelemil Allégh Lapalpal CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (arongowowul allégh me mwóghut).

Aghikkilátiw wóól 27 rááilil October, 2017.



Hon. EDWARD MANIBUSAN  
Soulemelemil Allégh Lapalpal

**§175-10.1-595(a)(b) Additional Documents for Ongoing Financial Suitability.**

(a) As part of the Commission's process to monitor the ongoing financial suitability of the Casino Gaming Licensee, the Commission requires that the Casino Gaming Licensee submit to the Commission, on an annual basis, a Projected Cashflow Statement and an Operational Budget Schedule within thirty (30) days before the beginning of the projected calendar year. Furthermore, the Commission requires that the Casino Gaming Licensee submit to the Commission, within thirty (30) days after each calendar quarter, updated reports comparing the projected amounts to the actual amounts for the prior quarter(s) of the projected year and provide explanations for any variances between the projected and actual amounts of greater than + or - twenty-five percent (25%).

(b) On the tenth (10<sup>th</sup>) of each month, the Casino Gaming Licensee shall submit to the Commission all monthly capital investment expenditures with supporting documentations to satisfy the Two Billion Dollar (\$2,000,000,000) minimum initial investment requirement as mandated by the Northern Mariana Islands Commonwealth Code 4 CMC § 2306 (e)

**§175-10.1-920(b)(4) Licensee Standards.**

(4) Any other offenses under CNMI law, federal law, or any other jurisdiction which indicates that licensure of the applicant would be inimical to the policy of the Commission and to casino operations; however, that the automatic disqualification provisions of subsection (b) shall not apply with regard to any conviction which did not occur within the five year period immediately preceding the application for licensure for a casino employee or casino service provider, or within ten (10) years for a casino key employee license, a junket operator license, or any other class of licensee the Commission may by order determine, or any conviction which has been the subject of an executive pardon or judicial order of expungement. The five-year period and ten-year period are is calculated beginning from the day after the convict's last day of post-conviction supervision (including probation or parole or required registry as a sex offender under federal, Commonwealth, territorial, state or tribal law). Convictions which occurred outside the five-year period immediately preceding the application for licensure, convictions which were pardoned, and convictions that were expunged may still be considered by the Commission as evidence of unsuitability for licensure.

**§175-10.1-1501 Commencement of Complaint.**

Any proceeding against an applicant, temporary licensee, provisional licensee, or licensee must be initiated and indicated by a written complaint; the complaint must include a statement set forth in an ordinary and concise language the charges and acts or omissions supporting such charges. A complaint may be amended as may be necessary prior to the end of the Hearing on the Complaint.

**§175-10.1-1510 Notice of Defense.**

(d) The parties may stipulate to an extension of the time which the Notice of Defense must be filed.

**§175-10.1-1805(b) Grounds for Disciplinary Action.**

(b)(18) Failure to make efforts to collect on gaming credit from patrons pursuant to approved Commission Regulation.



Office of the Secretary  
Department of Finance



P.O. Box 5234 CHR B SAIPAN, MP 96950

TEL (670) 664-1100 FAX: (670) 664-1115

**Public Notice of Proposed Amendments to the Regulations for the  
Department of Finance, Division Revenue and Taxation**

**Notice of Intended Action:** The Department of Finance, Division Revenue and Taxation approved the publication of the following amendments to its Revenue and Taxation Regulations. It intends to adopt these regulations as permanent, pursuant to the Administrative Procedure Act, 1 CMC § 9104(a). If adopted, these amendments will become effective ten days after publication of a Notice of Adoption in the Commonwealth Register. 1 CMC § 9105(b).

**Authority:** These amendments are promulgated under the authority set forth in the Commonwealth Code including, but not limited to, 1 CMC 2553, 1 CMC 2557, 1 CMC § 25201, 4 CMC § 1104, 4 CMC § 1402, 4 CMC § 1425 and 4 CMC § 1820.

**Terms and Substance:** The purpose of the amendments to Revenue and Taxation Regulations Chapter 70-40.6 is to prescribe needful rules and procedures to carry out the intent and purpose of the laws of the Commonwealth of the Northern Mariana Islands administered by the Division of Revenue and Taxation.

**Directions for Filing and Publication:** These proposed amendments shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and 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)).

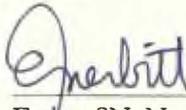
**Comments:** Interested parties may submit written comments on the proposed regulations to Larrisa C. Larson, Secretary of Finance, via U.S. mail to the Department of Finance, P.O. Box 5234, CHR B Dandan Commercial Center, Saipan, MP 96950, or via hand delivery to the Office of the Secretary of Finance, Capitol Hill, Saipan, MP. Comments, data, views, or arguments are due within 30 days from the date of publication of this notice. 1 CMC § 9104(a)(2).

Submitted by:   
Larrisa C. Larson  
Secretary of Finance

Date: 10/27/17

Received by:   
Shirley Camacho-Ogumoro  
Special Assistant for Administration

Date: 10/30/17

Filed and Recorded by:   
Esther SN. Nesbitt  
Commonwealth Registrar

Date: 10.27.2017

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.

  
Edward Manibusan  
Attorney General

Date: 10/30/17



Office of the Secretary  
Department of Finance



P.O. Box 5234 CHRB SAIPAN, MP 96950

TEL (670) 664-1100 FAX: (670) 664-1115

## Nutisian Puplicu Ni Manmaproponi Na Regulasion Siha Para I Dipattamentun I Finansiât, Dibision I Âpas Kontribusion

**NUTISIA PUT I AKSION NI MA'INTENSIONA:** I Dipattamentun i Finansiât, Dibision i Âpas Kontribusion ma'aprueba i puplicasion i tinattiyi na amendasion siha para iyon-ñiha Regulasion Âpas Kontribusion. Ma'intensiona para u ma'adapta esti siha na regulasion kumu petmanienti, sigun para i Âktun Administrative Procedures, 1 CMC § 9104(a). Kumu ma'adapta, esti siha na regulasion siempri mu ifektibu gi hâlum dies (10) dihas dispues di puplicasion nu i Nutisian i Adaptasion gi hâlum i Rehistran Commonwealth. (1 CMC § 9105(b))

**ÂTURIDÂT:** Esti na amendasion siha manmacho'gui gi pâpa' i aturidât ni mapega mo'na gi hâlum i Commonwealth Code kuntodu, lâo ti chi-ña para, 1 CMC § 2553, 1 CMC § 2557, 1 CMC § 25201, 4 CMC § 1104, 4 CMC § 1402, 4 CMC § 1425 yan 4 CMC § 1820.

**I TEMA YAN SUSTÂNSIAN I PALÂBRA SIHA:** I intensiona i amendasion siha para Regulasion i Âpas Kontribusion Pâtti 70-40.6 para u ma'estaplesi i nisisidât na areklamentu yan manera siha ni para u kâtga huyong i ma'intensiona yan puntu i lai siha giya Commonwealth gi Sangkattan'na Islas Mariânas ni magubiebieta ni Dibision i Âpas Kontribusion.

**DIREKSION PARA U MAPO'LU YAN MAPUPBLIKA:** Esti i manmaproponi na amendasion siha debi na u mapupblika gi hâlum i Rehistran i Commonwealth gi hâlum i seksiona ni maproponi yan ñuebu na ma'adapta na regulasion siha (1 CMC § 9102(a)(1)) yan u mapega gi hâlum i kumbinienti na lugât gi hâlum civic center yan gi hâlum ufisinan gubietnamentu siha gi hâlum distritun senadot, parehu Englis yan gi lingguâhin natibu (1 CMC § 9104(a)(1)).

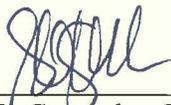
**UPIÑON SIHA:** I manintirisâo na petsona siha siña manna'hâlum tinigin upiñon ni manmaproponi na regulasion siha para as, Larrisa Larson, Sekretarian i Finansiât via U.S. mail para Dipattamentun i Finansiât, P.O. Box 5234 CHRB, Dandan Commercial Center, Saipan, MP 96950, pat intrega hâlum gi Ufisinan i Sekretarian Finansiât, Capitol Hill, Saipan, MP. I upiñon, data, views, pat agumentu siha nisisita u fanhâlum gi hâlum trenta (30) dihas ginin i fetcha puplicasion esti na nutisia. 1 CMC 9104(a)(2).

Nina'hâlum as:

  
Larrisa Larson  
Sekretarian I Finansiât

10/27/17  
Fetcha

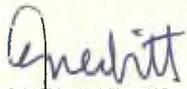
Rinisibi as:

  
\_\_\_\_\_  
Shirley P. Camacho-Ogumoro  
Ispisiât Na Ayudânti Para Atministrasion

10/30/17

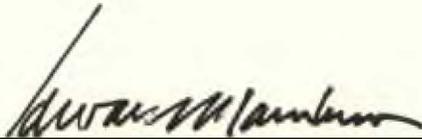
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Pine'lu yan  
Ninota as:

  
\_\_\_\_\_  
Esther SN. Nesbitt  
Rehistran Commonwealth

\_\_\_\_\_  
Fetcha

Hu settifikao, sigun para 1 CMC § 2153(e) yan 1 CMC 9104(a)(3), na hu ribisa yan aprueba esti regulasion siha kumu para fotma yan ligât na sufisienti.

  
\_\_\_\_\_  
Edward Manibusan  
Abugâdu Henerât

Fetcha: October 30, 2017



Office of the Secretary  
Department of Finance



P.O. Box 5234 CHRB SAIPAN, MP 96950

TEL (670) 664-1100 FAX: (670) 664-1115

**Arongorongol Toulap reel Pommwol Liiwel ngáli Mwóghutughutúl**

**Depattamentool Finance, Division Revenue me Taxation**

**Arongorong reel Mángemángil Mwóghut:** Depattamentool Finance, Division Revenue me Taxation re átirow reel akkatééwowul liiwel kka e amwirimwiritiw ngáli Mwóghutughutúl Revenue me Taxation. Re mánagemángil rebwe adóptááli mwóghutughut kka bwe ebwe lléghló, sángi Administrative Procedure Act, 1 CMC § 9104(a). Ngáre re adóptááli, ebwe bwungulól liiwel kkal llól seigh (10) ráál mwiril aal akkatééwow arongorong yeel me llól Commonwealth Register. 1 CMC § 9105(b).

**Bwángil:** Liiwel kkal nge aa ffil reel fféerúl faal bwángil iye ebwe mmweteló mmwal llól Commonwealth Code ebwe bwal schuulong, nge ese yoor pilil ngáli, 1 CMC § 2553, 1 CMC 2557, 1 CMC § 25201, 4 CMC § 1104, 4 CMC § 1402, 4 CMC § 1425 me 4 CMC §1820.

**Kkapsal me Aweewel:** Bwulul liiwel ngáli Mwóghutughutúl Revenue me Taxation Chapter 70-40.6 nge ebwe itittiw afal me mwóghut ngáli peiráágh me rebwe ayoora bwe ebwe weeweló enforcement reel alléghúl Commonwealth me Téél Falúw kka Efáng llól Marianas·iye Division-il Revenue me Taxation re lemeli.

**Afal reel Ammwelil me Akkatééwowul:** Pommwol liiwel kkal nge ebwe akkatééwow me llól Commonwealth Register llól tánil pommwol me ffél mwóghutughut kka ra adóptááli (1 CMC § 9102(a)(1)) me ebwe appaschetá llól civic center me llól gobetnamento llól senatorial district, fengál reel English me mwáliyaasch (1 CMC § 9104(a)(1)).

**Fóós:** Schóó kka re mwuschel isiisilong iischil mánagemáng wóól pommwol mwóghutughut kkal rebwe iisch ngáli Larrisa C. Larson, Sekkretóoriyal Finance, via U.S. mail ngáli Depattamentool Finance, P. O. Box 5234, CHRB Dandan Commercial Center, Saipan, MP 96950, ngáre bwughiló reel Bwulasiyol Sekkretóoriyal Finance, Asúngúl, Seipél, MP. Isiisilongol mánagemáng, data, views, ngáre angiingi ebwe toolong llól eliigh (30) ráál mwiril aal akkatééwow arongorong yeel. 1 CMC § 9104(a)(2).

Isáliyalong:

Larrisa C. Larson  
Sekkretóoriyal Finance

Ráál:

10/27/17

Bwughiyal: \_\_\_\_\_

Shirley Camacho-Ogumoro  
Special Assistant ngáli Administration

Ráál: \_\_\_\_\_

10/30/17

Ammwelil: \_\_\_\_\_

Esther SN. Nesbitt  
Commonwealth Register

Ráál: \_\_\_\_\_

I alúghúlúgh, sáangi 1 CMC § 2153(e) me 1 CMC §9104(a)(3), bwe I ya takkal amwuri fischiiy me aa átirow mwóghutughut kkal bwe aa ffil reel fféerúl me legal sufficiency.



Edward Manibusan  
Soulemelemil Allégh Lapalap

Ráál: \_\_\_\_\_

10/30/17

**Proposed Amendments to Revenue and Taxation Regulations**  
**NMIAC**  
**Chapter 70-40, Subchapter 70-40.6**

**Section 1. Authority**

The authority for the promulgation and issuance of Revenue and Taxation Regulations codified in this subchapter, is by virtue of the authority and directions set forth in the Commonwealth code including, but not limited to, 1 CMC § 2553, 1 CMC § 2557, 4 CMC § 1104 [1999], 4 CMC § 1201(b), 4 CMC § 1701(c), and 4 CMC § 1818 [1999].

**Section 2. Purpose and Scope**

The purpose of the regulations in this subchapter is to establish policy and procedures to implement and provide uniform enforcement of the tax laws of the Commonwealth of the Northern Mariana Islands and other laws delegated to and administered by the Division of Revenue and Taxation. Unless specifically provided otherwise, these regulations apply to 4 CMC, division 1 except chapter 4 and chapter 10.

**Section 3. Amendments**

A. NMIAC § 70-40.6-035 is amended to read as follows:

**§ 70-40.6-035 Other Definitions**

(a) “Hotel, lodging house, or similar facility”: “hotel, lodging house, or similar facility” ~~means a~~ shall include any hotel, lodging house, motel, resort motel, apartment, apartment motel, rooming house, condominium, private home, lodging house, living quarters or mobile home that has been rented, leased or let for consideration to transient occupants, as defined in 4 CMC § 1103(cc), or similar facility. A “similar facility” includes a motel, apartment, other lodging facility, or private home if the private home is regularly utilized as a lodging facility for transient occupants.

(b) Net gaming revenue taxable income”: Net gaming revenue taxable income means the taxable income as defined in the NMTIT attributed to the revenue and expenses derived from the gaming activity.

B. NMIAC § 70-40.6-201 is amended to read as follows:

**§ 70-40.6-201 Earnings**

(a) In General. Pursuant to 4 CMC § 1202, there is imposed on every person a yearly tax on such person's total earnings. Except as provided in subsection (c) of this section and subsection (b)(5), "earnings" means those items identified in 4 CMC § 1202(b) and subsection (b) of this section that are not derived in the course of carrying on a business as defined by 4 CMC § 1103(e) (b) and § 70-40.6-030(a) of this subchapter. Items that are derived in the course of carrying on a business are subject to the gross revenue tax, as appropriate and applicable, imposed at 4 CMC chapter 3.

(b) Earnings. "Earnings" means the following items, unless otherwise provided, that are not derived in the course of carrying on a business as defined by 4 CMC § 1103(e) (b) and § 70-40.6-030(a) of this subchapter:

- (1) A gain as determined under § 1001 of the NMTIT received from the sale of personal property, tangible or intangible, by a resident in the Commonwealth. For purposes of this provision, the basis of such personal property may be determined under 4 CMC § 1703(c) subject to the provisions of 4 CMC § 1703 and this subchapter;
- (2) One-half of the gain as determined under § 1001 of the NMTIT received from the sale of real property located in the Commonwealth. For purposes of this provision, the basis of such real property may be determined under 4 CMC § 1703(c) subject to the provisions of 4 CMC § 1703 and this subchapter;
- (3) One-half of the net income received from leasing real property located in the Commonwealth, including the assignment of any lease. For purposes of this provision, "net income from leasing real property including the assignment of any lease" means the income less expenses from the rental of real property. The expenses allowed as deductions in calculating the net leasing income are only those allowable under the NMTIT;
- (4) Gross winnings as defined by § 70-40.6-030(i) of this subchapter from any gaming, lottery, raffle, or other gambling activity in the Commonwealth whether derived in the course of carrying on a business or not derived in the course of carrying on a business. Gross winnings subject to the earnings tax shall not include those exempt from the earnings tax by subsection (c)(9) of this section;
- (5) Except as provided in 4 CMC § 1202(b)(6)(A) ~~-(E) - (i) - (v)~~ and subsection (c) of this section, all other types of income that a resident individual must report in determining his NMTIT.

(c) "Earnings" does not include the following items:

- (1) Income which is subject to the wage and salary tax of 4 CMC § 1201;
- (2) Wages and salaries received from the United States by active members of the Armed Forces of the United States;
- (3) Reasonable per diem and travel allowances to the extent that they do not exceed any comparable Commonwealth government rates;
- (4) Rental value of a home furnished to any employee or a reasonable rental allowance paid to any employee to the extent the allowance is used by the employee to rent or provide a home;
- (5) Any payment of medical or hospitalization expenses made by an employer or insurance company to or on behalf of an employee or insured;
- (6) Payments made to or on behalf of an employee or to his beneficiary to or from a trust, annuity, or retirement program. However, contributions made by an employer on

behalf of an employee to a qualified plan as provided in the NMTIT which exceed that allowed as elective deferred compensation under the NMTIT shall not be excluded from the earnings tax.

(7) Any payment in the form of a scholarship, fellowship, grant, stipend, or the like made to any student while he is a full-time, bona fide student at an educational institution as defined by § 170(b)(1)(A)(ii) of the NMTIT: provided, however, that if the payment is made for services rendered, the student must receive college credit(s) for the performance of the services and the services must further the student's education, curriculum, or course of study.

(8) Any benefit payment from the United States, Trust Territorial, or Northern Marianas Social Security Administration.

(9) Jackpot winnings subject to the gaming machine jackpot tax of 4 CMC § 1505. Any jackpot winnings that are not subject to the gaming machine jackpot tax are, however, subject to the earnings tax as otherwise provided.

(i) Example No. 1: In 1995, taxpayer A wins \$1,000 from playing a poker machine. The gaming machine jackpot tax applicable to A is \$100. Since the entire amount of jackpot winnings earned by A is subject to the gaming machine jackpot tax, A is not subject to the earnings tax on this \$1,000.

(ii) Example No. 2: In 1995, taxpayer B wins \$500 from playing a poker machine. The gaming machine jackpot tax is not applicable to A\*. Therefore, A\* is subject to the earnings tax on this \$500.

(10) Earnings derived by a person granted tax-exempt status by the Division of Revenue and Taxation as an organization exempt under NMTIT §§ 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(8), or 501(c)(10) to the extent allowed under 4 CMC § 1203(a) provided the person is in compliance with part 400 of this subchapter; and

(11) ~~Interest, etc. Interest and dividends, rents, royalties, or similar income earned in and derived from a person~~ sourced in the Commonwealth and received by a resident not in the course of carrying on a business, to the extent the aggregate amount of such income does not exceed \$2,000.

(12) De Minimis. Earnings which combined with all other earnings for a taxable year of a person do not exceed \$1,000 in total for a complete taxable year.

(d) In no instance shall an item of earnings be subject to taxation under the earnings tax more than once. For example, items subject to the earnings tax under 4 CMC § 1202(b)(1) - (5) shall not be again subject to the earnings tax under 4 CMC § 1202(b)(6).

C. NMIAC § 70-40.6-301 is amended to read as follows:

#### § 70-40.6-301 Gross Revenue

(a) In General. Pursuant to 4 CMC chapter 3, there is imposed on every person a yearly tax on such person's total gross revenues. Except as provided in subsection (c) of this section, "gross revenues" means those items identified in 4 CMC § 1103~~(k)~~ (j) and subsection (b) of this section that are derived in the course of carrying on a business as

defined by 4 CMC § 1103(e) (b) and § 70-40.6-030(a) of this subchapter. Items that are not derived in the course of carrying on a business are subject to the earnings tax or the wage and salary tax, as appropriate and applicable, imposed at 4 CMC § 1202 or 4 CMC § 1201, respectively.

(b) Gross Revenue. "Gross revenue" includes the following items that are derived in the course of carrying on a business as defined by 4 CMC § 1103(e) and § 70-40.6-030 of this subchapter (b):

(1) The total amount of money or the value of other consideration, without deduction for any expenses, received from:

(i) Selling or leasing, including the assignment of any lease, real property located in the Commonwealth;

(ii) Selling or leasing any "CNMI real property interest" as defined by 4 CMC § 1103(c) § 70-40.6-030(e) of this subchapter;

(iii) Selling personal property, tangible or intangible, in the Commonwealth;

(iv) Leasing personal property, including the assignment of any lease, located in the Commonwealth;

(v) Performing services in the Commonwealth;

(2) The total amount of money or the value of other consideration, received as interest, dividends, royalties, or similar income earned in and derived from a person in the Commonwealth, without deduction for any expenses;

(3) Gross revenues of a partnership;

Example. Partnership ABCD has interest income from a savings account in the amount of \$200, amount realized from the sale of personal property in the amount of \$1,000, and gross revenues derived from the performance of legal services in the amount of \$10,000 all of which are deemed sourced within the CNMI. Partnership ABCD must report the entire \$11,200 as gross revenues and pay the gross revenue tax due thereon.

(4) That portion of the distributive share of income or gain of a partnership, as provided in the NMTIT, that is derived from the conduct of a business in the Commonwealth to a partner who is not an individual.

(i) Example No. 1. Partnership WXYZ is comprised of partner W, partner X, partner Y, and partner Z each having an equal interest in the partnership. Partner W and partner X are resident individuals of the Commonwealth, and partner Y and partner Z are domestic corporations. During the taxable year, Partnership WXYZ has gross revenues in the amount of \$1,000,000 and net income in the amount of \$100,000; each partner's distributive share of income from Partnership WXYZ determined under the NMTIT is \$25,000.

(ii) The partnership must report and pay the BGRT on the entire \$1,000,000. Partner Y and partner Z must report and pay the BGRT on each partner's distributive share of net income of Partnership WXYZ, i.e., \$25,000 per partner.

(5) "Gross revenues" of a corporation, including a subchapter S corporation as defined by the NMTIT;

(6) "Gross revenues" of a sole proprietorship or independent contractor;

(7) The total revenue received or accrued, whichever is earlier, and without deduction for any expenses, by a person who by ocean-going vessel delivers property or transports individuals in or out of the Commonwealth. The gross revenue included by this paragraph

shall be no more than the amount which bears a reasonable relationship to the activity performed by the person in the Commonwealth;

(8) For inventory property, the amount of money or other consideration received by a resident as insurance proceeds for fire or other casualty, theft, embezzlement, and the like of such property; and

(9) For all property other than inventory property, the amount of money or other consideration received by a resident as insurance proceeds for fire or other casualty, theft, embezzlement, and the like of such property to the extent the amount of money or other consideration received exceeds the adjusted basis of such property.

(10) "Gross revenues" of a casino, casino operator, or casino licensee, which shall include the total of all:

- (i) Cash payments received;
- (ii) Credit card payments received;
- (iii) Checks received, whether collected or not;
- (iv) The face value of any credit instruments issued, whether paid or not;
- (v) Any other sum received as payment for credit extended or the issue of chips;

by a casino, casino operator, or casino licensee for casino gaming activities, less the total amount paid out to patrons as winnings. For purposes of this section, no deduction shall be permitted for any credit card fees or discounts.

(c) Exclusions. "Gross revenue" shall not include the following items:

(1) Wages and salaries subject to the wage and salary tax imposed by 4 CMC § 1201;

(2) Gross revenues derived solely from the export sales of goods, resources, food, fish, or agricultural products produced or manufactured in the Commonwealth and delivered by the manufacturer or producer to the buyer outside the Commonwealth. However, a quarterly tax return must be filed regardless if no tax is due and a statement verifying the amount and destination covered by the exemption;

(3) Gross revenues derived from the sale of diesel fuel for use in any vessel's commercial operations that are primarily outside the territorial waters of the Commonwealth;

(4) Gross revenues earned by a Foreign Sales Corporation, as defined by 4 CMC §§ 1601, et seq., from its operations;

(5) Gross revenues earned by off-shore banking corporations as defined by 4 CMC § 1103(p);

(6) Gross revenues earned by a person granted tax- exempt status by the Division of Revenue and Taxation as an organization exempt under NMTIT §§ 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(8), 501(c)(10), 527 or a qualified plan under NMTIT § 401(a) to the extent allowed under 4 CMC § 1305(g) provided the person is in compliance with part 400 of this subchapter;

(7) Refunds and cash discounts allowed and taken;

(8) Money received and held in a fiduciary capacity;

(i) Example No. 1: Mr. Z owns a hotel. The price of a room per night is \$75.00 which does not include the 4 CMC § 1502 hotel occupancy tax in the amount of \$7.50. Mr. Z

would report only the \$75.00 as gross revenue and would exclude the amount of the hotel occupancy tax collected in the amount of \$7.50 from the gross revenue tax.

(ii) Example No. 2: Mr. X owns a grocery store and sells an item to a customer for \$50.00. Mr. X would report gross revenues in the amount of \$50.00. In this case, the gross revenue tax is imposed upon the sales price of the goods collected from the purchaser even if the gross revenue tax imposed on the sale is included within the sales price.

(iii) Example No. 3: The trustee of a bankruptcy estate established under title 11 of the United States Code holds property on behalf of the estate in the amount of \$100,000 to be distributed to creditors pursuant to title 11. The bankruptcy estate earned no income or gross revenues. Neither the bankruptcy estate nor the bankruptcy trustee is required to report any of the \$100,000 as gross revenue as this amount was held by the estate and the trustee in a fiduciary capacity only.

(iv) Example No. 4: Same facts as example no. 3 above except that the bankruptcy estate receives gross revenues in the amount of \$20,000. The bankruptcy estate is required to report the \$20,000 as gross revenue.

(9) De Minimis, "gross revenues" which combined with all other gross revenues of a person for a taxable year do not exceed \$5,000 in total for a complete taxable year.

(d) Additional Gross Revenues.

(1) Gross revenues shall also include those NMTIT deductions allowed under 4 CMC § 1706(a) and § 70-40.6-645 of this subchapter. Such amounts shall be combined with the person's total gross revenues for the year in the last quarter of the person's taxable year.

(2) Example. For the taxable year, Partnership MNOP derives gross revenues from the performance of services within the Commonwealth in the amount of \$500,000. The entire \$500,000 is subject to both the gross revenue tax and the NMTIT. For purposes of the NMTIT, Partnership MNOP is entitled to a deduction in the amount of \$1,000 under § 179 for the purchase of an asset not within the Commonwealth no portion of which substantially benefits business activities conducted in the Commonwealth. Partnership MNOP is required to report gross revenues in the amount of \$501,000 (i.e., \$500,000 plus \$1,000) and pay the gross revenue tax thereon in the amount of \$20,040.

D. NMIAC § 70-40.6-360 is amended to read as follows:

#### **§ 70-40.6-360 Uncollectible Accrued Gross Revenues**

~~(a) — The amount of any accrued gross revenues which are reported as gross revenues but are later determined to be uncollectible may be deducted from gross revenues in the year in which they are determined to be uncollectible. However, no deduction will be allowed under this section unless the taxpayer has made a serious effort to collect the debt including legal action or other collection efforts. Further, any amount deducted as uncollectible which is later collected must be reported as gross revenues in the quarter and year in which they are collected.~~

~~(b) — Example: A business sells merchandise both for cash and on credit, establishing account credit sales. In 1995, the business has cash sales in the amount of \$20,000 and credit sales in the amount of \$15,000. For taxable year 1995 for gross revenue tax purposes, the business is required to pay gross revenue tax on the entire \$35,000 of gross revenues.~~

~~As of December 31, 1996, the business had uncollected accounts receivable in the amount of \$2,400. If in 1996, no part of the \$2,400 could be collected after a serious effort was made to collect the debt and the business so recorded this uncollectible amount in its accounting records, the amount of \$2,400 would be deducted from the business's taxable gross revenue for 1996.~~

~~If on September 1, 1998, the business recovered \$1,000 of the \$2,400 amount written off and deducted in 1996, the total amount collected of \$1,000 should be included in the business's third quarter 1998 gross revenue tax return.~~

- (a) General Rule A taxpayer may deduct amounts of bad debt from the total gross revenue used to calculate the amount of yearly tax levied under 4 CMC §1301 on a December monthly business gross revenue tax return (or a final return as described in §70-40.6-365 of this chapter). The amount of gross revenue deducted must be charged off as uncollectible on the books and records of the taxpayer at the time the bad debt becomes worthless and can only be deducted on the final return for the year during which the bad debt is written off as uncollectible in the claimant's books and records.
- (b) Bad Debt defined. For purposes of this section, the term "bad debt" means any portion of a debt created or acquired (as the case may be) in connection with a trade or business of the taxpayer that is eligible to be claimed as a deduction under section 166 of the NMTIT.
- (c) Prior inclusion in gross revenue required. Bad debts shall not be allowed as a deduction under this section unless the revenues such items represent have been included in a business gross revenue tax return for the year for which the deduction as a bad debt is claimed or for a prior taxable period.
- (d) Requirement of Statement. A statement of facts substantiating any deduction claimed under this section on account of bad debts shall accompany the tax return. Any claim for a bad debt deduction under this section shall be supported by the evidence required by the Division of Revenue and Taxation.
- (e) Subsequent Payments. If a consumer, business, or other person pays all or part of a bad debt with respect to which a taxpayer claimed a deduction under this section, the taxpayer shall report the amounts received in the monthly return for the month payments were received and pay the tax due.

(f) Casino Licensees. A bad debt does not include any unpaid balance on a credit instrument extended for gaming credit by a casino licensee unless:

- (1) The casino licensee submits a certificate of compliance from the Commonwealth Casino Commission, with respect to each credit instrument, certifying that it has complied with the requirements of NMIAC §17510.1-565(h), relating to treatment of credit for purposes of computing gross revenue, as provided in the Commonwealth Casino Commission Regulations adopted pursuant to 4 CMC § 2314;
- (2) The Commonwealth Casino Commission has determined, as required by NMIAC § 175-10.1-565(h), that the public interest will be served if the unpaid balance is not included in gross revenue of the licensee; and
- (3) The debt otherwise qualifies under this section.



## COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

**Ralph DLG. Torres**  
Governor

**Victor B. Hocog**  
Lieutenant Governor

### **EXECUTIVE ORDER NO. 2017-06**

### **SUBJECT: DECLARATION OF A STATE SIGNIFICANT EMERGENCY**

**AUTHORITY:** I, RALPH DLG. TORRES, pursuant to the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands ("CNMI" or "Commonwealth") by Article III, § 10 of the Commonwealth Constitution and PL 18-4, § 104 of the Homeland Security and Emergency Management Act of 2013, do hereby declare a State Significant Emergency for the CNMI as a result of the recent resignation of the Commonwealth Utilities Corporation's ("CUC") Board of Directors which prevents CUC from conducting a proper procurement in accordance with the Commonwealth Code and CUC's Administrative Regulations to purchase a replacement generator for old Engine, Alternator (No. 8) at CUC Power Plant No. 1, located at Lower Base, Saipan ("Engine No. 8"). CUC's inability to immediately purchase a replacement generator for Engine No. 8 poses an imminent threat to its day-to-day operations and its capability to provide critical power generation, water, and wastewater services to the CNMI. This imminent threat of loss and damage to life and property, could lead to disruptions to critical infrastructure and key resources. These events directly threaten the CNMI in various ways, which include but are not limited to, its overall economy, health services industry, import/export industry (e.g., food, medicine, etc.), public school system, the environment, and the Government's ability to properly protect its citizens.

### **WHEREAS, CUC IS THE SOLE ELECTRICITY SUPPLIER:**

- (1) CUC is the sole electricity supplier to the CNMI, which encompasses the Government including all public safety activities, the school system, and the only hospital;
- (2) CUC also supplies electricity to most of the CNMI's businesses and homes; and
- (3) While some businesses and agencies own backup generators, they are not generally organized to use the backups as permanent power sources and the diesel oil purchased to run these generators is substantially more expensive than the cost of CUC power.

### **WHEREAS, WITHOUT OPTIMAL CUC ELECTRICITY OUTPUT:**

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(1) CNMI would lack the ability to maximize electricity output which could have the potential to harm life, information, operations, the environment, and/or property;

(2) Most CNMI economic activity would be at risk to sustain immediate losses with the potential for long-term adverse economic impact, much refrigeration and air conditioning would end, and the airports and ports would be forced to rely on emergency generation on the limited, expensive oil supply for it;

(3) The CNMI's health and safety would be at risk because traffic signals and street lighting could cease to function; emergency, fire, police facilities and their communications systems, and the hospital and island clinics would have to rely on limited oil supplies for emergency generation and then cease functioning; and much refrigeration of food and medicines would end, as would air conditioning for the elderly and sick;

(4) The public schools and the Northern Marianas College would be at risk to close. Other educational institutions would be at risk to close as their backup oil supplies for emergency generators were exhausted; and

(5) Water and sewage treatment would be adversely impacted. CUC is the sole supplier of electricity for these systems. CUC's water system relies on electricity to maintain the system pressure needed to prevent the backflow of pathogens, to chlorinate, and to pump, store, and distribute water supplies. CUC's wastewater system requires electricity to collect, pump, process, treat, and discharge sewage. The lack of electricity could result in sewage overflows, contaminating land and water.

**WHEREAS, A FUNCTIONING BOARD OF DIRECTORS DOES NOT EXIST:**

(1) CUC's Board of Directors ("Board") resigned effective May 12, 2017 and therefore the sole electrical supplier to the CNMI cannot properly carry out its procurement function to remedy the immediate need to procure a replacement for Engine No. 8 that complies with the Commonwealth Code and CUC's Administrative Regulations. CUC board members tendered their resignations leaving no quorum for the transaction of business as required under 4 CMC § 8132(c), and the Governor has had insufficient time to find qualified replacements. While CUC's enabling act (Commonwealth Utilities Corporation Act of 2008), reenacted as P.L. 16-17, as amended, authorizes a Board, there is no CUC Board as a result of these resignations, but CUC must continue to function in order to procure this vital replacement generator;

(2) Without a Board in place, I still must provide for the continued operations of CUC in order to protect the CNMI's short-term and long-term interests and public well-being;

(3) As Governor, it is my responsibility to protect the CNMI from immediate threats to our critical infrastructure and to general losses and damages to life and

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property stemming from the occurrence of a State Significant Emergency. By declaring a State Significant Emergency, this will centralize our Government's disaster response and recovery efforts and authorize the deployment and use of any forces to which plans apply and the use or distribution of any supplies, equipment, materials, facilities, and personnel available under the Homeland Security and Emergency Management Act of 2013; and

(4) At this moment, the only way for CUC to be the recipient of an emergency replacement generator for Engine No. 8 is by immediately effectuating a statutorily effective procurement in accordance with CNMI law to replace Engine No. 8 and enable CUC to operate at a substantially higher capacity. This can only be achieved through a declaration of a State Significant Emergency.

**WHEREAS, CUC WILL CONTINUE TO FUNCTION UNDER CUC'S EXECUTIVE DIRECTOR:**

(1) The Executive Director shall continue to carry out the general operations and management of CUC pursuant to the Executive Director's duties set forth in 4 CMC § 8134;

(2) In order to provide the most efficient delivery of its services at the most reasonable cost to consumers, the Executive Director, pursuant to 4 CMC § 8141, under the supervision of the Governor, shall manage the corporation in a business-like manner until a new Board of Directors is fully constituted;

(3) I have been informed by the management of power generation that there exists an ongoing immediate and pressing need for this replacement engine due to the existence of an extremely low power reserve capacity on Saipan. Recently, CUC has seen that the reserve capacity for Saipan has registered at less than 3 MW as a result of required scheduled maintenance of the power units;

(4) CUC feels that minimum reserve capacity for Saipan should be equal to 40%-50% of the peak demand for power. Currently, Saipan's peak power demand is approximately 41 MW. If any one of the large units at Power Plant 1 has to be taken out of service for scheduled maintenance or unscheduled repair work, Saipan's power grid would be deficient in meeting the island's power demand. This situation is the result of the rapid commercial development and economic growth Saipan has experienced over the last year; and

(5) Considering that the power plants on Saipan, and the engines housed therein, are more than twenty-five (25) years old, the purchase of an engine to replace Engine No. 8 must be pursued without further delay.

**WHEREAS, THERE EXISTS A TECHNICAL WORKER CRISIS:**

(1) CUC faces a manpower crisis. Skilled worker and a responsive support system are key to the success of the operation, particularly for preventative maintenance. At present, 3 CMC §§ 4531 and 4532 prohibit CUC from hiring any additional non-U.S. technical workers;

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(2) CUC bears a substantial obligation to deliver highly technical work on time to the satisfaction of the U.S. District Court and the U.S. Environmental Protection Agency ("EPA"), pursuant to two (2) sets of consent, or "Stipulated Orders." Failure to meet the requirements of the federal court orders could subject CUC and the CNMI to substantial fines and charges and, in the extreme, to a federal takeover of their finances;

(3) CUC requires employees with specialized training. There are many non-U.S. citizens whom CUC needs to retain on technical and professional contracts. Without these positions filled, CUC operations would be severely compromised;

(4) The legislature, through P.L. 17-1 (Mar. 22, 2010), has limited CUC's ability to hire technical staff, eliminating prior statutory permission to hire up to nineteen (19) foreign workers and reconstituting a moratorium on the government's hiring of foreign nationals, even if needed for highly technical positions for which no local or mainland citizens are available. The Commonwealth Utilities Corporation Act of 2008, as subsequently reenacted by P.L. 16-17 (Oct. 1, 2008), provides that CUC shall hire such persons as are necessary for operations, *except as otherwise limited by other law*. 4 CMC § 8123(h);

(5) There are not enough U.S. citizen or U.S. resident technical specialists at CUC to perform the power generation work, particularly specialists with experience in the type of engines that CUC uses. U.S. citizens with the necessary skills are not readily available in the CNMI and it is costly to recruit from the United States. CUC believes that the vast majority of skill sets, considering its cash restrictions, must come from non-U.S. personnel. CUC has tried to hire diesel mechanics in the CNMI, but has been unsuccessful in finding enough qualified candidate;

(6) The impact of an inadequate workforce is substantial. First, there would be a direct deterioration of service to existing customers. There would be brownouts or area blackouts with the above-mentioned loss of service. Second, the power plants would again degrade, producing more of these outages. Third, if CUC fails to meet federal court deadlines for the Stipulated Orders, the Court could appoint a federal receiver and its consulting team with all expenses charged to CUC customers; and

(7) CUC's renewal of contracts and hiring of foreign expert workers is necessary to sustain the integrity of CUC's systems. Thus, continued relief from the legislative prohibition on hiring foreign national workers is necessary to ensure the delivery of uninterrupted power services to the people of the Commonwealth. The legislature is urged to address this matter by way of amending local law to allow CUC to continue employing the services of foreign workers for such technical positions that are difficult to fill and to provide for a reasonable transition period.

**WHEREAS, BY THIS DECLARATION OF A STATE SIGNIFICANT EMERGENCY, I intend to enable CUC to continue to provide necessary services to the people of the Commonwealth. This Declaration is necessary to protect the health and safety of our children, our senior citizens, businesses, and all other CNMI residents and visitors.**

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**NOW, THEREFORE,** I hereby invoke my authority under Article III, § 10 of the Commonwealth Constitution and PL 18-4 § 104(c), to take all necessary measures to mitigate and eliminate the immediate threats faced by the Commonwealth including, but not limited to, the authority to:

(1) Suspend the provision of any administrative regulation prescribing procedures for conducting Commonwealth business or the other order, rules and administrative regulations of CUC if strict compliance would prevent, hinder, or delay necessary actions, including the making of emergency purchases, by the CNMI Homeland Security and Emergency Management authority to respond to the State Significant Emergency, or if strict compliance would increase the threat to the community, environment, critical infrastructures and/or key resources;

(2) Utilize all available resources of the CNMI Government and its political subdivisions as reasonably necessary to respond to the State Significant Emergency; and

(3) Transfer the direction, personnel, or functions of CUC to other departments and agencies to perform or facilitate a proper response to this State Significant Emergency.

It is hereby **ORDERED** that:

This Declaration of a State Significant Emergency shall immediately take effect and all memoranda, directives, and other measures taken in accordance with this Declaration shall remain in effect for thirty (30) days from the date of this Executive Order unless I, prior to the end of the thirty (30) day period, terminate this Declaration of a State Significant Emergency. PL 18-4, § 104(g).

Under the authority of this Declaration and with the goal of mitigating or ameliorating the above described crises imposed on the Commonwealth, I immediately direct the following:

**DIRECTIVE 1:** All of the executive power of CUC, which shall include any and all powers vested in the Board of Directors and the Executive Director, shall be exercised in accordance with the State Significant Emergency procedures expressly set forth under 1 CMC § 20144.

**DIRECTIVE 2:** Section 4531 of Title 3 of the Commonwealth Code is hereby suspended as to CUC as follows:

The following ~~strikeout~~ formatted language of the quoted provisions of the following statute regulating government employment and contracts with foreign nationals performed outside of the Commonwealth is, as indicated, immediately suspended:

~~**3 CMC § 4531. Restrictions on Government Employment.**~~

~~Employment by departments, agencies, and all other instrumentalities of the Commonwealth government is limited to citizens and permanent residents;~~

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~~provided that the government may enter into contracts with foreign nationals for services performed outside of the Commonwealth.~~

As a result of my suspension of 3 CMC § 4531, CUC shall have the full power and authority to retain staff which may include employees other than citizens and permanent residents of the United States.

**DIRECTIVE 3:** CUC's Executive Director shall manage CUC's operations pursuant to 4 CMC §§ 8134 and 8141 under the supervision of the Governor until a new Board of Directors is fully constituted.

**DIRECTIVE 4:** The Attorney General is hereby delegated legal authority to effectuate the procurement of the replacement generator for Engine No. 8.

The above described Directives are in no way meant as the limits of my actions or authority under this Declaration. Accordingly, I reserve the right under this Declaration to issue any and all directives necessary to prevent, mitigate or ameliorate the adverse effects of the emergency.

**SIGNED AND PROMULGATED** on this 22<sup>nd</sup> day of June 2017.



**RALPH DLG. TORRES**

Governor

Commonwealth of the Northern Mariana Islands



## COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

**Ralph DLG. Torres**  
Governor

**Victor B. Hocog**  
Lieutenant Governor

### EXECUTIVE ORDER NO. 2017-07

#### SUBJECT: DECLARATION OF A STATE SIGNIFICANT EMERGENCY

**AUTHORITY:** I, ARNOLD I. PALACIOS, pursuant to the authority vested in me as Acting Governor of the Commonwealth of the Northern Mariana Islands ("CNMI" or "Commonwealth") by Article III, § 10 of the Commonwealth Constitution and PL 18-4, § 104 of the Homeland Security and Emergency Management Act of 2013, do hereby declare a State Significant Emergency for the CNMI as a result of the resignation of the Commonwealth Utilities Corporation's ("CUC") Board of Directors and the incomplete process of replacing those board members, which prevents CUC from conducting a proper procurement in accordance with the Commonwealth Code and CUC's Administrative Regulations to purchase a replacement generator for old Engine, Alternator (No. 8) at CUC Power Plant No. 1, located at Lower Base, Saipan ("Engine No. 8"). CUC's inability to immediately purchase a replacement generator for Engine No. 8 poses an imminent threat to its day-to-day operations and its capability to provide critical power generation, water, and wastewater services to the CNMI. This imminent threat of loss and damage to life and property, could lead to disruptions to critical infrastructure and key resources. These events directly threaten the CNMI in various ways, which include but are not limited to, its overall economy, health services industry, import/export industry (e.g., food, medicine, etc.), public school system, the environment, and the Government's ability to properly protect its citizens.

#### WHEREAS, CUC IS THE SOLE ELECTRICITY SUPPLIER:

- (1) CUC is the sole electricity supplier to the CNMI, which encompasses the Government including all public safety activities, the school system, and the only hospital;
- (2) CUC also supplies electricity to most of the CNMI's businesses and homes; and
- (3) While some businesses and agencies own backup generators, they are not generally organized to use the backups as permanent power sources and the diesel oil purchased to run these generators is substantially more expensive than the cost of CUC power.

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**WHEREAS, WITHOUT OPTIMAL CUC ELECTRICITY OUTPUT:**

- (1) CNMI would lack the ability to maximize electricity output which could have the potential to harm life, information, operations, the environment, and/or property;
- (2) Most CNMI economic activity would be at risk to sustain immediate losses with the potential for long-term adverse economic impact, much refrigeration and air conditioning would end, and the airports and ports would be forced to rely on emergency generation on the limited, expensive oil supply for it;
- (3) The CNMI's health and safety would be at risk because traffic signals and street lighting could cease to function; emergency, fire, police facilities and their communications systems, and the hospital and island clinics would have to rely on limited oil supplies for emergency generation and then cease functioning; and much refrigeration of food and medicines would end, as would air conditioning for the elderly and sick;
- (4) The public schools and the Northern Marianas College would be at risk to close. Other educational institutions would be at risk to close as their backup oil supplies for emergency generators were exhausted; and
- (5) Water and sewage treatment would be adversely impacted. CUC is the sole supplier of electricity for these systems. CUC's water system relies on electricity to maintain the system pressure needed to prevent the backflow of pathogens, to chlorinate, and to pump, store, and distribute water supplies. CUC's wastewater system requires electricity to collect, pump, process, treat, and discharge sewage. The lack of electricity could result in sewage overflows, contaminating land and water.

**WHEREAS, A FUNCTIONING BOARD OF DIRECTORS DOES NOT EXIST:**

- (1) CUC's Board of Directors ("Board") resigned effective May 12, 2017 and appointment and confirmation process for replacing those members is incomplete at this time. Therefore the sole electrical supplier to the CNMI cannot properly carry out its procurement function to remedy the immediate need to procure a replacement for Engine No. 8 that complies with the Commonwealth Code and CUC's Administrative Regulations. CUC board members tendered their resignations leaving no quorum for the transaction of business as required under 4 CMC § 8132(c), and the Governor has had insufficient time to find qualified replacements. While CUC's enabling act (Commonwealth Utilities Corporation Act of 2008), reenacted as P.L. 16-17, as amended, authorizes a Board, there is no CUC Board as a result of these resignations, but CUC must continue to function in order to procure this vital replacement generator;
- (2) Without a Board in place, I still must provide for the continued operations of CUC in order to protect the CNMI's short-term and long-term interests and public well-being;

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(3) As Acting Governor, it is my responsibility to protect the CNMI from immediate threats to our critical infrastructure and to general losses and damages to life and property stemming from the occurrence of a State Significant Emergency. By declaring a State Significant Emergency, this will centralize our Government's disaster response and recovery efforts and authorize the deployment and use of any forces to which plans apply and the use or distribution of any supplies, equipment, materials, facilities, and personnel available under the Homeland Security and Emergency Management Act of 2013; and

(4) At this moment, the only way for CUC to be the recipient of an emergency replacement generator for Engine No. 8 is by immediately effectuating a statutorily effective procurement in accordance with CNMI law to replace Engine No. 8 and enable CUC to operate at a substantially higher capacity. This can only be achieved through a declaration of a State Significant Emergency.

**WHEREAS, CUC WILL CONTINUE TO FUNCTION UNDER CUC'S EXECUTIVE DIRECTOR:**

(1) The Executive Director shall continue to carry out the general operations and management of CUC pursuant to the Executive Director's duties set forth in 4 CMC § 8134;

(2) In order to provide the most efficient delivery of its services at the most reasonable cost to consumers, the Executive Director, pursuant to 4 CMC § 8141, under the supervision of the Governor, shall manage the corporation in a business-like manner until a new Board of Directors is fully constituted;

(3) I have been informed by the management of power generation that there exists an ongoing immediate and pressing need for this replacement engine due to the existence of an extremely low power reserve capacity on Saipan. Recently, CUC has seen that the reserve capacity for Saipan has registered at less than 3 MW as a result of required scheduled maintenance of the power units;

(4) CUC feels that minimum reserve capacity for Saipan should be equal to 40% - 50% of the peak demand for power. Currently, Saipan's peak power demand is approximately 41 MW. If any one of the large units at Power Plant 1 has to be taken out of service for scheduled maintenance or unscheduled repair work, Saipan's power grid would be deficient in meeting the island's power demand. This situation is the result of the rapid commercial development and economic growth Saipan has experienced over the last year; and

(5) Considering that the power plants on Saipan, and the engines housed therein, are more than twenty-five (25) years old, the purchase of an engine to replace Engine No. 8 must be pursued without further delay.

**WHEREAS, THERE EXISTS A TECHNICAL WORKER CRISIS:**

(1) CUC faces a manpower crisis. Skilled worker and a responsive support system are key to the success of the operation, particularly for preventative maintenance.

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At present, 3 CMC §§ 4531 and 4532 prohibit CUC from hiring any additional non-U.S. technical workers;

(2) CUC bears a substantial obligation to deliver highly technical work on time to the satisfaction of the U.S. District Court and the U.S. Environmental Protection Agency (“EPA”), pursuant to two (2) sets of consent, or “Stipulated Orders.” Failure to meet the requirements of the federal court orders could subject CUC and the CNMI to substantial fines and charges and, in the extreme, to a federal takeover of their finances;

(3) CUC requires employees with specialized training. There are many non-U.S. citizens whom CUC needs to retain on technical and professional contracts. Without these positions filled, CUC operations would be severely compromised;

(4) The legislature, through P.L. 17-1 (Mar. 22, 2010), has limited CUC’s ability to hire technical staff, eliminating prior statutory permission to hire up to nineteen (19) foreign workers and reinstating a moratorium on the government’s hiring of foreign nationals, even if needed for highly technical positions for which no local or mainland citizens are available. The Commonwealth Utilities Corporation Act of 2008, as subsequently reenacted by P.L. 16-17 (Oct. 1, 2008), provides that CUC shall hire such persons as are necessary for operations, *except as otherwise limited by other law*. 4 CMC § 8123(h);

(5) There are not enough U.S. citizen or U.S. resident technical specialists at CUC to perform the power generation work, particularly specialists with experience in the type of engines that CUC uses. U.S. citizens with the necessary skills are not readily available in the CNMI and it is costly to recruit from the United States. CUC believes that the vast majority of skill sets, considering its cash restrictions, must come from non-U.S. personnel. CUC has tried to hire diesel mechanics in the CNMI, but has been unsuccessful in finding enough qualified candidate;

(6) The impact of an inadequate workforce is substantial. First, there would be a direct deterioration of service to existing customers. There would be brownouts or area blackouts with the above-mentioned loss of service. Second, the power plants would again degrade, producing more of these outages. Third, if CUC fails to meet federal court deadlines for the Stipulated Orders, the Court could appoint a federal receiver and its consulting team with all expenses charged to CUC customers; and

(7) CUC’s renewal of contracts and hiring of foreign expert workers is necessary to sustain the integrity of CUC’s systems. Thus, continued relief from the legislative prohibition on hiring foreign national workers is necessary to ensure the delivery of uninterrupted power services to the people of the Commonwealth. The legislature is urged to address this matter by way of amending local law to allow CUC to continue employing the services of foreign workers for such technical positions that are difficult to fill and to provide for a reasonable transition period.

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**WHEREAS, BY THIS DECLARATION OF A STATE SIGNIFICANT EMERGENCY,** I intend to enable CUC to continue to provide necessary services to the people of the Commonwealth. This Declaration is necessary to protect the health and safety of our children, our senior citizens, businesses, and all other CNMI residents and visitors.

**NOW, THEREFORE,** I hereby invoke my authority under Article III, § 10 of the Commonwealth Constitution and PL 18-4 § 104(c), to take all necessary measures to mitigate and eliminate the immediate threats faced by the Commonwealth including, but not limited to, the authority to:

- (1) Suspend the provision of any administrative regulation prescribing procedures for conducting Commonwealth business or the other order, rules and administrative regulations of CUC if strict compliance would prevent, hinder, or delay necessary actions, including the making of emergency purchases, by the CNMI Homeland Security and Emergency Management authority to respond to the State Significant Emergency, or if strict compliance would increase the threat to the community, environment, critical infrastructures and/or key resources;
- (2) Utilize all available resources of the CNMI Government and its political subdivisions as reasonably necessary to respond to the State Significant Emergency; and
- (3) Transfer the direction, personnel, or functions of CUC to other departments and agencies to perform or facilitate a proper response to this State Significant Emergency.

It is hereby **ORDERED** that:

This Declaration of a State Significant Emergency shall immediately take effect and all memoranda, directives, and other measures taken in accordance with this Declaration shall remain in effect for thirty (30) days from the date of this Executive Order unless I, prior to the end of the thirty (30) day period, terminate this Declaration of a State Significant Emergency. PL 18-4, § 104(g).

Under the authority of this Declaration and with the goal of mitigating or ameliorating the above described crises imposed on the Commonwealth, I immediately direct the following:

**DIRECTIVE 1:** All of the executive power of CUC, which shall include any and all powers vested in the Board of Directors and the Executive Director, shall be exercised in accordance with the State Significant Emergency procedures expressly set forth under 1 CMC § 20144.

**DIRECTIVE 2:** Section 4531 of Title 3 of the Commonwealth Code is hereby suspended as to CUC as follows:

The following ~~strikeout~~ formatted language of the quoted provisions of the following statute regulating government employment and contracts with foreign nationals performed outside of the Commonwealth is, as indicated, immediately suspended:

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~~3.CMC § 4531. Restrictions on Government Employment.~~

~~Employment by departments, agencies, and all other instrumentalities of the Commonwealth government is limited to citizens and permanent residents; provided that the government may enter into contracts with foreign nationals for services performed outside of the Commonwealth.~~

As a result of my suspension of 3 CMC § 4531, CUC shall have the full power and authority to retain staff which may include employees other than citizens and permanent residents of the United States.

**DIRECTIVE 3:** CUC's Executive Director shall manage CUC's operations pursuant to 4 CMC §§ 8134 and 8141 under the supervision of the Governor until a new Board of Directors is fully constituted.

**DIRECTIVE 4:** The Attorney General is hereby delegated legal authority to effectuate the procurement of the replacement generator for Engine No. 8.

The above described Directives are in no way meant as the limits of my actions or authority under this Declaration. Accordingly, I reserve the right under this Declaration to issue any and all directives necessary to prevent, mitigate or ameliorate the adverse effects of the emergency.

**SIGNED AND PROMULGATED** on this 21<sup>st</sup> day of July 2017.



**ARNOLD I. PALACIOS**

Acting Governor

Commonwealth of the Northern Mariana Islands

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## COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

**Ralph DLG. Torres**  
Governor

**Victor B. Hocog**  
Lieutenant Governor

### **EXECUTIVE ORDER NO. 2017-08**

### **SUBJECT: DECLARATION OF A STATE SIGNIFICANT EMERGENCY**

**AUTHORITY:** I, VICTOR B. HOCOG, pursuant to the authority vested in me as Acting Governor of the Commonwealth of the Northern Mariana Islands ("CNMI" or "Commonwealth") by Article III, § 10 of the Commonwealth Constitution and PL 18-4, § 104 of the Homeland Security and Emergency Management Act of 2013, do hereby declare a State Significant Emergency for the CNMI as a result of the resignation of the Commonwealth Utilities Corporation's ("CUC") Board of Directors and the incomplete process of replacing those board members, which prevents CUC from conducting a proper procurement in accordance with the Commonwealth Code and CUC's Administrative Regulations to purchase a replacement generator for old Engine, Alternator (No. 8) at CUC Power Plant No. 1, located at Lower Base, Saipan ("Engine No. 8"). CUC's inability to immediately purchase a replacement generator for Engine No. 8 poses an imminent threat to its day-to-day operations and its capability to provide critical power generation, water, and wastewater services to the CNMI. This imminent threat of loss and damage to life and property, could lead to disruptions to critical infrastructure and key resources. These events directly threaten the CNMI in various ways, which include but are not limited to, its overall economy, health services industry, import/export industry (e.g., food, medicine, etc.), public school system, the environment, and the Government's ability to properly protect its citizens.

### **WHEREAS, CUC IS THE SOLE ELECTRICITY SUPPLIER:**

- (1) CUC is the sole electricity supplier to the CNMI, which encompasses the Government including all public safety activities, the school system, and the only hospital;
- (2) CUC also supplies electricity to most of the CNMI's businesses and homes; and
- (3) While some businesses and agencies own backup generators, they are not generally organized to use the backups as permanent power sources and the diesel oil purchased to run these generators is substantially more expensive than the cost of CUC power.

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**WHEREAS, WITHOUT OPTIMAL CUC ELECTRICITY OUTPUT:**

- (1) CNMI would lack the ability to maximize electricity output which could have the potential to harm life, information, operations, the environment, and/or property;
- (2) Most CNMI economic activity would be at risk to sustain immediate losses with the potential for long-term adverse economic impact, much refrigeration and air conditioning would end, and the airports and ports would be forced to rely on emergency generation on the limited, expensive oil supply for it;
- (3) The CNMI's health and safety would be at risk because traffic signals and street lighting could cease to function; emergency, fire, police facilities and their communications systems, and the hospital and island clinics would have to rely on limited oil supplies for emergency generation and then cease functioning; and much refrigeration of food and medicines would end, as would air conditioning for the elderly and sick;
- (4) The public schools and the Northern Marianas College would be at risk to close. Other educational institutions would be at risk to close as their backup oil supplies for emergency generators were exhausted; and
- (5) Water and sewage treatment would be adversely impacted. CUC is the sole supplier of electricity for these systems. CUC's water system relies on electricity to maintain the system pressure needed to prevent the backflow of pathogens, to chlorinate, and to pump, store, and distribute water supplies. CUC's wastewater system requires electricity to collect, pump, process, treat, and discharge sewage. The lack of electricity could result in sewage overflows, contaminating land and water.

**WHEREAS, A FUNCTIONING BOARD OF DIRECTORS DOES NOT EXIST:**

- (1) CUC's Board of Directors ("Board") resigned effective May 12, 2017 and appointment and confirmation process for replacing those members is incomplete at this time. Therefore the sole electrical supplier to the CNMI cannot properly carry out its procurement function to remedy the immediate need to procure a replacement for Engine No. 8 that complies with the Commonwealth Code and CUC's Administrative Regulations. CUC board members tendered their resignations leaving no quorum for the transaction of business as required under 4 CMC § 8132(c), and the Governor has had insufficient time to find qualified replacements. While CUC's enabling act (Commonwealth Utilities Corporation Act of 2008), reenacted as P.L. 16-17, as amended, authorizes a Board, there is no CUC Board as a result of these resignations, but CUC must continue to function in order to procure this vital replacement generator;
- (2) Without a Board in place, I still must provide for the continued operations of CUC in order to protect the CNMI's short-term and long-term interests and public well-being;

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(3) As Acting Governor, it is my responsibility to protect the CNMI from immediate threats to our critical infrastructure and to general losses and damages to life and property stemming from the occurrence of a State Significant Emergency. By declaring a State Significant Emergency, this will centralize our Government's disaster response and recovery efforts and authorize the deployment and use of any forces to which plans apply and the use or distribution of any supplies, equipment, materials, facilities, and personnel available under the Homeland Security and Emergency Management Act of 2013; and

(4) At this moment, the only way for CUC to be the recipient of an emergency replacement generator for Engine No. 8 is by immediately effectuating a statutorily effective procurement in accordance with CNMI law to replace Engine No. 8 and enable CUC to operate at a substantially higher capacity. This can only be achieved through a declaration of a State Significant Emergency.

**WHEREAS, CUC WILL CONTINUE TO FUNCTION UNDER CUC'S EXECUTIVE DIRECTOR:**

(1) The Executive Director shall continue to carry out the general operations and management of CUC pursuant to the Executive Director's duties set forth in 4 CMC § 8134;

(2) In order to provide the most efficient delivery of its services at the most reasonable cost to consumers, the Executive Director, pursuant to 4 CMC § 8141, under the supervision of the Governor, shall manage the corporation in a business-like manner until a new Board of Directors is fully constituted;

(3) I have been informed by the management of power generation that there exists an ongoing immediate and pressing need for this replacement engine due to the existence of an extremely low power reserve capacity on Saipan. Recently, CUC has seen that the reserve capacity for Saipan has registered at less than 3 MW as a result of required scheduled maintenance of the power units;

(4) CUC feels that minimum reserve capacity for Saipan should be equal to 40%-50% of the peak demand for power. Currently, Saipan's peak power demand is approximately 41 MW. If any one of the large units at Power Plant 1 has to be taken out of service for scheduled maintenance or unscheduled repair work, Saipan's power grid would be deficient in meeting the island's power demand. This situation is the result of the rapid commercial development and economic growth Saipan has experienced over the last year: and

(5) Considering that the power plants on Saipan, and the engines housed therein, are more than twenty-five (25) years old, the purchase of an engine to replace Engine No. 8 must be pursued without further delay.

**WHEREAS, THERE EXISTS A TECHNICAL WORKER CRISIS:**

(1) CUC faces a manpower crisis. Skilled worker and a responsive support system are key to the success of the operation, particularly for preventative maintenance.

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At present, 3 CMC §§ 4531 and 4532 prohibit CUC from hiring any additional non-U.S. technical workers;

(2) CUC bears a substantial obligation to deliver highly technical work on time to the satisfaction of the U.S. District Court and the U.S. Environmental Protection Agency (“EPA”), pursuant to two (2) sets of consent, or “Stipulated Orders.” Failure to meet the requirements of the federal court orders could subject CUC and the CNMI to substantial fines and charges and, in the extreme, to a federal takeover of their finances;

(3) CUC requires employees with specialized training. There are many non-U.S. citizens whom CUC needs to retain on technical and professional contracts. Without these positions filled, CUC operations would be severely compromised;

(4) The legislature, through P.L. 17-1 (Mar. 22, 2010), has limited CUC’s ability to hire technical staff, eliminating prior statutory permission to hire up to nineteen (19) foreign workers and reinstating a moratorium on the government’s hiring of foreign nationals, even if needed for highly technical positions for which no local or mainland citizens are available. The Commonwealth Utilities Corporation Act of 2008, as subsequently reenacted by P.L. 16-17 (Oct. 1, 2008), provides that CUC shall hire such persons as are necessary for operations, *except as otherwise limited by other law*. 4 CMC § 8123(h);

(5) There are not enough U.S. citizen or U.S. resident technical specialists at CUC to perform the power generation work, particularly specialists with experience in the type of engines that CUC uses. U.S. citizens with the necessary skills are not readily available in the CNMI and it is costly to recruit from the United States. CUC believes that the vast majority of skill sets, considering its cash restrictions, must come from non-U.S. personnel. CUC has tried to hire diesel mechanics in the CNMI, but has been unsuccessful in finding enough qualified candidate;

(6) The impact of an inadequate workforce is substantial. First, there would be a direct deterioration of service to existing customers. There would be brownouts or area blackouts with the above-mentioned loss of service. Second, the power plants would again degrade, producing more of these outages. Third, if CUC fails to meet federal court deadlines for the Stipulated Orders, the Court could appoint a federal receiver and its consulting team with all expenses charged to CUC customers; and

(7) CUC’s renewal of contracts and hiring of foreign expert workers is necessary to sustain the integrity of CUC’s systems. Thus, continued relief from the legislative prohibition on hiring foreign national workers is necessary to ensure the delivery of uninterrupted power services to the people of the Commonwealth. The legislature is urged to address this matter by way of amending local law to allow CUC to continue employing the services of foreign workers for such technical positions that are difficult to fill and to provide for a reasonable transition period.

**WHEREAS, BY THIS DECLARATION OF A STATE SIGNIFICANT EMERGENCY,** I intend to enable CUC to continue to provide necessary services to the people of the Commonwealth. This Declaration is necessary to protect the health and safety of our children, our senior citizens, businesses, and all other CNMI residents and visitors.

**NOW, THEREFORE,** I hereby invoke my authority under Article III, § 10 of the Commonwealth Constitution and PL 18-4 § 104(c), to take all necessary measures to mitigate and eliminate the immediate threats faced by the Commonwealth including, but not limited to, the authority to:

(1) Suspend the provision of any administrative regulation prescribing procedures for conducting Commonwealth business or the other order, rules and administrative regulations of CUC if strict compliance would prevent, hinder, or delay necessary actions, including the making of emergency purchases, by the CNMI Homeland Security and Emergency Management authority to respond to the State Significant Emergency, or if strict compliance would increase the threat to the community, environment, critical infrastructures and/or key resources;

(2) Utilize all available resources of the CNMI Government and its political subdivisions as reasonably necessary to respond to the State Significant Emergency; and

(3) Transfer the direction, personnel, or functions of CUC to other departments and agencies to perform or facilitate a proper response to this State Significant Emergency.

It is hereby **ORDERED** that:

This Declaration of a State Significant Emergency shall immediately take effect and all memoranda, directives, and other measures taken in accordance with this Declaration shall remain in effect for thirty (30) days from the date of this Executive Order unless I, prior to the end of the thirty (30) day period, terminate this Declaration of a State Significant Emergency. PL 18-4, § 104(g).

Under the authority of this Declaration and with the goal of mitigating or ameliorating the above described crises imposed on the Commonwealth, I immediately direct the following:

**DIRECTIVE 1:** All of the executive power of CUC, which shall include any and all powers vested in the Board of Directors and the Executive Director, shall be exercised in accordance with the State Significant Emergency procedures expressly set forth under 1 CMC § 20144.

**DIRECTIVE 2:** Section 4531 of Title 3 of the Commonwealth Code is hereby suspended as to CUC as follows:

The following ~~strikeout~~ formatted language of the quoted provisions of the following statute regulating government employment and contracts with foreign nationals performed outside of the Commonwealth is, as indicated, immediately suspended:

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**~~3 CMC § 4531. Restrictions on Government Employment.~~**

~~Employment by departments, agencies, and all other instrumentalities of the Commonwealth government is limited to citizens and permanent residents; provided that the government may enter into contracts with foreign nationals for services performed outside of the Commonwealth.~~

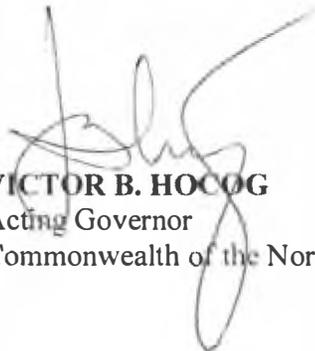
As a result of my suspension of 3 CMC § 4531, CUC shall have the full power and authority to retain staff which may include employees other than citizens and permanent residents of the United States.

**DIRECTIVE 3:** CUC's Executive Director shall manage CUC's operations pursuant to 4 CMC §§ 8134 and 8141 under the supervision of the Governor until a new Board of Directors is fully constituted.

**DIRECTIVE 4:** The Attorney General is hereby delegated legal authority to effectuate the procurement of the replacement generator for Engine No. 8.

The above described Directives are in no way meant as the limits of my actions or authority under this Declaration. Accordingly, I reserve the right under this Declaration to issue any and all directives necessary to prevent, mitigate or ameliorate the adverse effects of the emergency.

**SIGNED AND PROMULGATED** on this 21<sup>st</sup> day of August 2017.



**VICTOR B. HOCO**  
Acting Governor  
Commonwealth of the Northern Mariana Islands



## COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

**Ralph DLG. Torres**  
Governor

**Victor B. Hocog**  
Lieutenant Governor

### EXECUTIVE ORDER NO. 2017-09

#### SUBJECT: DECLARATION OF A STATE SIGNIFICANT EMERGENCY

**AUTHORITY:** I, RALPH DLG. TORRES, pursuant to the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands ("CNMI" or "Commonwealth") by Article III, § 10 of the Commonwealth Constitution and PL 18-4, § 104 of the Homeland Security and Emergency Management Act of 2013, do hereby declare a State Significant Emergency for the CNMI as a result of the resignation of the Commonwealth Utilities Corporation's ("CUC") Board of Directors and the incomplete process of replacing those board members, which prevents CUC from conducting a proper procurement in accordance with the Commonwealth Code and CUC's Administrative Regulations to purchase a replacement generator for old Engine, Alternator (No. 8) at CUC Power Plant No. 1, located at Lower Base, Saipan ("Engine No. 8"). CUC's inability to immediately purchase a replacement generator for Engine No. 8 poses an imminent threat to its day-to-day operations and its capability to provide critical power generation, water, and wastewater services to the CNMI. This imminent threat of loss and damage to life and property, could lead to disruptions to critical infrastructure and key resources. These events directly threaten the CNMI in various ways, which include but are not limited to, its overall economy, health services industry, import export industry (e.g., food, medicine, etc.), public school system, the environment, and the Government's ability to properly protect its citizens.

#### WHEREAS, CUC IS THE SOLE ELECTRICITY SUPPLIER:

- (1) CUC is the sole electricity supplier to the CNMI, which encompasses the Government including all public safety activities, the school system, and the only hospital;
- (2) CUC also supplies electricity to most of the CNMI's businesses and homes; and
- (3) While some businesses and agencies own backup generators, they are not generally organized to use the backups as permanent power sources and the diesel oil purchased to run these generators is substantially more expensive than the cost of CUC power.

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**WHEREAS, WITHOUT OPTIMAL CUC ELECTRICITY OUTPUT:**

(1) CNMI would lack the ability to maximize electricity output which could have the potential to harm life, information, operations, the environment, and/or property;

(2) Most CNMI economic activity would be at risk to sustain immediate losses with the potential for long-term adverse economic impact, much refrigeration and air conditioning would end, and the airports and ports would be forced to rely on emergency generation on the limited, expensive oil supply for it;

(3) The CNMI's health and safety would be at risk because traffic signals and street lighting could cease to function; emergency, fire, police facilities and their communications systems, and the hospital and island clinics would have to rely on limited oil supplies for emergency generation and then cease functioning; and much refrigeration of food and medicines would end, as would air conditioning for the elderly and sick;

(4) The public schools and the Northern Marianas College would be at risk to close. Other educational institutions would be at risk to close as their backup oil supplies for emergency generators were exhausted; and

(5) Water and sewage treatment would be adversely impacted. CUC is the sole supplier of electricity for these systems. CUC's water system relies on electricity to maintain the system pressure needed to prevent the backflow of pathogens, to chlorinate, and to pump, store, and distribute water supplies. CUC's wastewater system requires electricity to collect, pump, process, treat, and discharge sewage. The lack of electricity could result in sewage overflows, contaminating land and water.

**WHEREAS, A FUNCTIONING BOARD OF DIRECTORS DOES NOT EXIST:**

(1) CUC's Board of Directors ("Board") resigned effective May 12, 2017 and appointment and confirmation process for replacing those members is incomplete at this time. Therefore the sole electrical supplier to the CNMI cannot properly carry out its procurement function to remedy the immediate need to procure a replacement for Engine No. 8 that complies with the Commonwealth Code and CUC's Administrative Regulations. CUC board members tendered their resignations leaving no quorum for the transaction of business as required under 4 CMR § 8132(c), and the Governor has had insufficient time to find qualified replacements. While CUC's enabling act (Commonwealth Utilities Corporation Act of 2008), reenacted as P.L. 16-17, as amended, authorizes a Board, there is no CUC Board as a result of these resignations, but CUC must continue to function in order to procure this vital replacement generator;

(2) Without a Board in place, I still must provide for the continued operations of CUC in order to protect the CNMI's short-term and long-term interests and public well-being;

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(3) As Governor, it is my responsibility to protect the CNMI from immediate threats to our critical infrastructure and to general losses and damages to life and property stemming from the occurrence of a State Significant Emergency. By declaring a State Significant Emergency, this will centralize our Government's disaster response and recovery efforts and authorize the deployment and use of any forces to which plans apply and the use or distribution of any supplies, equipment, materials, facilities, and personnel available under the Homeland Security and Emergency Management Act of 2013, and

(4) At this moment, the only way for CUC to be the recipient of an emergency replacement generator for Engine No. 8 is by immediately effectuating a statutorily effective procurement in accordance with CNMI law to replace Engine No. 8 and enable CUC to operate at a substantially higher capacity. This can only be achieved through a declaration of a State Significant Emergency.

**WHEREAS, CUC WILL CONTINUE TO FUNCTION UNDER CUC'S EXECUTIVE DIRECTOR:**

(1) The Executive Director shall continue to carry out the general operations and management of CUC pursuant to the Executive Director's duties set forth in 4 CMC § 8134;

(2) In order to provide the most efficient delivery of its services at the most reasonable cost to consumers, the Executive Director, pursuant to 4 CMC § 8141, under the supervision of the Governor, shall manage the corporation in a business-like manner until a new Board of Directors is fully constituted;

(3) I have been informed by the management of power generation that there exists an ongoing immediate and pressing need for this replacement engine due to the existence of an extremely low power reserve capacity on Saipan. Recently, CUC has seen that the reserve capacity for Saipan has registered at less than 3 MW as a result of required scheduled maintenance of the power units;

(4) CUC feels that minimum reserve capacity for Saipan should be equal to 40%-50% of the peak demand for power. Currently, Saipan's peak power demand is approximately 41 MW. If any one of the large units at Power Plant 1 has to be taken out of service for scheduled maintenance or unscheduled repair work, Saipan's power grid would be deficient in meeting the island's power demand. This situation is the result of the rapid commercial development and economic growth Saipan has experienced over the last year; and

(5) Considering that the power plants on Saipan, and the engines housed therein, are more than twenty-five (25) years old, the purchase of an engine to replace Engine No. 8 must be pursued without further delay.

**WHEREAS, THERE EXISTS A TECHNICAL WORKER CRISIS:**

(1) CUC faces a manpower crisis. Skilled worker and a responsive support system are key to the success of the operation, particularly for preventative maintenance.

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At present, 3 CMC §§ 4531 and 4532 prohibit CUC from hiring any additional non-U.S. technical workers:

(2) CUC bears a substantial obligation to deliver highly technical work on time to the satisfaction of the U.S. District Court and the U.S. Environmental Protection Agency ("EPA"), pursuant to two (2) sets of consent, or "Stipulated Orders." Failure to meet the requirements of the federal court orders could subject CUC and the CNMI to substantial fines and charges and, in the extreme, to a federal takeover of their finances;

(3) CUC requires employees with specialized training. There are many non-U.S. citizens whom CUC needs to retain on technical and professional contracts. Without these positions filled, CUC operations would be severely compromised;

(4) The legislature, through P.L. 17-1 (Mar. 22, 2010), has limited CUC's ability to hire technical staff, eliminating prior statutory permission to hire up to nineteen (19) foreign workers and reinstating a moratorium on the government's hiring of foreign nationals, even if needed for highly technical positions for which no local or mainland citizens are available. The Commonwealth Utilities Corporation Act of 2008, as subsequently reenacted by P.L. 16-17 (Oct. 1, 2008), provides that CUC shall hire such persons as are necessary for operations, *except as otherwise limited by other law*. 4 CMC § 8123(h);

(5) There are not enough U.S. citizen or U.S. resident technical specialists at CUC to perform the power generation work, particularly specialists with experience in the type of engines that CUC uses. U.S. citizens with the necessary skills are not readily available in the CNMI and it is costly to recruit from the United States. CUC believes that the vast majority of skill sets, considering its cash restrictions, must come from non-U.S. personnel. CUC has tried to hire diesel mechanics in the CNMI, but has been unsuccessful in finding enough qualified candidate;

(6) The impact of an inadequate workforce is substantial. First, there would be a direct deterioration of service to existing customers. There would be brownouts or area blackouts with the above-mentioned loss of service. Second, the power plants would again degrade, producing more of these outages. Third, if CUC fails to meet federal court deadlines for the Stipulated Orders, the Court could appoint a federal receiver and its consulting team with all expenses charged to CUC customers; and

(7) CUC's renewal of contracts and hiring of foreign expert workers is necessary to sustain the integrity of CUC's systems. Thus, continued relief from the legislative prohibition on hiring foreign national workers is necessary to ensure the delivery of uninterrupted power services to the people of the Commonwealth. The legislature is urged to address this matter by way of amending local law to allow CUC to continue employing the services of foreign workers for such technical positions that are difficult to fill and to provide for a reasonable transition period.

**WHEREAS, BY THIS DECLARATION OF A STATE SIGNIFICANT EMERGENCY,** I intend to enable CUC to continue to provide necessary services to the people of the Commonwealth. This Declaration is necessary to protect the health and safety of our children, our senior citizens, businesses, and all other CNMI residents and visitors.

**NOW, THEREFORE,** I hereby invoke my authority under Article III, § 10 of the Commonwealth Constitution and PL 18-4 § 104(e), to take all necessary measures to mitigate and eliminate the immediate threats faced by the Commonwealth including, but not limited to, the authority to:

(1) Suspend the provision of any administrative regulation prescribing procedures for conducting Commonwealth business or the other order, rules and administrative regulations of CUC if strict compliance would prevent, hinder, or delay necessary actions, including the making of emergency purchases, by the CNMI Homeland Security and Emergency Management authority to respond to the State Significant Emergency, or if strict compliance would increase the threat to the community, environment, critical infrastructures and or key resources;

(2) Utilize all available resources of the CNMI Government and its political subdivisions as reasonably necessary to respond to the State Significant Emergency; and

(3) Transfer the direction, personnel, or functions of CUC to other departments and agencies to perform or facilitate a proper response to this State Significant Emergency.

It is hereby **ORDERED** that:

This Declaration of a State Significant Emergency shall immediately take effect and all memoranda, directives, and other measures taken in accordance with this Declaration shall remain in effect for thirty (30) days from the date of this Executive Order unless I, prior to the end of the thirty (30) day period, terminate this Declaration of a State Significant Emergency. PL 18-4, § 104(g).

Under the authority of this Declaration and with the goal of mitigating or ameliorating the above described crises imposed on the Commonwealth, I immediately direct the following:

**DIRECTIVE 1:** All of the executive power of CUC, which shall include any and all powers vested in the Board of Directors and the Executive Director, shall be exercised in accordance with the State Significant Emergency procedures expressly set forth under 1 CMC § 20144.

**DIRECTIVE 2:** Section 4531 of Title 3 of the Commonwealth Code is hereby suspended as to CUC as follows:

The following ~~strikeout~~ formatted language of the quoted provisions of the following statute regulating government employment and contracts with foreign nationals performed outside of the Commonwealth is, as indicated, immediately suspended:

Caller Box 10007 Saipan, MP 96950 Telephone: (670) 237-2200 Facsimile: (670) 664-2211/2311

~~3 CMC § 4531. Restrictions on Government Employment.~~

~~Employment by departments, agencies, and all other instrumentalities of the Commonwealth government is limited to citizens and permanent residents; provided that the government may enter into contracts with foreign nationals for services performed outside of the Commonwealth.~~

As a result of my suspension of 3 CMC § 4531, CUC shall have the full power and authority to retain staff which may include employees other than citizens and permanent residents of the United States.

**DIRECTIVE 3:** CUC's Executive Director shall manage CUC's operations pursuant to 4 CMC §§ 8134 and 8141 under the supervision of the Governor until a new Board of Directors is fully constituted.

**DIRECTIVE 4:** The Attorney General is hereby delegated legal authority to effectuate the procurement of the replacement generator for Engine No. 8.

The above described Directives are in no way meant as the limits of my actions or authority under this Declaration. Accordingly, I reserve the right under this Declaration to issue any and all directives necessary to prevent, mitigate or ameliorate the adverse effects of the emergency.

**SIGNED AND PROMULGATED** on this 21<sup>st</sup> day of September 2017.



RALPH D.G. TORRES  
Governor

Commonwealth of the Northern Mariana Islands



**COMMONWEALTH CASINO COMMISSION**

Commonwealth of the Northern Mariana Islands

P.O. Box 500237

Saipan, MP 96950

Tel: 1 (670) 233-1857/58

Fax: 1 (670) 233-1856

Email: [info@cnmicasinocommission.com](mailto:info@cnmicasinocommission.com)



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**BEFORE THE COMMONWEALTH CASINO COMMISSION**

**EDWARD DELEON GUERRERO, in his  
official capacity as Executive Director  
of the Commonwealth Casino  
Commission,**

**Plaintiff-Petitioner,**

**v.**

**IMPERIAL PACIFIC INTERNATIONAL  
(CNMI) LLC and IENG KUN HO a.k.a.  
JACK HO #CCC-2017-0767-CKE**

**Defendants/Respondents.**

**DEI # 17-0009-i**

**COMPLAINT NO. 17-002**

**ORDER CONFIRMING STIPULATED  
AGREEMENT**

**GOOD CAUSE SHOWN**, and after consideration at the October 26, 2017 public meeting of the Commission, the parties' stipulated resolution is hereby **CONFIRMED** in its entirety. Nothing in the resolution shall be considered to be an admission by Respondent IPI of a violation of any laws or regulations.

Respondent IPI shall ensure that all Casino Key Employees in its Table Games department are retrained on the Internal Controls for all card games offered in the Casino. IPI shall pay One Hundred Fifteen Thousand Dollars (US\$115,000.00) in settlement and resolution of all claims alleged in Complaint 17-002. IPI shall take no adverse employment action or retaliate in any way against any employee who is reasonably believed to have aided in the investigation or prosecution of this action. IPI waives, permanently and entirely, any right to appeal in this action and shall not seek, apply for, or accept any suspension, reduction, modification, or rescission, of any term, condition or obligation of the resolution per §§175-10.1-675 or 175-10.1-2505 or any other regulation, statute, legal authority or precedent whatsoever.

The Executive Director shall cause the check tendered by Respondent in this matter to be deposited in the CNMI Treasury. The Executive Director shall waive any further claims against IPI arising from the Claims alleged within the Complaint. The

1 Executive Director shall move to dismiss the action against Respondents with prejudice.  
2 Notwithstanding the foregoing, the Executive Director reserves the right to consider the  
3 Complaint allegations and any other alleged violation, whether presently known or  
4 unknown, when making the next renewal licensure decision, and subsequent decisions,  
5 concerning the casino key employee whom the Executive Director regarded as being  
6 responsible for the omission which caused the initiation of this action.

7 Complaint No. 17-002 being hereby completely resolved, is hereby dismissed in its  
8 entirety with prejudice; the Commission retains jurisdiction to ensure compliance with the  
9 Agreement and this Order.

10 SO ORDERED this 26th day of October 2017.

11 For the Commonwealth Casino Commission,

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15 Juan M. Sablan  
16 Chairman  
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**BEFORE THE COMMONWEALTH CASINO COMMISSION**

**EDWARD DELEON GUERRERO, in his  
official capacity as Executive Director  
of the Commonwealth Casino  
Commission,  
Plaintiff-Petitioner,**

**v.**

**IMPERIAL PACIFIC INTERNATIONAL  
(CNMI) LLC and IENG KUN HO a.k.a.  
JACK HO #CCC-2017-0767-CKE**

**Defendants/Respondents.**

**DEI # 17-0009-i**

**COMPLAINT NO. 17-002**

**STIPULATED RESOLUTION**

**COMES NOW**, Edward Deleon Guerrero, in his official capacity as Executive Director of the Commonwealth Casino Commission (the "Executive Director"), by and through undersigned counsel, and Imperial Pacific International (CNMI), LLC ("IPI" or "Respondent") who agree and stipulate to the following resolution of the allegations contained within the Complaint in the above-captioned matter. Without admitting liability, and reserving all defenses, Imperial Pacific International (CNMI) LLC agrees to a payment as consideration for the resolution and agrees to perform other conditions as set forth below:

**I. IPI's Consideration for the Resolution.**

As consideration for this Stipulated Resolution (the "Resolution or Agreement"), the Executive Director and IPI hereby agree to the following terms and conditions:

1. Respondent IPI shall ensure that all Casino Key Employees in its Table Games department are retrained on the Internal Controls for all card games offered in the Casino.

2. Respondent IPI shall pay One Hundred Fifteen Thousand Dollars

(US\$115,000.00) in settlement and resolution of all claims alleged in Complaint 17-002.

3. Respondent IPI warrants it shall take no adverse employment action or retaliate in any way against any employee who is reasonably believed to have aided in the investigation or prosecution of this action.

4. Respondent IPI waives, permanently and entirely, any right to appeal in this action and further irrevocably covenants it shall not seek, apply for, or accept any suspension, reduction, modification, or rescission, of any term, condition or obligation of this Agreement per §§175-10.1-675 or 175-10.1-2505 or any other regulation, statute, legal authority or precedent whatsoever.

## **II. Further Consideration and Waiver of Further Action.**

The Executive Director hereby acknowledges the receipt of check made out to the Commonwealth Treasury in the aforementioned US\$115,000.00 and accepts such payment, along with the above-described additional commitments from IPI, as adequate and sufficient consideration for the full and final resolution of the Complaint.

Once this Agreement is confirmed in its entirety by the Commission, the Executive Director shall cause the aforementioned check to be delivered to the Commonwealth Treasury. As consideration for this Agreement, the Executive Director hereby agrees to the following:

1. The Executive Director waives any further claims against Respondent IPI arising from the Claims alleged within the Complaint; and

2. The Executive Director shall dismiss the action against Respondents with prejudice; but

3. Notwithstanding the foregoing, the Executive Director reserves the right to consider the Complaint allegations and any other alleged violation, whether presently known or unknown, when making the next renewal licensure decision, and subsequent decisions, concerning the casino key employee whom the Executive Director regarded as being responsible for the omission which caused the initiation of this action.

4. Once fully executed, this Resolution will result in Complaint No. 17-002 being hereby completely resolved and or dismissed in its entirety with prejudice. Nothing in this Resolution shall be considered to be an admission by Respondent IPI of a violation of any laws or regulations.

5. The Commission will retain jurisdiction to ensure compliance with the Agreement.

6. The Parties covenant and agree that this Agreement only disposes of the allegations of this Complaint; nothing in this Agreement affects in any way the Executive Director's ability or authority to bring other actions before the Commission for alleged violations, whether presently known or unknown, which do not arise from the claims contained within the Complaint concerning the use of cards which violated approved Internal Controls and the failure to timely report such use.

7. The Parties further covenant and agree that nothing in this Agreement in any way affects the rights, authority or jurisdiction of any other law enforcement or regulatory agency.

### **III. General Provisions.**

Acknowledgment. Both the Executive Director and Respondent acknowledge and

agree that they are entering into this Agreement based solely upon their own investigation with the assistance of their own counsel.

No Admission. By entering into this Agreement, Respondent does not admit that it violated any law, regulation, contract, permit condition or other requirement. The Parties agree that this Agreement is being entered into purely as a compromise; and that this Agreement shall not be used as evidence of liability in any suit or suits, claims, charges, administrative proceedings, or other actions whatsoever. This Agreement shall not be offered or received into evidence or otherwise filed or lodged in any proceeding against any Party except as may be necessary to prove and enforce its terms. It is expressly understood and agreed that the consideration referenced herein is in full accord and satisfaction only of the disputed asserted claims set forth in the above referenced Complaint.

Governing Law. This Agreement and all performance hereunder shall be governed by the applicable federal laws and the laws of the Commonwealth of the Northern Mariana Islands.

Costs and Expenses. Each Party shall bear its own costs, fees and expenses (including without limitation its attorney's fees) associated with this Agreement.

Integration. This Agreement constitutes the entire agreement of the Parties and all prior representations and discussions are merged and incorporated herein. This Agreement may not be amended absent a writing evidencing such an amendment executed by the Parties.

Notice. Any notice required by this Agreement shall be made in writing to the

Commonwealth Casino Commission through its counsel, the Office of the Attorney General, Assistant Attorney General Michael Ernest; to Respondent through its counsel Phillip J. Tydingco, Esq.

Breach or Failure of Performance. If Respondent at any time fails to perform any obligation required of it under this Agreement and the Executive Director seeks to or obtains judicial assistance in enforcing such obligation, IPI, in addition to any damages or equitable relief, shall pay the reasonable attorneys' fees and related costs of enforcement of the Executive Director seeking enforcement if the Executive Director is successful in obtaining the relief which he seeks in such action. The Commonwealth Casino Commission and Superior Court of the Commonwealth of the Northern Mariana Islands shall have continuing jurisdiction over this Agreement for enforcement purposes only.

Representation. Both Parties acknowledge and represent that in negotiating this Agreement and the terms of this Agreement, they have been represented by and have conferred with legal counsel, with whom they are satisfied. Each Party represents and warrants that they have carefully read this Agreement, they understand its contents and that each has executed it as their own free and voluntary act. The Parties agree and affirm that the terms of this Agreement have been negotiated at arms' length between the Parties. Any rule of law or construction or case precedent against liability releases and the rule of interpretation against the draftsman shall not apply in any dispute over interpretation or enforcement of this Agreement.

Authorization. The Parties each represent and warrant that they are legally authorized and competent to execute this Agreement and assumes full responsibility for

and assumes the risk of all mistakes in fact or law regarding any damages, losses or injuries, whether disclosed or undisclosed.

Severability. If any provision of this Agreement shall be or become legally void or unenforceable for any reason whatsoever, such invalidity and unenforceability shall not impair the validity or enforceability of the provisions of this Agreement. In this event and to this extent only, the objectionable provision shall be severed and the remaining provisions shall be enforced.

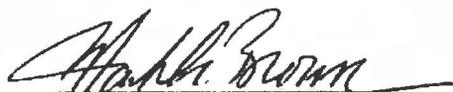
Execution in Counterparts. This Agreement may be executed in counterparts and this Agreement shall become binding when executed by all Parties hereto without regard to whether such signatures are appended to the original Agreement or to a counterpart thereof.

Signatures. By signing this document the Executive Director and Respondent attest further that:

1. Each of the parties have read and understood this Stipulated Resolution;
2. Each of the parties agreed to the terms of this Stipulation of their own free will;
3. The parties enter this Stipulated Resolution for good cause and as a good faith and complete settlement of the Complaint.

IN WITNESS WHEREOF, the parties hereby affix their signatures on the dates indicated.

**FOR IMPERIAL PACIFIC INTERNATIONAL (CNMI), LLC:**



MARK A. BROWN  
Chairman  
Date: September 25, 2017.

PHILLIP J. TYDINGCO, ESQ.  
Counsel for Respondent  
Date: September \_\_, 2017.

**FOR THE COMMONWEALTH CASINO COMMISSION:**

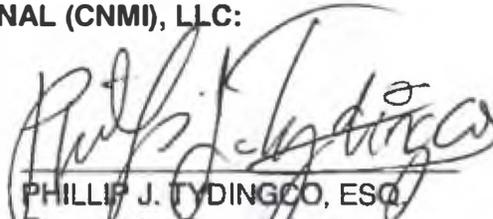
EDWARD DELEON GUERRERO  
Executive Director  
Date: September \_\_, 2017

Michael L. Ernest, F0317  
Assistant Attorney General  
Date: September \_\_, 2017

IN WITNESS WHEREOF, the parties hereby affix their signatures on the dates indicated.

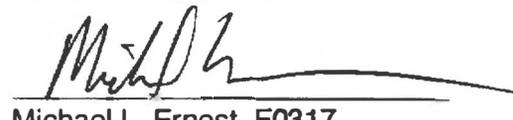
**FOR IMPERIAL PACIFIC INTERNATIONAL (CNMI), LLC:**

\_\_\_\_\_  
MARK A. BROWN  
Chairman  
Date: September \_\_, 2017.

  
\_\_\_\_\_  
PHILLIP J. TYDINGCO, ESQ.  
Counsel for Respondent  
Date: September 25<sup>th</sup>, 2017.

**FOR THE COMMONWEALTH CASINO COMMISSION:**

  
\_\_\_\_\_  
EDWARD DELEON GUERRERO  
Executive Director  
Date: September 27, 2017

  
\_\_\_\_\_  
Michael L. Ernest, F0317  
Assistant Attorney General  
Date: September 27, 2017



COMMONWEALTH CASINO COMMISSION  
Commonwealth of the Northern Mariana Islands  
Unit 13 & 14, Springs Plaza, Chalan Pale Arnold, Gualo Rai  
P.O. Box 500237, Saipan, MP 96950  
Telephone: +1 (670) 233-1857/58  
Facsimile: +1 (670) 233-1856  
E-mail: info@cnmicasinocommission.com



Juan M. Sablan, Chairman  
Joseph C. Reyes, Vice Chairman  
Justin S. Manglona, Secretary  
Alvaro A. Santos, Treasurer  
Martin DLG San Nicolas, Public Affairs

## COMMISSION ORDER NO: 2017-004

### Order to Provide Publicly Accessible Information

For good cause determined at the October 26, 2017 public meeting of the Commonwealth Casino Commission, which was duly publicly noticed, and based on the authority granted by the laws of the Commonwealth (including but not limited to Public Laws 18-56 and 19-24) and the Regulations of the Commonwealth Casino Commission, NMIAC Chapter 175-10.1, the Commonwealth Casino Commission hereby finds and ORDERS AS FOLLOWS:

1. WHEREAS, Public Law 19-24 declares that the Commonwealth Casino Commission shall require that some information from the casino licensee is not confidential and must be made available for public inspection; and
2. WHEREAS, The following information is required to be reported periodically to the commission by a casino for public inspection:
  - (A) A licensee's gross revenue from all authorized casino gaming activities as defined in this chapter, and the licensee's gross revenue from simulcast wagering;
  - (B) (i) The dollar amount of patron checks initially accepted by a licensee, (ii) the dollar amount of patron checks deposited to the licensee's bank account, (iii) the dollar amount of such checks initially dishonored by the bank and returned to the licensee as uncollected, and (iv) the dollar amount ultimately uncollected after all reasonable efforts;
  - (C) The amount of gross revenue tax or investment alternative tax actually paid and the amount of investment, if any, required and allowed, pursuant to Commonwealth law;
  - (D) A list of the premises and the nature of improvements, costs thereof and the payees for all such improvements, which were the subject of an investment required and allowed pursuant to Commonwealth law;
  - (E) A list of the premises, nature of improvements and costs thereof which constitute the cumulative investments by which a licensee has recaptured profits pursuant to Commonwealth law;
  - (F) All quarterly and annual financial statements presenting historical data which are submitted to the commission, including all annual financial statements which have been audited by an independent certified public accountant licensed to practice in the CNMI; and
  - (G) The identity and nature of services provided by any person or firm receiving payment in any form whatsoever for professional services in connection

with the authorization or conduct of games conducted at a casino establishment; accordingly

3. IT IS HEREBY ORDERED that the casino licensee shall, on or before the tenth of each month, provide the information listed in 2(a)-(g) (inclusive) for the preceding month; and
4. IT IS HEREBY FURTHER ORDERED that this reporting of information shall be in addition to, and separate from, any other information the Commission requires the casino licensee to provide; and
5. IT IS HEREBY FURTHER ORDERED that the casino licensee shall provide the information listed in 2(a)-(g) for October, 2017 on or before November 10, 2017, and monthly thereafter; and
6. IT IS HEREBY FURTHER ORDERED that the casino licensee shall provide a cumulative schedule containing the monthly information for each month between January, 2015 and September, 2017 (inclusive) on or before March 26, 2018;
7. IT IS HEREBY FURTHER ORDERED that the information provided pursuant to this Order may be checked for accuracy by Commission staff, and the failure to accurately provide all required information in a timely basis shall be grounds for enforcement actions; and
8. IT IS HEREBY FURTHER ORDERED that the information provided pursuant to this Order shall be provided by the licensee in a hard copy as well as an electronic form acceptable to the Executive Director. Such information shall be kept in a location acceptable to the Executive Director; and
9. IT IS HEREBY FURTHER ORDERED that the information provided pursuant to this Order shall be, and is, the information accessible to the public; and
10. IT IS HEREBY FURTHER ORDERED that this Order is to take effect immediately and shall remain in effect until it is repealed or replaced by subsequent Order of the Commission.

SO ORDERED this 26th day of October 2017.

Signature: \_\_\_\_\_



JUAN M. SABLAN  
CHAIRMAN