

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



COMMONWEALTH REGISTER

**VOLUME 36
NUMBER 05**

MAY 28, 2014

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COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS



CIVIL SERVICE COMMISSION
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TEL NOS. (670) 234-6925/6958/8036
FAX NO. (670) 234-1013



**Notice of Expiry of Financial Austerity Measures Effected Through
Personnel Service System Rules and Regulations, Part 12, Sub-part A
(NMIAC §10-20.2-1101)**

On January 29, 1999, the Civil Service Commission promulgated an amendment to the Personnel Service System Rules and Regulations (PSSR&R) for financial austerity measures that became Part 12 of the PSSR&R. This amendment was adopted with a minor modification on April 6, 1999. Part 12 of the PSSR&R, upon notice in the Commonwealth Register, suspended all increases in employees' salaries due to permanent or temporary promotions, acting or detail assignments, reallocation or reclassification of positions, and step increases based on attendance at workshops or other training programs. A Notice of implementation of Financial Austerity Measures (i.e. Part XII.A of the PSSR&R as codified in NMIAC §10-20.2-1101) was published in Commonwealth Register Vol. 23, No. 11, pgs. 18747-18749 on November 23, 2001.

By the terms of Part XII.A of the PSSR&R, the suspension of increases to employee salaries, implemented as noted above, shall expire upon notice in the Commonwealth Register. The suspension of Increases to employee salaries is thus expiring through this notice. However, the step increase based on attendance at workshops and other training programs will remain suspended. Thus, in accordance with the provision of the PSSR&R:

Upon expiration of the suspension of the pay increases employees who qualified for the increases during the time of suspension shall receive the pay increases effective the date the suspension expired. The increases shall not be made retroactive to any date that occurred during the time of suspension.

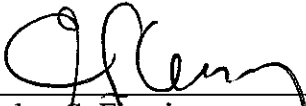
This notice of expiry of suspension shall be implemented 30 days after the date of its publication in the Commonwealth Register.

By signature below, I hereby certify that the Notice of Expiry is true, correct, and complete. I further require and direct that this Notice be published in the Commonwealth Register.

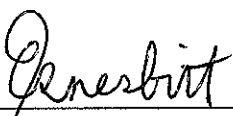
I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 15th day of May, 2014 at Saipan, Commonwealth of the Northern Mariana Islands.


Herman "HR" Deleon Guerrero
Chairman, Civil Service Commission

05/23/14
Date

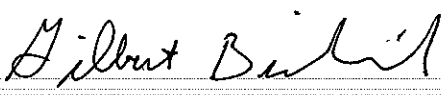
Received by: 
Esther S. Fleming
Special Assistant for Administration

05/27/14
Date

Filed and
Recorded by: 
Esther M. Nesbitt
Commonwealth Register

5.27.2014
Date

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


for Gilbert Birnbaum
Joey P. San Nicolas
Attorney General

5/27/14
Date

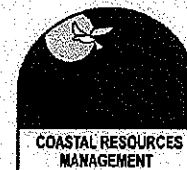


Frank M. Rabauliman
Administrator

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

Division of Coastal Resources Management
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Tel: (670) 664-8300; Fax: (670) 664-8315

www.crm.gov.mp



Frances A. Castro
Director, DCRM

PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF RULE

ADOPTION OF RULE: ADOPTION OF A MORATORIUM, "TEMPORARY SUSPENSION FOR NEW WATERSPORTS PERMITS"

ACTION TO ADOPT RULE: The Commonwealth of the Northern Mariana Islands, Division of Coastal Resources Management of the Bureau of Environmental and Coastal Quality ("DCRM"), HEREBY ADOPTS AS A RULE, the attached "Moratorium", pursuant to the procedures of the Administrative Procedure Act (APA), 1 CMC §§ 9101 and applicable regulations.

AUTHORITY: The Division of Coastal Resources Management, under 2 CMC § 1512 is authorized to ensure the consistency of permit decisions with the coastal resources management policies, and to ensure that any proposed modifications to the regulations are consistent with those policies. Pursuant to NMIAC §§ 15-10-110 and 15-20-225, the Director of DCRM has the authority to issue water-sports permits and limit the number of operators in the lagoon consistent with the implementation of the coastal resources management policies.

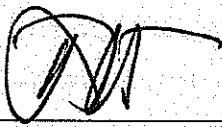
PURPOSE AND OBJECTIVE OF RULE: To establish a moratorium temporarily suspending new water-sports permits pending further review and revision of existing regulations and improvements in coordination among Commonwealth agencies to plan for and manage any use or activity with the potential for causing a direct and significant impact on coastal resources. Renewals of existing permits will not be affected.

DIRECTIONS FOR FILING AND PUBLICATION: The Moratorium shall be published in the Commonwealth Register in the section on newly adopted rules and regulations (1 CMC § 9102 (a)).

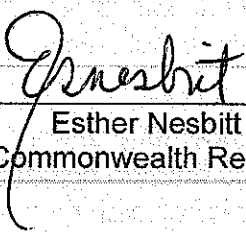
The Director will take appropriate measures to make this Rule is known to the persons who may be affected by them.

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.

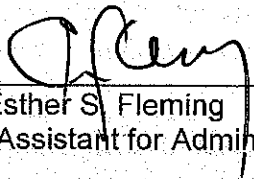
I, Frances A. Castro, Director of DCRM, hereby approve the attached Moratorium, and further certify that the attached Moratorium, the TEMPORARY SUSPENSION OF NEW WATERSPORTS PERMITS, is a true copy as adopted by DCRM.

Submitted by: 
Frances A. Castro
Director, DCRM

5/1/14
Date

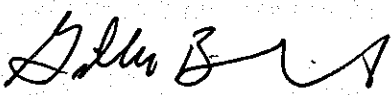
Filed and Recorded by: 
Esther Nesbitt
Commonwealth Register

5.27.2014
Date

Received by: 
Esther S. Fleming
Special Assistant for Administration

5/23/14
Date

Pursuant to 1 CMC § 2153(e) and 1 CMC § 9102(c), the rule attached hereto has been reviewed and approved as to form and legal sufficiency by the Attorney General and shall be published, 1 CMC § 2153(f) (publication of rules and regulations).


Gilbert Birnkrantz
for JOEY P. SAN NICOLAS
Attorney General

5/20/14
Date



Frank M. Rabauliman
Administrator

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Frances A. Castro
Director, DCRM

NOTICE OF TEMPORARY SUSPENSION FOR NEW WATERSPORTS PERMITS

THIS IS TO NOTIFY THE GENERAL PUBLIC THAT THE DIVISION OF COASTAL RESOURCES MANAGEMENT (DCRM) UNDER THE BUREAU OF ENVIRONMENTAL AND COASTAL QUALITY (BECQ) HAS TEMPORARILY SUSPENDED THE ISSUANCE OF NEW COMMERCIAL WATERSPORTS PERMITS INCLUDING JETSKI, PARASAILING, BANANA BOAT, SEAWALKER, WATER SKI, WAKBOARDING AND OTHER MECHANIZED WATERSPORTS PERMITS FOR SAIPAN, TINIAN AND ROTA.

PERMITS FOR SCUBA DIVING OR DIVE OPERATIONS ARE NOT INCLUDED IN THIS TEMPORARY SUSPENSION.

THE PURPOSE OF THIS TEMPORARY SUSPENSION IS TO FURTHER DEVELOP NEW AND/OR IMPROVE CURRENT REGULATIONS FOR THE WATERSPORTS INDUSTRY. CONSIDERATION FOR NEW WATERSPORTS PERMITS WILL RESUME UPON APPROVED BECQ-DCRM REGULATIONS. RENEWALS OF EXISTING PERMITS WILL NOT BE AFFECTED BY THE TEMPORARY SUSPENSION.

FRANCES A. CASTRO
Director, DCRM



Commonwealth of the Northern Mariana Islands

OFFICE OF THE GOVERNOR

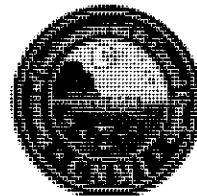
Bureau of Environmental and Coastal Quality

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

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Eloy S. Inos
Governor

Jude U. Hofschneider
Lt. Governor

Frank M. Rabauliman
Administrator

David B. Rosario
Director, DEQ

Frances A. Castro
Director, DCRM

**PUBLIC NOTICE OF CERTIFICATION AND ADOPTION
OF AMENDMENTS TO REGULATIONS OF
The Bureau of Environmental and Coastal Quality**

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER
AS PROPOSED AMENDMENTS TO REGULATIONS
Volume 36, Number 03, pp 034847-034883, of March 28, 2014

**Regulations of the Bureau of Environmental and Coastal Quality: Chapter 65-130,
Water Quality Standards**

ACTION TO ADOPT PROPOSED AMENDMENTS TO REGULATIONS: The Commonwealth of the Northern Mariana Islands, Bureau of Environmental and Coastal Quality (BECQ) HEREBY ADOPTS AS PERMANENT amendments 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 BECQ 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, except as stated as follows:

- 1) The units for chlorine residual criteria included in the 2004 WQS, and published in the 2014 proposed amendments, were incorrect due to a typographical error. BECQ will correct the error and change the units for chlorine residual criteria in Part 8.11 from mg/L to µg/L in Part 8.11 of the final adopted regulations.

PRIOR PUBLICATION: The prior publication was as stated above. The BECQ Administrator adopted the regulations as final on May 6, 2014.

MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY: The toxic pollutant Chlorine criteria listed in Part 8.11 shall be amended to reflect units in µg/L as specified above. This is a non-material modification. I further request and direct that this Notice of Adoption be published in the Commonwealth Register.

AUTHORITY: The BECQ is required by the Legislature to adopt rules and regulations regarding those matters over which the BECQ has jurisdiction, including its regulation of Water Quality Standards. Commonwealth Environmental Protection Act, 2 CMC §§ 3121 and 3122.

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. Attached hereto are BECQ responses to all public comments received. 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.


ATTORNEY GENERAL APPROVAL for non-modified regulations or regulations with NON-material modification: 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 20 day of May, 2014, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:



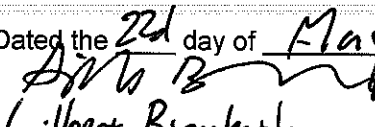
FRANK M. RABAULIMAN
Administrator, Bureau of Environmental and Coastal Quality



Date

The AG's signature, and this paragraph, is necessary ONLY if there have been changes. xxx] 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 22nd day of May, 2014.



JOEY P. SAN NICOLAS
Attorney General

Filed and
Recorded by:



ESTHER SN. NESBITT
Commonwealth Register



Date

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
WATER QUALITY STANDARDS

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**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
WATER QUALITY STANDARDS**

PART 1 AUTHORITY

These regulations have been promulgated by the Bureau of Environmental and Coastal Quality (BECQ) in accordance with the *Commonwealth Environmental Protection Act, (CEPA)*, 1982, 2 CMC §§3101 to 3134, Public Law 3-23; the *Commonwealth Environmental Amendments Act, (CEAA)*, 1999, Public Law 11-103; and the *Commonwealth Groundwater Management and Protection Act (CGMPA)*, 1988, 2 CMC §§3311 to 3333, Public Law 6-12, of the Commonwealth of the Northern Mariana Islands, and under the provisions of the Clean Water Act (CWA), P.L. 92-500 (33 U.S.C. 1251 et. seq.) as force and effect of law and shall be binding on all persons and other legal entities subject to the jurisdiction of the Commonwealth of the Northern Mariana Islands. The BECQ shall apply these regulations and standards to all marine, fresh water bodies, and ground water in the Commonwealth.

PART 2 PURPOSE

The purpose of these regulations is to establish standards for water quality for all Commonwealth or State waters and ground water in order to protect their use and value for propagation of fish and wildlife, recreational purpose, public water supply use, and taking into consideration their use and value for commerce.

PART 3 ANTIDegradation POLICY

3.1 Antidegradation Policy

It shall be the public policy of the Commonwealth of the Northern Mariana Islands that:

(a) The protection, maintenance, conservation, and improvement of the quality of the waters for the growth and propagation of aquatic life, for marine research and for the conservation of coral reefs and wilderness areas, and for domestic (including drinking water), agricultural, commercial, industrial, recreational and other uses are an historic and legal right of the people of the Northern Mariana Islands.

(b) The achievement of the water quality standards of the Commonwealth of the Northern Mariana Islands is in the best interest of the protection of public health and the environment.

(c) The following three tiers of protection for water quality are hereby established:

(1) Tier 1: In all waters, the existing uses and the minimum level of water quality necessary to protect the existing uses shall be maintained and protected. In

no case shall any action be allowed which would lower water quality below that necessary to maintain and protect designated and existing uses. The minimum level of water quality necessary to protect a designated or existing use shall be the water quality criteria for the corresponding designated use classification. In water bodies or segments of water bodies where the existing level of water quality routinely falls below or just above the applicable water quality criteria for designated uses, actions that would further lower water quality are prohibited.

(2) Tier 2: Waters where the quality exceeds the levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water shall be maintained and protected, unless the Commonwealth determines that the lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation to occur the Commonwealth shall assure the following: 1) the lower water quality be fully protective of existing and designated uses, (2) that significant impacts on water quality and economic and social development be subject to detailed water quality and economic analyses, (3) the cumulative impacts of all previous and reasonably foreseeable future actions be considered, (4) that inter governmental coordination and public participation be included in any determination, (5) the highest statutory and regulatory requirements be achieved for all new and existing point sources, and (6) that all cost effective and reasonable Best Management Practices (BMPs) for non-point source control be employed.

(3) Tier 3: High quality waters which constitute an outstanding Commonwealth resource, such as waters of National Parks, marine sanctuaries, wildlife refuges and waters of exceptional recreational or ecological significance shall be maintained and protected. Actions which would lower water quality in such waters are prohibited, with the exception of temporary degradation deemed necessary for the construction of important Park infrastructure, pollution control devices, and BMPs designed to improve water quality.

(d) There shall be no point or non-point discharge of untreated sewage or other wastewater into any potential or existing ground or surface source of drinking water.

(e) All sewage, wastewater, and any other matter shall receive a degree of treatment necessary to protect the beneficial uses of the Commonwealth or State waters before discharging.

(f) The existing uses in wetlands and the level of water quality necessary to protect those uses shall be protected.

3.2 Requirements for Antidegradation Review

(a) Any action which may lower water quality is subject to review for consistency with the antidegradation policy. Existing permit programs requiring antidegradation review include, at a minimum: Section 401 Water Quality Certifications issued under

Section 10 of these standards; and actions requiring a Division of Coastal Resources Management Major Siting or Wetland and Lagoon Area of Particular Concern Permit. The antidegradation policy does not create a separate permitting program. The Administrator of BECQ may also require antidegradation review for any other actions which have the potential to lower water quality, such as adoption or revision of regulations, land use plans, highway and drainage master plans, and draft/proposed legislation. However, the results of such review shall be in the form of a notification letter only, unless the action is required to obtain a permit, license, or approval from BECQ. The provision of detailed water quality and economic data and analysis, if determined to be necessary by the Administrator under the requirements above for Tier 2, shall be the responsibility of the party proposing the action.

(b) Reviews of all applicable actions shall consider all aspects of the proposed action that may affect water quality, including temporary, long term, and cumulative impacts.

(c) Reviews of all applicable actions shall be documented in writing, and shall include a determination by the Administrator of the following:

(1) The existing level of water quality, and the appropriate tier of protection for the area affected by the proposed action;

(a) In areas of the Commonwealth where insufficient data exists to reasonably determine existing water quality, Tier 2 will be presumed to apply, unless sufficient evidence exists that could reasonably support a determination of Tier 1 or Tier 3.

(2) The extent to which the proposed action is reasonably expected to lower water quality;

(3) Statements detailing whether the proposed activity meets the requirements of the antidegradation policy appropriate to the applicable tier of protection. For actions which would lower water quality in a Tier 2 water, the statement must include a detailed determination addressing compliance with each of the Tier 2 requirements listed in Part 3(c)(2).

(d) In determining whether a discharge of dredged or fill material is consistent with the antidegradation policy, BECQ shall evaluate whether the proposed discharge constitutes the least environmentally damaging practicable alternative for achieving the project purpose, applying the regulatory criteria set forth at 40 CFR 230.10(a) and its subparts, and BECQ shall evaluate whether the proposed discharge will cause or contribute to significant degradation of Commonwealth or State waters, applying the criteria set forth in 40 CFR 230.10(c).

PART 4 DEFINITIONS

"Acute exposure value" - The threshold value at or below which there should be no unacceptable effects to aquatic organisms and their uses if the one-hour concentration does not exceed that value more than once every three years on the average.

"Acute Toxicity" means the degree to which a pollutant, discharge, or water sample causes a rapid adverse impact to aquatic organisms.

"Administrator" means the Administrator of the Bureau of Environmental and Coastal Quality.

"Ambient Conditions" means the existing water quality conditions at a specific location not influenced by anthropogenic sources.

"BECQ" means the Bureau of Environmental and Coastal Quality.

"Best Management Practices" means a physical, structural, managerial, or operational practice approved by BECQ that, when used singly or in combination, prevent or reduce pollutant discharges or otherwise protect water quality.

"Brackish Waters" means waters with dissolved inorganic ions (salinity) greater than 500 ppm (parts per million), but less than 30,000 ppm.

"Chronic exposure value" - The threshold value at or below which there should be no unacceptable effects to aquatic organisms and their uses if the four-day concentration does not exceed that value more than once every three years on the average.

"Chronic Toxicity" means the degree to which a pollutant, discharge, or water sample causes a long-term adverse impact to aquatic organisms, such as an alteration in growth rate or reproduction.

"Coastal Waters" means all waters of a depth less than twenty (20) fathoms, or waters up to distance of 1,000 feet off-shore from the mean high water line, whichever is the greater distance from the shoreline.

"Commonwealth" means Commonwealth of the Northern Mariana Islands.

"Commonwealth or State Waters" means all waters, fresh, brackish, or marine, including wetlands, surrounding or within the Commonwealth.

"CWA" means the Clean Water Act, P.L. 92-500 as amended: 33 U.S.C. 1251 et seq.

"Existing Use(s)" means those uses actually attained in Commonwealth or State waters on or after November 28, 1975, whether or not they are included in the water

quality standards (40 CFR 131.3.)

"Fresh Waters" means all waters with dissolved inorganic ions of less than 500 ppm.

"Ground Water" means water derived from the subsurface which is in the zone of saturation.

"Mean High Water Line" means a line established on the shore of tidal waters, which also may be depicted on a chart or map, which represents the intersection of the land with the water surface at the elevation of mean high water. Mean high water elevation is a tidal datum, the average of all the high water heights from official tide gauge records observed over a specified period, as calculated by the National Oceanographic and Atmospheric Administration.

"Mixing Zone", as applied to surface waters, means an area of specified dimensions where a discharge undergoes an initial dilution within a specified sub-area of the mixing zone in the immediate vicinity of the discharge point (zone of initial dilution), then undergoes secondary mixing to the limit of the mixing zone boundary. A mixing zone is an allocated impact zone where water quality criteria can be exceeded but where acutely toxic conditions are prevented (except as defined within a limited zone of initial dilution) and where public health and welfare are not endangered.

"Oceanic Waters" means all other marine waters outside of the twenty (20) fathom depth contour or greater than 1,000 feet off-shore from the mean high water line, whichever is the greater distance from the shoreline.

"Pollutant" means any substance that causes pollution.

"Pollution" means the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

"Receiving Water(s)" means Commonwealth or State waters into which pollutants, wastes, or wastewaters are, or may be, discharged.

"Toxic" means lethal, oncogenic, teratogenic or mutagenic, or otherwise damaging to man or other living organisms.

"Toxic pollutant" means those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the Administrator, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring.

"Wastewater" means sewage, industrial waste, or other waste, or any combination

of these, whether treated or untreated, plus any admixed land runoff.

“Waterbody” means any Commonwealth or State surface water and any water course/conveyance including modified stream courses and or any storm water drainage system, whether perennially wet or intermittently wet and dry”.

“Wetlands” means those areas that are inundated or saturated by surface or ground water with a frequency sufficient to support a prevalence of plant or aquatic life that requires seasonally saturated soil conditions for growth and/or reproduction. Wetlands include swamps, marshes, mangroves, lakes, natural ponds, surface springs, streams, estuaries and similar areas in the Northern Mariana Islands archipelago. Wetlands include both wetlands connected to other waters and isolated wetlands. Wetlands do not include those artificial wetlands intentionally created to provide treatment of wastewater or stormwater runoff.

“Zone of Passage” means a continuous water route of the volume, area, and quality necessary to allow passage of free-swimming and drifting organisms with no significant effects produced on their populations.

PART 5 CLASSIFICATION OF WATER USES

5.1 Marine Waters

(a) CLASS AA - It is the objective of this class that these waters remain in their natural pristine state as nearly as possible with an absolute minimum of pollution or alteration of water quality from any human-related source or actions. To the extent practicable, the wilderness character of such areas shall be protected. Mixing zones for dredging and the discharge of dredged or fill material may be permitted as allowed under Part 9.6 these standards. Mixing zones for any other discharge shall not be permitted.

Siting of any source of human or animal wastewater or sewage discharge within 50 feet of any waterbody, or within 25 ft of the top of any cliff/steep embankment (greater than 20 ft vertical drop or having greater than 50% slope) above any waterbody is prohibited. This setback is a minimum setback and any additional setbacks listed in CNMI Wastewater Treatment and Disposal Rules and Regulations (NMIAC Title 65, Chapter 120) shall apply.

The uses to be protected in this class of waters are the support and propagation of shellfish and other marine life, conservation of coral reefs and wilderness areas, oceanographic research, and aesthetic enjoyment and compatible recreation with risk of water ingestion by either children or adults.

The classification of any water area as Class AA shall not preclude other uses of such waters compatible with these objectives and in conformance with the criteria applicable to them.

(b) CLASS A - It is the objective of this class of waters that their use for recreational purposes and aesthetic enjoyment be protected.

Any other use shall be allowed as long as it is compatible with the protection and propagation of fish, shellfish, and wildlife, and with compatible recreation with risk of water ingestion by either children or adults.. Such waters shall be kept clean of solid waste, oil and grease, and shall not act as receiving waters for any effluent which has not received the best degree of treatment or control practicable under existing technology and economic conditions and compatible with standards established for this class. A mixing zone is approvable in such waters.

Siting of any source of human or animal wastewater or sewage discharge within 50 feet of any waterbody, or within 25 ft of the top of any cliff/steep embankment (greater than 20 ft vertical drop or having greater than 50% slope) above any waterbody is prohibited. This setback is a minimum setback and any additional setbacks listed in CNMI Wastewater Treatment and Disposal Rules and Regulations (NMIAC Title 65, Chapter 120) shall apply.

5.2 Fresh Surface Waters

(a) Class 1 - It is the objective of this class that these waters remain in their natural state as nearly as possible with an absolute minimum of pollution from any human-caused source. To the extent possible, the wilderness character of such areas shall be protected. Wastewater discharges and zone of mixing into these waters are prohibited.

Siting of any source of human or animal wastewater or sewage discharge within 50 feet of any waterbody, or within 25 ft of the top of any cliff/steep embankment (greater than 20 ft vertical drop or having greater than 50% slope) above any waterbody is prohibited. This setback is a minimum setback and any additional setbacks listed in CNMI Wastewater Treatment and Disposal Rules and Regulations (NMIAC Title 65, Chapter 120) shall apply.

The uses to be protected in this class of water are for domestic water supplies, food processing, the support and propagation of aquatic life, groundwater recharge, compatible recreation and aesthetic enjoyment including water contact recreation with risk of water ingestion by either children or adults.

(b) Class 2 - It is the objective of this class of waters that their use for recreational purposes, propagation of fish and other aquatic life, and agricultural and industrial water supply not be limited in any way. The uses to be protected in this class of waters are all uses compatible with the protection and propagation of fish and other aquatic life, groundwater recharge, and with recreation in and on these waters. Compatible recreation shall include limited body contact activities. Such waters shall not act as receiving waters for any discharge which has not received the best degree of treatment or control practical under technological and economic conditions and compatible with the standards established for this class. A zone of mixing is permissible in these waters.

Siting of any source of human or animal wastewater or sewage discharge within 50 feet of any waterbody, or within 25 ft of the top of any cliff/steep embankment (greater than 20 ft vertical drop or having greater than 50% slope) above any waterbody is prohibited. This setback is a minimum setback and any additional setbacks listed in CNMI Wastewater Treatment and Disposal Rules and Regulations (NMIAC Title 65, Chapter 120) shall apply.

5.3 Protection of Wetlands

Wetlands are waters of the Commonwealth and are subject to the provisions of this rule. Point or non-point sources of pollution shall not cause destruction or impairment of wetlands and shall meet the goals and standards set forth in the Division of Coastal Resources Management Rules and Regulations. All wetlands are to remain in as near their natural state as possible and shall be protected to support the propagation of aquatic and terrestrial life. All provisions of these regulations apply to all wetlands unless replaced by site specific or wetlands water quality standards adopted by the Commonwealth and approved by EPA.

Siting of any source of human or animal wastewater or sewage discharge within 50 feet of any waterbody, or within 25 ft of the top of any cliff/steep embankment (greater than 20 ft vertical drop or having greater than 50% slope) above any waterbody is prohibited. This setback is a minimum setback and any additional setbacks listed in CNMI Wastewater Treatment and Disposal Rules and Regulations (NMIAC Title 65, Chapter 120) shall apply.

5.4 Protection of Ground Water

Whereas the Commonwealth is almost entirely dependent on ground water for its drinking water supplies, these regulations set water quality standards for surface waters and land disposal activities to ensure the protection of this natural resource. Requirements for land disposal activities will be determined according to groundwater management zones promulgated under the CNMI Well Drilling and Well Operation Regulations for Saipan; for Tinian and Rota these requirements will be dependent on known geological and aquifer characteristics, lateral distances to nearby water wells, and general quality and vulnerability of existing ground water until specific groundwater quality management zones are developed.

PART 6 CLASSIFICATION AND ESTABLISHMENT OF WATER USE AREAS

6.1 Rota

(a) CLASS AA

All coastal and oceanic waters surrounding Rota except for those waters delineated in Class A.

(b) CLASS A

The coastal waters known as East Harbor and West Harbor.

(c) CLASS 1

All natural (not man-made) fresh surface waters on Rota.

6.2 Tinian and Agiguan

(a) CLASS AA

All coastal and oceanic waters surrounding Tinian and Agiguan except for those waters delineated in Class A.

(b) CLASS A

The coastal waters known as San Jose Harbor.

(c) CLASS 1

All fresh surface waters on Tinian and Agiguan.

6.3 Saipan

(a) CLASS AA

All coastal and oceanic waters surrounding Saipan except for those waters delineated in Class A.

(b) CLASS A

The waters up to 3,000 feet from the mean high water mark on the shoreline from the entrance to Smiling Cove marina to Saddok As Agatan, inclusive of the waters within Smiling Cove marina and its entrance channel.

The waters surrounding the Agingan Wastewater Treatment Plant, within a 1,000 foot radius of the outfall.

(c) CLASS 1

All fresh surface waters on Saipan.

6.4 Northern Islands (Farallon de Medinilla, Anatahan, Sariguan, Guguan, Alamagan, Pagan, Agrihan, Asuncion, Maug, Farallon de Pajaros)

(a) CLASS AA

All coastal and oceanic waters surrounding the Northern Islands except for those delineated in Class A.

(b) CLASS A

The coastal and oceanic waters surrounding Farallon de Medinilla.

(c) CLASS 1

All fresh surface waters in the Northern Islands.

PART 7 BASIC WATER QUALITY CRITERIA APPLICABLE TO ALL WATERS

(a) All surface waters shall be free of substances attributable to domestic, industrial, or other controllable sources of pollutants and shall be capable of supporting desirable aquatic life and be suitable for recreation in and on the water.

This part will be subject to verification by monitoring as may be prescribed by the Administrator to assure freedom from any of the following conditions:

- (1) Materials that will settle to form objectionable sludge or bottom deposits.
- (2) Floating debris, oil, grease, scum, or other floating materials.
- (3) Substances in amounts sufficient to produce taste, odor, or detectable off flavor in the flesh of fish; or in amounts sufficient to produce odor or turbidity in the water, or other conditions that alter the naturally occurring characteristics of the water.
- (4) High temperatures; biocides; pathogenic organisms; toxic, corrosive, or other deleterious substances at levels or in combinations sufficient to be toxic or harmful to human health or aquatic life, or in amounts sufficient to interfere with any beneficial use of the water.
- (5) Soil particles resulting from erosion on land involved in earth work, such as construction of public works; highways; subdivisions; recreational; commercial, or industrial development; or the cultivation and management of agricultural lands that adversely affect beneficial use.

- (6) Substances or conditions or combinations thereof in concentrations which produce undesirable aquatic life.

PART 8 SPECIFIC WATER QUALITY CRITERIA

8.1 Microbiological Requirements

Applicable to:

(a) Enterococci

The Enterococci concentration shall not exceed a geometric mean of 35 per 100 mL based on samples taken in any 30 day interval. The Statistical Threshold Value is 130 Enterococci per 100 ml.

All Waters

(b) E.coli

The E. coli concentration shall not exceed a geometric mean of 126 per 100 mL based on samples taken in any 30 day interval. The Statistical Threshold Value is 410 E. coli per 100 ml

All Waters

Enterococci and E. coli may originate from environmental sources as well as from human and animal fecal contamination. Where these microbiological standards are exceeded, a determination of the impact on public health and the environment may be based upon additional sampling, a sanitary survey of the drainage area contributing run-off to the contaminated water, or special studies of the environmental sources of Enterococci and E. coli in the waters of the CNMI.

Procedures for beach closures and public advisories can be found in the latest edition of the CNMI Water Quality Standards Implementation Guidance Manual.

8.2 pH

Applicable To

pH shall not deviate more than 0.5 units from a value of 8.1; no lower than 7.6 or higher than 8.6.

A, AA

pH shall not deviate more than 0.5 from ambient conditions and shall not be lower than 6.5 nor higher than 8.5.

1, 2

8.3 Nutrients

Parameter	Concentration Shall Not Exceed (mg/l)	Applicable To
Nitrate-Nitrogen	0.20	AA
	0.50	A
Total Nitrogen	0.4	AA
	0.75	A, 1
	1.50	2
Orthophosphate	0.025	AA
	0.05	A
	0.10	1, 2
Total Phosphorus	0.025	AA
	0.05	A
	0.10	1, 2
Ammonia (un-ionized)	0.02	AA, A, 1, 2

8.4 Dissolved Oxygen

Concentration of dissolved oxygen in all waters shall not be less than 75% saturation. Where natural conditions cause lower dissolved oxygen levels, controllable water quality factors shall not cause further reductions.

8.5 Total Filterable Suspended Solids

Applicable To

Concentrations of suspended matter at any point shall not be increased from ambient conditions at any time, and should not exceed 5 mg/l except when due to natural conditions.

AA, 1

Concentrations of suspended matter at any point shall not be increased from ambient conditions at any time, and should not exceed 40 mg/l except when due to natural conditions.

A, 2

8.6 Salinity

Applicable To

Marine Waters: No alterations of the marine environment shall occur that would alter the salinity of marine or estuarine waters more

AA, A

than 10% from ambient conditions or which would otherwise adversely affect the indigenous biota and sedimentary patterns, except when due to natural causes.

Fresh water: The maximum allowable amount of chlorides and sulfates shall be 250 mg/l, and the Total Dissolved Solids shall not exceed 500 mg/l or 133% of the ambient condition. The salinity of fresh water sources and wetlands shall not be increased more than 20% above ambient conditions.

1, 2

8.7 Temperature

Applicable To

Water temperature shall not vary by more than 1.0°C from the ambient conditions.

AA, A, 1, 2

8.8 Turbidity

Applicable To

Turbidity at any point, as measured by nephelometric turbidity units (NTU), shall not exceed 0.5 NTU over ambient conditions.

AA, 1

Turbidity values (NTU) at any point shall not exceed 1.0 NTU over ambient conditions.

A, 2

8.9 Radioactive Materials

Discharge of radioactive materials at any level into any Commonwealth or State waters is strictly prohibited.

8.10 Oil and Petroleum Products

The concentration of oil or petroleum products in any Commonwealth or State waters shall not:

- (a) Be detectable as a visible film, sheen, or discoloration of the surface, or cause an objectionable odor.
- (b) Cause tainting of fish or other aquatic life, be injurious to the indigenous biota, or cause objectionable taste in drinking water.
- (c) Form an oil deposit on beaches or shoreline, or on the bottom of a body of water.

8.11 Toxic Pollutants

In order that the designated uses of Commonwealth or State waters be protected, all waters shall be free from toxic pollutants in concentrations that are lethal to, or produce detrimental physiological responses in human, plant, or animal life. Detrimental responses include, but are not limited to: decreased growth rate and decreased reproductive success of resident or indicator species; or significant alterations in population, community ecology, or receiving water biota.

Criteria for toxic pollutants are given as either a numeric criteria or for mixtures of pollutants with no recommended criteria, are determined by multiplying an appropriate application factor by the concentration determined to be lethal to 50% of the most sensitive indigenous organism after 96 hours of exposure (96 LC 50). The 96 LC 50 values shall be determined by using bioassay procedures consistent with those described in the latest edition of Standard Methods for the Examination of Water and Wastewater (for ordering information, contact the American Public Health Association, 1015 Fifteenth Street NW, Washington, DC 20005-2605, or go to <http://www.apha.org> to order on-line).

In order to determine compliance with this section, the Administrator may require additional studies of indicator organisms which include, but are not limited to, analyses of species diversity, species abundance, reproductive success, population density, or growth anomalies. Additionally, effects on human health due to bio-concentration of toxic pollutants shall be considered.

Aquatic life and human health numeric criteria for the toxic pollutants included in the CWA Section 307(a) list of priority pollutants are incorporated by reference into the CNMI Water Quality Standards, (National Recommended Water Quality Criteria: 2013, (EPA 2013) available at <http://water.epa.gov/scitech/swguidance/standards/criteria/current/index.cfm>

- (1) Acute Toxicity Standards: All Commonwealth or State waters shall be free from pollutants in concentrations which exceed the acute standards listed respectively for fresh and marine waters (EPA 2013).
- (2) Chronic Toxicity Standards: All Commonwealth or State waters shall be free from pollutants in concentrations which on average during any 24-hour period exceed the chronic standards listed respectively for fresh and marine waters (EPA 2013).

Criteria are listed below for maximum levels of total residual chlorine allowable in Commonwealth or State waters.

Pollutant	FRESH WATER		MARINE WATER	
	Acute	Chronic	Acute	Chronic
Chlorine (µg/L)	19	11	13	7.5

In waters designated for use as a source of public water supply, the human health numeric criteria shall be those listed in the EPA National Recommended Water Quality Criteria: 2013, for water plus organism consumption and shall be at least as stringent as the maximum contaminant levels (MCL's) for drinking water established in the CNMI Drinking Water Regulations. In waters not designated as a source of public water supply, the human health numeric criteria shall be those listed in the EPA National Recommended Water Quality Criteria: 2013, for organism consumption only. The human health numeric criteria for arsenic in the EPA National Recommended Water Quality Criteria: 2013 are an exception. These arsenic criteria are excluded from the CNMI standards, and instead, the CNMI human health criterion for arsenic is 5 ug/L.

Site specific criteria shall be developed for toxic pollutants for which: numeric water quality criteria have not been established; a species inhabiting a given site may be more or less sensitive than those used in developing the established criteria; the water chemistry (e.g., pH, hardness, temperature, suspended solids, etc) appears to differ significantly from the laboratory water used in developing the criteria; or the residual toxicity or synergistic (combined) effect of pollutants requires analyses and development of site specific criteria.

Site specific criteria for aquatic life and human health shall be derived from the CWA, Section 304(a)(1) water quality criteria or by methods published by the U.S. Environmental Protection Agency as described in (45 Federal Register 79318), November 28, 1980.

In areas where site specific criteria are developed, BECQ shall regulate point source discharges by establishing effluent limits which are protective of the designated uses of the waters in the area.

8.12 General Considerations

(a) Effects of high temperature, biocides, pathogenic organisms or other deleterious substances at levels or combinations sufficient to interfere with aquatic life or human health, or in amounts sufficient to interfere with the beneficial use of the water shall be evaluated, at a minimum, by use of a 96-hour bioassay as described in the most recent edition of Standard Methods for the Examination of Water and Wastewater (for ordering information, contact the American Public Health Association, 1015 Fifteenth Street NW, Washington, DC 20005-2605, or go to <http://www.apha.org> to order on-line). Survival of test organisms shall not be less than that in controls which utilize appropriate water. Failure to determine presence of toxic pollutants by this method shall not preclude determinations of excessive levels of toxic pollutants on the basis of other criteria or

methods.

References for approved methods are: EPA 600/4-91/002 Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms, Second Edition, 1994; or EPA 600/4-90/027F Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, Cincinnati, Ohio, EMSL, Fourth Edition, 1993; or EPA 600/4-600 R-95/136 Short Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to West Coast Marine Estuarine Organisms, Cincinnati, Ohio, EMSL, May, 1995.

(b) Pollutant discharges shall be regulated so as to protect not only the receiving waters but also the surrounding Commonwealth or State waters and marine life which are affected indirectly through pollutant discharges.

(c) Part 7(a)(5) shall be met upon showing that the land upon which the erosion occurred or is occurring is being managed in accordance with the CNMI Earthmoving and Erosion Control Regulations, as amended, and that the discharge has received the best degree of treatment or control through the implementation of BMPs, or that a comprehensive conservation program is being actively pursued, and that the severity of impact of the residual soil reaching the receiving body of water is deemed by the Administrator to be acceptable.

(d) The health and life history characteristics of aquatic organisms in waters affected by controllable water quality factors shall not differ significantly from those for the same waters in areas unaffected by controllable water quality factors. Numeric biological indices shall be used as a method to determine the level of use support of aquatic biota and aquatic habitat in any water classification and for monitoring as required for applicable permits.

(e) Controllable water quality factors shall not cause a detrimental increase in concentrations of toxic pollutants found in bottom sediments or aquatic life.

(f) BECQ authorizes the use of compliance schedules for water quality-based effluent limitations in national pollution discharge elimination system (NPDES) permits issued by the permitting authority.

(g) Procedures for implementation of water quality standard criteria can be found in the latest edition of the CNMI Water Quality Standards Implementation Guidance Manual.

PART 9 MIXING ZONES IN RECEIVING WATERS

The water quality criteria in these regulations shall apply within a mixing zone unless specific alternative criteria have been approved by the BECQ. Mixing Zones will not be granted in lieu of reasonable control measures to reduce point source pollutant discharges but will be granted to complement the applicable controls. A limited mixing

zone in the immediate area of a point source of pollution, may be allowed if the conditions set out in this part are met.

9.1 Establishment of Mixing Zone

No mixing zone shall be established unless the continuation of the function or operation involved in the discharge by the granting of the mixing zone is in the public interest, and the discharge occurring or proposed to occur does not substantially endanger public health and safety.

9.2 Prevention, Control, and Abatement

If the mixing zone is established on the grounds that there is no reasonable means known or available for the adequate prevention, control, or abatement of the discharge involved, it may be allowed until the necessary means for prevention, control or abatement become practicable, and subject to the taking of any substitute or alternative measures that the Administrator may prescribe. No renewal of a mixing zone shall be allowed without a thorough review of known and available means of preventing, controlling, or abating the discharge involved.

9.3 Time Limit for Mixing Zone

The Administrator may issue an approval for the establishment of a mixing zone for a period not to exceed five years.

9.4 Mixing Zone Characteristics

An allowable mixing zone shall be defined by all or some of the following characteristics: receiving water; discharge location; volume flow rate of discharge; specific linear dimensions; area or volume; mixing velocities and other pertinent hydrologic, biological, chemical, and physical characteristics.

9.5 Criteria for Mixing Zone

The following criteria shall be met in determining the location, size, shape, out-fall design and in-zone quality of mixing zones.

(a) Mixing zones shall be used solely for mixing of the discharge in Commonwealth or State waters. Mixing within the zone must be achieved as quickly as possible through the use of a diffuser or other apparatus that insures that the discharge is mixed within the allocated dilution water in the smallest practicable area.

(b) A mixing zone may have a sub area within the immediate vicinity of the discharge point termed a zone of initial dilution (ZID).

(c) The concentrations of toxic pollutants at or beyond the limit of the zone of

initial dilution shall not exceed the acute aquatic life water quality criteria of Part 8.11 of these regulations. The dimensions of the zone of initial dilution must be such that lethality to organisms passing through the zone of initial dilution is prevented.

(d) At the boundary of the mixing zone the water shall comply with the water quality standards set forth for the water classification in these regulations.

(e) Where two or more mixing zones are in proximity to each other, mixing zones shall be defined so that a continuous zone of passage for aquatic life is available.

(f) For the protection of aquatic life resources, including species listed as threatened or endangered under Section 4 of the Endangered Species Act, a mixing zone cannot be used for, or considered as, a substitute for waste treatment.

(g) Chronic aquatic life and human health criteria (including bacteria criteria) apply at and beyond the boundary of the zone of mixing.

(h) Mixing zones shall not be allowed in Commonwealth or State waters with insufficient currents available for dispersion of pollutants.

(i) Mixing zones shall be as limited in extent as practicable, and dimensions shall be established through the application of a publicly available or proprietary plume dispersion model, as approved by BECQ.

(j) All discharges to marine waters will comply with the Ocean Discharge Criteria promulgated under Section 403(c) of the CWA.

9.6 Dredging and Discharge of Dredged or Fill Material

(a) Dredging and dredged spoil discharges generally result in short-term disruption and do not represent continuous discharge that will affect beneficial uses over a long term. Other in-water, construction-related activities, such as discharge from the dewatering of excavations and shoreline stabilization projects, can also cause short-term suspension of sediments similar to that caused by dredge and fill discharges. Mixing zones may therefore be granted for dredging activities, other in-water construction-related activities, and the discharge of dredged or fill material provided that: (1) all other requirements of this Part are met; and (2) the proposed activity satisfies the antidegradation requirements described in Part 3 of these standards.

(b) Dredging and the discharge of dredged or fill material can adversely affect colonies of reef building organisms by burying them, by releasing contaminants such as hydrocarbons into the water column, by reducing light penetration through the water, and by increasing the level of suspended particulates. Coral organisms are extremely sensitive to even slight reductions in light penetration or increases in suspended particulates (i.e., turbidity). These adverse effects will cause a loss of productive colonies which in turn provide habitat for many species of highly specialized aquatic organisms.

Dredging and the discharge of dredged or fill material can also adversely affect sea grass beds, by smothering vegetation and benthic organisms, and may also create unsuitable conditions for their continued vigor by: (1) changing water circulation patterns; (2) releasing nutrients that increase undesirable algal populations; (3) releasing chemicals that adversely affect plants and animals; (4) increasing turbidity levels, thereby reducing light penetration and hence photosynthesis; and (5) changing the capacity of a vegetated shallow to stabilize bottom materials and decrease channel shoaling. Dredging and the discharge of dredged or fill material may reduce the value of vegetated shallows as nesting, spawning, nursery, cover, and forage areas, as well as their value in protecting shorelines from erosion and wave actions. It may also encourage the growth of nuisance vegetation.

In granting mixing zones for dredging activities, the discharge of dredged or fill material, or other in-water, construction-related activities that cause the suspension of sediments in or near coral reef resources and sea grass beds, the Administrator shall assure that any disruption to beneficial uses is kept to an absolute minimum, and that all practicable measures are taken to prevent adverse impacts to resources of concern, taking into consideration the magnitude and duration of the proposed activity, and the proximity to resources of concern. This shall be satisfied by placing conditions within the applicable permit or water quality certification requiring the following:

- (1) The use and maintenance of BMPs including such measures as "silt curtains", closed ("environmental") buckets, hydraulic dredges, or other methods as appropriate to control the drift and extent of suspended sediment plumes beyond the location of the dredge or fill activity;
- (2) Water quality monitoring requirements for turbidity and other pollutants of concern that may be identified or expected in the dredge spoil or fill material. Periodic aquatic ecosystem monitoring may also be required for the purpose of assessing the effects of the activity on resources of concern and determining the necessity of additional mitigative measures;
- (3) For activities which have the potential to adversely affect coral reproduction, a stoppage period starting around the June or July full moon (to be determined by BECQ), is required. The stoppage period, if determined to be applicable, shall be no less than twenty one (21) calendar days. In determining whether an activity has the potential to affect coral spawning, BECQ shall consider all of the following: 1) the magnitude of the sediment plume generated by the proposed activity; 2) the most likely extent and direction(s) of drift of the sediment plume; 3) the type of sediment and its composition; and 4) the proximity of broadcast spawning coral species to the proposed activity and expected sediment plume.
- (4) A specified distance up-current and down-current from the permitted activity at which applicable water quality criteria must be met (i.e., a mixing zone). Mixing zones for dredge and fill activities shall be kept as small as

practicable, and shall not exceed 300 feet down-current and 150 feet up-current. Down-current distance may be increased to up to 600 feet where typical currents can be shown to make the use of BMPs ineffective;

- (5) Any additional protective measures, limitations, monitoring or mixing zone requirements that the Administrator identifies as being necessary to protect resources of concern.

(c) The Administrator may require an applicant for a water quality certification or permit for dredging, the discharge of dredged or fill material, or similar in-water, construction-related activities, to provide information necessary to support the development of monitoring plans, mitigation measures, or mixing zone requirements, such as surveys of existing currents, water quality data, and baseline aquatic ecosystem and indicator species surveys.

PART 10 WATER QUALITY CERTIFICATION

A water quality certification is required by the CWA, Section 401 of any applicant for a federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, that may result in any discharge into waters of the United States. The BECQ shall issue a water quality certification for any proposed activity which: (1) complies with the applicable provisions of the CWA Sections 301, 302, 303, 306, and 307; (2) complies with applicable provisions of the CNMI Water Quality Standards; (3) will not interfere with the attainment or maintenance of the existing or designated use of the Commonwealth or State waters; and all appropriate and practicable steps have been taken to minimize potential adverse impacts of the discharge on aquatic life and human health.

10.1 Application For Water Quality Certification

(a) Applicants for water quality certification shall submit a completed, signed application, which shall include the following:

- (1) The name and address of the applicant(s);
- (2) A description of the proposed facility or activity, and of any discharge into Commonwealth or State waters which may result from the conduct of any activity including, but not limited to, the construction or operation of the facility. This description shall include the characteristic of the discharge, and the location or locations at which such discharge may enter Commonwealth or State waters;
- (3) If applicable, a description of the function and operation of equipment or facilities to control discharges, including specification of the methods of control to be used;

- (4) The estimated date or dates on which the activity will begin and end and the date or dates on which the discharge(s) will take place;
- (5) If applicable, a description of the methods and means being used or proposed to monitor the quality and characteristics of the discharge and the operation of equipment or facilities employed in the control of the proposed discharge;

(b) The Administrator may require the submission of additional information after a certification application has been filed. If a certification application is incomplete or otherwise deficient, processing of the application shall not be completed until such time as the applicant has supplied the missing information or otherwise corrected the deficiency. The Administrator shall notify the applicant, in writing, within thirty (30) calendar days of the submission of an application, if an application is incomplete or otherwise deficient. For applications which are eligible for waiver of certification under part 10.3(g), the Administrator shall notify the applicant within fourteen (14) calendar days if an application is incomplete or otherwise deficient. A description of the type of additional information necessary to complete the application or correct the deficiency will be included with such a written notice. Failure to provide additional information or to correct a deficiency shall be sufficient grounds for denial of certification;

(c) The applicant is required to notify BECQ, in writing, of changes which may affect the application and certification process;

(d) The applicant will be informed, in writing, by the Administrator when a certification application is considered complete. The Administrator shall act on a request for certification within a period which shall not exceed six months; and

(e) Applicants for water quality certifications shall pay a filing fee. Filing fees for water quality certification are dependent on the type of federal permit, the scale of the proposed activity, and its potential to affect water quality:

- (1) Any commercial activity that will result in either the generation of an excess of 5000 gallons of wastewater per day, any clearing of 1000 square meters or filling exceeding 1000 cubic meters in waters of CNMI, or any other large scale development as determined by the Administrator shall pay a fee of \$5000.
- (2) Any commercial activity requiring a 401 Water Quality Certification that will result in either the generation of less than 5000 gallons of wastewater per day or any clearing less than 1000 square meters or filling in waters of the CNMI that is less than 1000 cubic meters shall pay a fee of \$1000.
- (3) Any small family residential activity requiring a 401 Water Quality Certification resulting in a clearing that does not exceed 1000 square

meters is required to obtain a water quality certification and shall pay a fee of \$100. Any residential activity exceeding 1000 square meters must pay an additional fee of \$5 per 100 square meter or fraction thereof.

- (4) Any permit for which certification is sought that falls under a “nationwide permit” issued under Section 404 of the CWA and for which certification may be waived as allowed under Part 10.3(g), shall pay a filing fee of \$100.

This filing fee shall be submitted prior to the issuance of a public notification and shall not be refunded nor applied to any subsequent water quality certification following final action or denial of a water quality certification. Any Federal or CNMI government agency shall be exempt from paying filing fees.

10.2 Public Notification and Public Hearing

(a) Within five (5) calendar days after determining an application to be complete, and after the appropriate filing fee has been received, BECQ shall transmit a draft public notification to the applicant for review. The notice shall include the name and address of the applicant, and a brief description of the activity and of the discharge involved in the activity for which certification is being sought.

(b) The applicant shall review the draft notice upon receipt, and within five (5) calendar days, provide comments to BECQ in writing regarding any changes the applicant believes to be necessary. If BECQ does not receive any written comments from the applicant after five (5) calendar days, the public notice shall be deemed final, and BECQ shall notify the applicant to publish the notice as specified below under Part 10.2(c). Otherwise, BECQ shall prepare the final public notice, taking into consideration comments received from the applicant, and transmit the final public notice to the applicant within five (5) calendar days for publication.

(c) Publication of the notice shall be the responsibility of the applicant. The notice shall be published once in a minimum of two newspapers, one of which has a daily circulation, and a second time in at least one newspaper prior to the completion of the public comment period.

(d) The public comment period shall be for at least 30 days from the date of the first publication of the notice. The Administrator may, upon request, provide the opportunity for public hearing(s) to consider issuance of a water quality certification. The Administrator shall inform the applicant, in writing, that such action has been taken.

10.3 Determination of Water Quality Certification

(a) The Administrator shall make a determination on a Water Quality Certification based upon evaluation of:

- (1) the application made by the applicant to the licensing or permitting agency and the information contained in such application which is relevant to water quality considerations,
- (2) the application materials submitted pursuant to part 10.1,
- (3) comments received during the public comment period,
- (4) the record of a public hearing held pursuant to part 10.2, and
- (5) any other information and data that the Administrator deems relevant.

(b) BECQ shall not grant a water quality certification for any activity unless the activity has been determined to be consistent with antidegradation policy through the satisfaction of all applicable provisions contained in Part 3 of these standards.

(c) The contents of the Water Quality Certification issued by BECQ shall include:

- (1) the name and address of the applicant
- (2) reference to the application materials which were evaluated in making the certification, identified by date received, and federal license and permit application number or code where applicable,
- (3) a statement that there is reasonable assurance that the activity will be conducted in a manner which will not violate applicable water quality standards,
- (4) a statement (or statements) detailing how the activity has been determined to be consistent with the antidegradation policy in accordance with Part 3.2 of these standards.
- (5) a statement of any conditions which the Administrator deems necessary with respect to the discharge or the activity, including the conditions specified under Part 9.6 of these standards for dredge and fill activities, and
- (6) any such other information as the Administrator may determine to be appropriate.

(d) If the Administrator, after considering the information submitted pursuant to 10.3(a), determines that there is reasonable assurance that applicable water quality standards will not be violated, and the proposed methods of control will be applied to a discharge which is the result of any activity including, but not limited to, the construction and operation of facilities, then the Administrator shall so certify.

(e) The Administrator may modify the certification prior to the issuance of the federal license or permit, after consideration of information presented by the applicant licensing or permitting agency or other government agencies or interested parties.

(f) If the Administrator fails to act on a completed application for certification within six months, then the certification requirements of this section shall be waived with respect to federal applications.

(g) If the discharge in question is the result of one of the activities which receives a nationwide permit for the discharge of dredge and fill materials, thereby fulfilling specific conditions of that permit pursuant to 33 CFR 330.5 and 330.6, then the Administrator will determine, on a case-by-case basis, which projects are considered to be minor and non-controversial. Certification requirements of this section shall be waived for minor and non-controversial activities within six months of the receipt of a completed application. The Administrator may elect to specify conditions under which any such waiver is valid.

(h) Storm water discharges associated with industrial and construction site activities, as described in 40 CFR Part 122.26, covered under a United States Environmental Protection Agency, National Pollutant Discharge Elimination System (NPDES) General Permit, may be allowed provided the following conditions are met:

- (1) A BECQ Section 401 Water Quality Certification has been issued to the United States Environmental Protection Agency for the particular NPDES General Permit associated with the discharge;
- (2) All conditions and requirements set forth in the applicable United States Environmental Protection Agency, Final National Pollutant Discharge Elimination System (NPDES) General Permit are complied with;
- (3) A storm water pollution prevention plan for storm water discharges associated with industrial activities or from construction sites is approved by the Administrator of BECQ prior to submission of the Notice of Intent (NOI), EPA Form 3510-6. For facilities with current storm water discharges associated with industrial activities, a storm water plan is submitted within thirty (30) calendar days of adoption of this regulation;
- (4) A NOI to be covered by the general permit for discharges associated with industrial activities or for discharges from construction activities is submitted to BECQ and USEPA, Region IX, accompanied by a pollution prevention plan approval letter from BECQ;

- (5) The NOI is postmarked seven (7) calendar days prior to any storm water discharges and a copy is submitted to the Administrator of BECQ no later than seven (7) calendar days prior to any storm water discharges; and
- (6) All monitoring reports required by the respective general storm water permits are submitted to BECQ.

Based on a review of the NOI and/or other information made available to the Administrator, the Administrator may deny coverage under the general permit and require submittal of an application for an individual NPDES permit to EPA. An individual water quality certification from BECQ will be required for this individual permit.

10.4 Water Quality Certification-General Provisions

(a) Where any facility or activity has received certification pursuant to section 10.3 in connection with the issuance of a license or permit for construction, and where such facility or activity is not required to obtain an operating license or permit, the Administrator, prior to the operation of such facility or activity, shall be afforded the opportunity to perform an initial inspection of such facility or activity for the purpose of determining if the manner in which such facility or activity will be operated or conducted will violate applicable water quality standards.

(b) If the Administrator, after the initial inspection pursuant to section 10.4 (a), determines that operation of the proposed facility or activity will violate applicable water quality standards, the Administrator shall so notify the applicant and the licensing or permitting agency.

(c) Where a licensing or permitting agency suspends a license or permit after receiving the Administrator's notice and recommendation pursuant to section 10.3, the applicant may submit evidence to the Administrator, showing that the facility or activity has been modified so as not to violate applicable water quality standards. If the Administrator determines that the applicable water quality standards will not be violated, the Administrator shall so notify the licensing or permitting agency.

10.5 Water Quality Certification-Adoption of New or Revised Water Quality Standards

To the extent permitted by applicable law, all water quality certifications issued by BECQ shall require the licensing or permitting authority to include a clause in the license or permit advising the licensee or permittee that the license or permit shall be subject to amendment or modification upon adoption or revision of water quality standards.

Upon adoption or revision of water quality standards, BECQ shall notify the licensing or permitting authority and the licensee or permittee of the revised or newly-

enacted water quality standards and shall request the licensing or permitting authority to amend or modify the license or permit, if and to the extent permitted by applicable law, to reflect the applicable water quality standards.

PART 11 LAND DISPOSAL OF WASTEWATER

11.1 General Applicability

Any action or activity that results in the disposal of wastewater on land in excess of fifty-five (55) gallons per day requires the approval of the Administrator of BECQ. Types of wastewater and pollutants discharges that need approval prior to land disposal include but are not limited to reverse osmosis brine and oil/water separator discharges.

(a) The disposal of wastewater through an injection well is excluded as this activity is regulated under the CNMI Underground Injection Control (UIC) regulations.

(b) Nothing in these requirements shall be construed as to supercede the wellhead protection area requirements under the CNMI Well Drilling and Well Operations Regulations, or to allow the construction of any facility or any activity within the setback distances contained therein.

11.2 Submission of Land Disposal Plans

Prior to the land disposal of any wastewater or other pollutants in excess of fifty-five (55) gallons per day, the Administrator of BECQ will review the plan for disposal and make a determination that coastal waters or ground water will not be adversely affected by such disposal.

(a) The plan for the land disposal shall include the following items:

- (1) Name, address, and phone number of applicant;
- (2) Description of the physical process that produces the wastewater, chemical make-up of wastewater, and average volume produced on a daily and annual basis;
- (3) Map of disposal site which identifies elevation, nearby landmarks, and proposed point of discharge;
- (4) Schematic of proposed land disposal method (e.g. percolation trench, ponding basin, leachfield, infiltrator) to be used;
- (5) In the event that a land disposal plan require seepage as a mechanism for the removal of fluids, the applicant must perform a percolation test on the proposed site and submit the results to the Administrator of BECQ.

(b) The applicant must pay a \$500 filing fee for all land disposal plans that are submitted to the BECQ for review.

- (1) This fee will be waived for projects that have applied for a CWA 401 Water Quality Certification.
- (2) All government agencies shall be exempt from paying this fee.

11.3 Land Disposal in Coastal Lands

Land disposal in coastal lands is defined as disposal of wastewaters within one hundred fifty (150) feet of the mean high water mark of the shoreline. Any wastewater to be land disposed on coastal lands must meet CNMI Water Quality Standards.

11.4 Land Disposal in Groundwater Recharge Areas

Land areas other than coastal lands are defined as groundwater recharge areas. The applicant must provide a determination of the underlying geology, aquifer characteristics, groundwater quality, location and proximity of all nearby wells, and current and potential future use of the underlying groundwater for public water supply based on a review of available information including United States Geological Survey (USGS) maps and reports, Commonwealth Utilities Corporation (CUC) well field maps, and the nearby well drilling records. BECQ may assist the applicant in making such determinations where sufficient information exists. The applicant may provide a determination on the basis of a report from a professional hydrogeologist. Groundwater recharge areas are divided into three subcategories:

- (a) Primary groundwater recharge zones are defined as:
 - (1) Areas designated as Class I Groundwater Management Zones in the CNMI Well Drilling and Well Operations Regulations;
 - (2) Areas contributing surface infiltration to a geologic formation that is saturated with fresh ground water that is not in contact with seawater (i.e. "perched" groundwater) and is capable of transmitting quantities of fresh water in sufficient quantity to sustain a public water supply well;
 - (3) Areas that can reasonably be considered, on the basis of maps provided by USGS or CUC, to be within active or future public water supply well fields;
 - (4) Areas contributing surface infiltration to a geologic formation that discharges to a known spring or stream that currently is or is capable of transmitting quantities of fresh water in sufficient

quantity to be used as a public water supply;

- (5) Within four hundred (400) feet laterally upgradient from a public water supply well; or
- (6) Within Two hundred (200) feet laterally downgradient from a public water supply well;

Areas which do not meet any of the criteria for definition as a primary groundwater recharge zone as described in 11.4(a) shall be classified as either a secondary groundwater recharge zone, or a brackish groundwater recharge zone:

(b) Secondary groundwater recharge zones are defined as areas designated as Class II Groundwater Management Zones by the CNMI Well Drilling and Well Operations Regulations; areas contributing surface infiltration to a geologic formation that is saturated with ground water with less than 500 parts per million total dissolved solids, and currently or are capable of transmitting quantities of water in sufficient quantities to sustain a public water supply well; or areas with groundwater surface elevations equal to or greater than 1 foot as mapped by USGS.

(c) Brackish groundwater recharge zones are defined as areas designated as Class III Groundwater Management Zones by the CNMI Well Drilling and Well Operations Regulations; areas contributing surface infiltration to a geologic formation that is saturated with brackish ground water with greater than 500 parts per million total dissolved solids; or areas with groundwater surface elevations less than 1 foot as mapped by USGS.

11.5 Discharge Limitations for Land Disposal of Wastewater

Discharge limitations for wastewater intended to be land disposed in groundwater recharge areas are dependent on the subcategory of groundwater recharge area and volume of wastewater to be disposed.

(a) Wastewater that is to be land disposed in primary groundwater recharge zones must meet drinking water standards as set in CNMI Drinking Water Regulations.

(b) Discharge limitations for water quality to be land disposed in secondary groundwater recharge zones and brackish groundwater recharge zones are dependent on volume of wastewater. Specific criteria for discharge limitations will be determined on a case-by-case basis and authorized in the permit.

PART 12 PROHIBITIONS

It is prohibited to violate any water quality standard or water quality regulation promulgated by BECQ, or to fail to comply with the terms of a Water Quality Certification issued by BECQ. Any person who violates the regulations, causes a violation of the Water Quality Standards, or fails to comply with the terms of a Water Quality Certification, is subject to an enforcement action in accordance with Part 14.

PART 13 INSPECTIONS AND RIGHT OF ENTRY

13.1 Inspections and Right of Entry

In accordance with 2 CMC § 3132, the Administrator or his authorized representative may inspect any facility or records subject to the provisions of the Act and these regulations. The inspection may be conducted with or without advance notice, as authorized by § 3132.

PART 14 NOTICES OF VIOLATIONS, ADMINISTRATIVE ORDERS, AND PENALTIES

14.1 Power to Uphold Water Quality Standards

The Division is responsible for enforcement of these regulations in accordance with the applicable laws of the CNMI and the CWA and its amendments. Where Commonwealth or State waters designated for recreational use fall below the CNMI water quality standards as set forth in these regulations, the Administrator shall have the authority to suspend public use of Commonwealth or State waters or take other action which in the Administrator's discretion is necessary to protect the public health, safety and welfare.

14.2 Enforcement Actions

In accordance with 2 CMC § 3131, if the Administrator has reason to believe a violation of the provisions of the Act, these standards, and/or the terms of any water quality certification, waiver of water quality certification, or land disposal approval issued pursuant to the Act and these standards, has occurred or is occurring, the Administrator may issue any necessary order to enforce the aforementioned provisions and conditions. Such order shall be in the form of a written warning, Notice of Violation, Cease and Desist Order, or Administrative Order signed by the Administrator or his authorized representative and shall provide notice of the facts constituting the violation, penalties that may be imposed, and, where appropriate, provide a reasonable timeframe in which to take corrective action.

14.3 Administrative Orders

- (a) If any person subject to an order issued pursuant to 13.2 fails to comply with the

order, the Administrator may issue an Administrative Order or other such Order imposing penalties as provided by 2 CMC § 3131(c). The Order shall state the facts constituting the violation, the particular sections of the Act, standards, water quality certification, waiver of water quality certification, or land disposal approval involved, the proposed penalty including any proposed suspension, revocation, or modification of any water quality certification, waiver of water quality certification, or land disposal approval, and monetary penalties including any penalty for cost of corrective action taken by the Division, and the opportunity to request a hearing. Such Order shall be personally served or served by certified mail, return receipt, on persons subject to the penalties in the Order.

14.4 Hearings

(a) Any person subject to an Order imposing penalties pursuant to 13.3, may request, in writing, a hearing before the Administrator or his/her designee. Request for a hearing shall be served upon the Division within seven (7) calendar days from receipt of the Order. Failure to request a hearing within seven (7) calendar days shall constitute a waiver of the right to a hearing and the Division may take the necessary action to enforce the Order.

(b) Procedures for hearings shall be conducted in accordance with the Administrative Procedures Act (APA), 1 CMC § 9101, et seq.

14.5 Emergency Suspension Provisions

If the Administrator determines that a violation of a water quality certification, waiver of water quality certification, or land disposal approval issued pursuant to the Act and these standards has resulted in an imminent threat to public health, safety or welfare, the Administrator may summarily suspend a water quality certification, waiver of water quality certification, or land disposal approval. A hearing for revocation or other action shall be promptly instituted and determined pursuant to the procedures in 13.4.

14.6 Criminal Penalties

Any person who knowingly and willfully commits any act in violation of the Act, these standards, or any water quality certification, waiver of certification, or land disposal approval, may be subject to criminal penalties as set forth in 2 CMC § 3131(d).

PART 15 SEVERABILITY

If any provision of these Regulations or their application is held to be invalid, such invalidity shall not affect any other provision or application that can be used without the invalid section, and to this end the provisions of these Regulations and their various applications are declared to be severable.

CNMI WATER QUALITY STANDARDS

2014 UPDATE

FACT SHEET & SUPPLEMENTARY INFORMATION

CNMI Bureau of Environmental and Coastal Quality

March 2014

APPENDIX A

**Water Quality Standards program history,
statutory authority, and other background information**

[The following is reprinted directly from U.S. Environmental Protection Agency web pages at URL:
<http://www.epa.gov/ost/standards/> as accessed on 01 February 2014.]

Definition and Purpose of Water Quality Standards

[The following is reprinted directly from U.S. Environmental Protection Agency web pages at URL: <http://www.epa.gov/ost/standards/> as accessed on 01 February 2014.]

Water quality standards are the foundation of the water quality-based control program mandated by the Clean Water Act. Water Quality Standards define the goals for a water body by designating its uses, setting criteria to protect those uses, and establishing provisions to protect water quality from pollutants. A water quality standard consists of four basic elements:

- (1) **designated uses** of the water body (e.g., recreation, water supply, aquatic life, agriculture),
- (2) **water quality criteria** to protect designated uses (numeric pollutant concentrations and narrative requirements),
- (3) an **antidegradation policy** to maintain and protect existing uses and high quality waters, and
- (4) **general policies** addressing implementation issues (e.g., low flows, variances, mixing zones).

Designated Uses: The water quality standards regulation requires that States and authorized Indian Tribes specify appropriate water uses to be achieved and protected. Appropriate uses are identified by taking into consideration the use and value of the water body for public water supply, for protection of fish, shellfish, and wildlife, and for recreational, agricultural, industrial, and navigational purposes. In designating uses for a water body, States and Tribes examine the suitability of a water body for the uses based on the physical, chemical, and biological characteristics of the water body, its geographical setting and scenic qualities, and economic considerations. Each water body does not necessarily require a unique set of uses. Instead, the characteristics necessary to support a use can be identified so that water bodies having those characteristics can be grouped together as supporting particular uses.

Where water quality standards specify designated uses less than those which are presently being attained, the State or Tribe is required to revise its standards to reflect the uses actually being attained.

A use attainability analysis must be conducted for any water body with designated uses that do not include the "fishable/swimmable" goal uses identified in the section 101(a)(2)

of the Act. Such water bodies must be reexamined every three years to determine if new information has become available that would warrant a revision of the standard. If new information indicates that "fishable/swimmable" uses can be attained, such uses must be designated.

Water Quality Criteria: States and authorized Tribes adopt water quality criteria with sufficient coverage of parameters and of aBECQuate stringency to protect designated uses. In adopting criteria, States and Tribes may:

- adopt the criteria that EPA publishes under § 304(a) of the Clean Water Act;
- modify the § 304(a) criteria to reflect site-specific conditions; or
- adopt criteria based on other scientifically-defensible methods.

States and Tribes typically adopt both numeric and narrative criteria. Numeric criteria are important where the cause of toxicity is known or for protection against pollutants with potential human health effects. Narrative criteria are also important -- narrative "free from" toxicity criteria typically serve as the basis for limiting the toxicity of waste discharges to aquatic species (based on whole effluent toxicity testing).

Section 303(c)(2)(B) of the Clean Water Act requires States and authorized Tribes to adopt numeric criteria for § 307(a) priority toxic pollutants for which the Agency has published § 304(a) criteria, if the discharge or presence of the pollutant can reasonably be expected to interfere with designated uses. The § 307(a) list contains 65 compounds and families of compounds, which the Agency has interpreted to include 126 priority toxic pollutants.

In addition to narrative and numeric (chemical-specific) criteria, other types of water quality criteria include:

biological criteria: a description of the desired aquatic community, for example, based on the numbers and kinds of organisms expected to be present in a water body

nutrient criteria: a means to protect against nutrient over-enrichment and cultural eutrophication

sediment criteria: a description of conditions that will avoid adverse effects of contaminated and uncontaminated sediments

Antidegradation Policy: Water quality standards include an antidegradation policy and implementation method. The water quality standards regulation requires States and Tribes to establish a three-tiered antidegradation program.

Tier 1 maintains and protects existing uses and water quality conditions necessary to support such uses. An existing use can be established by demonstrating that fishing, swimming, or other uses have actually occurred since November 28, 1975, or that the water quality is suitable to allow such uses to occur. Where an existing use is established, it must be protected even if it is not listed in the water quality standards as a designated use. Tier 1 requirements are applicable to all surface waters.

Tier 2 maintains and protects "high quality" waters – water bodies where existing conditions are better than necessary to support CWA § 101(a)(2) "fishable/swimmable" uses. Water quality can be lowered in such waters. However, State and Tribal Tier 2 programs identify procedures that must be followed and questions that must be answered before a reduction in water quality can be allowed. In no case may water quality be lowered to a level which would interfere with existing or designated uses.

Tier 3 maintains and protects water quality in outstanding national resource waters (ONRWs). Except for certain temporary changes, water quality cannot be lowered in such waters. ONRWs generally include the highest quality waters of the United States. However, the ONRW classification also offers special protection for waters of exceptional ecological significance, i.e., those which are important, unique, or sensitive ecologically. Decisions regarding which water bodies qualify to be ONRWs are made by States and authorized Indian Tribes.

Antidegradation implementation procedures identify the steps and questions that must be addressed when regulated activities are proposed that may affect water quality. The specific steps to be followed depend upon which tier or tiers of antidegradation apply.

General Policies: States and Tribes may adopt policies and provisions regarding water quality standards implementation, such as mixing zone, variance, and low-flow policies. Such policies are subject to EPA review and approval.

Mixing Zones: States and Tribes may, at their discretion, allow mixing zones for point source discharges. A mixing zone is a defined area surrounding or downstream of a point source discharge where the effluent plume is progressively diluted by the receiving water and numeric criteria otherwise applicable to the segment may be exceeded. Mixing zone procedures describe the methodology for determining the location, size, shape, and in-zone quality of mixing zones.

Variations: As an alternative to removing a designated use, a State or Tribe may wish to include a variance as part of a water quality standard. Variations temporarily relax a water quality standard. They are subject to public review every three years, and may be extended upon expiration. A variance may specify an interim water quality criterion which is applicable for the duration of the variance. Variations can help to assure that further progress toward improving water quality is achieved.

Low Flows: State and Tribal water quality standards may identify policies and procedures to be applied in determining critical low flow conditions. Such procedures are applied, for example, when calculating discharge permit requirements to be included in National Pollutant Discharge Elimination System (NPDES) permits.

Statutory Authority and History

Statutory History

The first comprehensive legislation for water pollution control was the Water Pollution Control Act of 1948 (Pub. L. 845, 80th Congress). This law adopted principles of state and federal cooperative program development, limited federal enforcement authority, and limited federal financial assistance. These principles were continued in the Federal Water Pollution Control Act (Pub. L. 660, 84th Congress) in 1956 and in the Water Quality Act of 1965. Under the 1965 Act, States were directed to develop water quality standards establishing water quality goals for interstate waters. By the early 1970's, all the States had adopted such water quality standards. Since then, States have revised their standards to reflect new scientific information, the impact on water quality of economic development and the results of water quality controls.

Due to enforcement complexities and other problems, an approach based solely on water quality standards was deemed insufficiently effective. In the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92-500, Clean Water Act or CWA), Congress established the National Pollutant Discharge Elimination System (NPDES) whereby each point source discharger to waters of the U.S. is required to obtain a discharge permit. The 1972 Amendments require EPA to establish technology based effluent limitations that are to be incorporated into NPDES permits. In addition, the amendments extended the water quality standards program to intrastate waters and required NPDES permits to be consistent with applicable state water quality standards. Thus, the CWA established complementary technology-based and water quality-based approaches to water pollution control.

Water quality standards serve as the foundation for the water-quality based approach to pollution control and are a fundamental component of watershed management. Water

quality standards are State or Tribal law or regulation that: define the water quality goals of a water body, or segment thereof, by designating the use or uses to be made of the water; criteria necessary to protect the uses; and protect water quality through antidegradation provisions. States and Tribes adopt water quality standards to protect public health or welfare, enhance the quality of water, and serve the purposes of the Act. "Serve the purposes of the Act" (as defined in Sections 101(a), 101(a)(2), and 303(c) of the Act) means that water quality standards should: 1) include provisions for restoring and maintaining chemical, physical, and biological integrity of State waters, 2) provide, wherever attainable, water quality for the protection and propagation of fish, shellfish, and wildlife and recreation in and on the water ("fishable/swimmable"), and 3) consider the use and value of State waters for public water supplies, propagation of fish and wildlife, recreation, agricultural and industrial purposes, and navigation. See 40 CFR 131.2.

Section 303(c) of the CWA establishes the basis for the current water quality standards program. Section 303(c):

1. Defines water quality standards;
2. Identifies acceptable beneficial uses: propagation of fish, shellfish and wildlife, public, agricultural, industrial water supplies and navigation;
3. Requires that State and Tribal standards protect public health or welfare, enhance the quality of water and serve the purposes of the Act;
4. Requires that States and Tribes review their standards at least every three years;
5. Establishes the process for EPA review of State and Tribal standards, including where necessary the promulgation of a superseding Federal rule in cases where a State's or Tribe's standards are not consistent with applicable requirements of the CWA or in situations where the Administrator determines that Federal standards are necessary to meet the requirements of the Act.

The decade of the 1970's saw State and EPA attention focus on creating the infrastructure necessary to support the NPDES permit program and development of technology-based effluent limitations. While the water quality standards program continued, it was a low priority in the overall CWA program. In the late 1970's and early 1980's, it became obvious that greater attention to the water quality-based approach to pollution control was needed to effectively protect and enhance the nation's waters.

The first statutory evidence of this was the enactment of a CWA requirement that after December 29, 1984, no construction grant could be awarded for projects that discharged into stream segments which had not, at least once since December 1981, had their water quality standards reviewed and revised or new standards adopted as appropriate under Section 303(c). The efforts by the States to comply with this onetime requirement essentially made the States' water quality standards current as of that date for segments with publicly-owned treatment works (POTWs) discharging into them.

Additional impetus to the water quality standards program occurred on February 4, 1987, when Congress enacted the Water Quality Act of 1987 (Pub. L. 100-4). Congressional impatience with the lack of progress in State adoption of standards for toxics (which had been a national program priority since the early 1980's) resulted in the 1987 adoption of new water quality standard provisions in the Water Quality Act amendments. These amendments reflected Congress' conclusion that toxic pollutants in water are one of the most pressing water pollution problems. One concern Congress had was that States were relying, for the most part, on narrative criteria to control toxics (e.g. "no toxics in toxic amounts"), which made development of effluent limitations in permits difficult. To remedy this, Congress adopted section 303(c)(2)(B), which essentially required development of numeric criteria for those water body segments where toxic pollutants were likely to adversely affect designated uses.

The 1987 Amendments gave new teeth to the control of toxic pollutants. As Senator Mitchell put it, Section 303(c)(2)(B) requires "States to identify waters that do not meet water quality standards due to the discharge of toxic substances, to adopt numerical criteria for the pollutants in such waters, and to establish effluent limitations for individual discharges to such water bodies." (From Senator Mitchell, 133 Cong. Rec. S733).

To assist States in complying with Section 303(c)(2)(B), EPA issued program guidance in December 1988 and instituted an expanded program of training and technical assistance.

Section 518 was another major addition in the 1987 Amendments to the Act. This section extended participation in the water quality standards and 401 certification programs to certain Indian Tribes. The Act directed EPA to establish procedures by which a Tribe could "qualify for treatment as a State," at its option, for purposes of administering the standards and 401 certification programs. The Act also required EPA to create a mechanism to resolve disputes that might develop when unreasonable consequences arise from a Tribe and a State or another Tribe adopting differing water quality standards on common bodies of water.

Furthermore, with the 1987 Amendments, the Act explicitly recognized EPA's antidegradation policy for the first time. The intent of the antidegradation policy in EPA's regulation was and is to protect existing uses and the level of water quality necessary to protect existing uses and to provide a means for assessing activities that may lower water quality in high quality waters. Section 303(d)(4) of the Act requires that water quality standards in those waters that meet or exceed levels necessary to support designated uses "may be revised only if such revision is subject to and consistent with the antidegradation policy established under this section."

Regulatory Requirements and Guidance

In the late 1960's and early 1970's the water quality standards program was initiated and administered based on minimal guidance and Federal policies--many of which are still reflected in the water quality standards program today.

EPA first promulgated a water quality standards regulation in 1975 (40 CFR 130.17, 40 FR 55334, November 28, 1975) as part of EPA's water quality management regulations mandated under Section 303(e) of the Act. As discussed earlier, the standards program had a relatively low priority during this time. This was reflected in the minimal requirements of the first Water Quality Standards Regulation. Few requirements on designating water uses and procedures were included. The Regulation merely required "appropriate" water quality criteria necessary to support designated uses. Toxic pollutants or any other specific criteria were not mentioned. The antidegradation policy was incorporated as a regulatory requirement.

State response to the initial regulation was varied and in some cases inadequate. Some States developed detailed water quality standards regulations while others adopted only general provisions which proved to be of limited use in the management of increasingly complex water quality problems. The few water quality criteria that were adopted addressed a limited number of pollutants and primarily described fundamental water quality conditions (e.g., pH, temperature, dissolved oxygen and suspended solids) or dealt with conventional pollutants.

In the late 1970s, a greater appreciation evolved on the need to expand and accelerate the control of pollutants in surface waters using water quality-based controls. It became clear that primary reliance on industry effluent guidelines or effluent standards under Section 307 of the Act would not comprehensively address pollutants, particularly toxic pollutants, and that existing State water quality standards needed to be better developed. EPA moved to strengthen the water quality program to complement the technology based controls.

To facilitate this effort, EPA decided to amend the Water Quality Standards Regulation to explicitly address toxic criteria requirements in State standards and other legal and programmatic issues. This effort culminated in the promulgation of a revised water quality standards regulation on November 8, 1983 (54 FR 51400), which is still in effect. This regulation is much more comprehensive than its predecessor and it includes many more specific regulatory and procedural requirements. Nonetheless, it is still a succinct and flexible regulation for a program with a scope as broad as the national water quality criteria and standards program.

The regulation specifies the roles of the States, Tribes and EPA and the administrative requirements for States and Tribes in adopting and submitting their standards to EPA for review. It also delineates the EPA requirements for review of State and Tribal standards and promulgation of federal standards.

The regulation provided States and subsequently Tribes with the option of refining their use designation process by allowing them to establish subcategories of uses, such as cold water and warm water aquatic life designations. The regulation expanded and clarified the factors that could be applied by a State in removing a designated use that is not an existing use. The regulation recognized that naturally occurring pollutant concentrations, naturally low or intermittent flow conditions, human caused conditions or sources of pollution that cannot be remedied, hydrologic modifications (such as dams or channelized streams), natural physical conditions, and widespread economic and social impact could be used to demonstrate that attaining a use designation is not feasible (see 40 CFR 131.10(g)). Part 131.10(h) identified circumstances in which States are prohibited from removing designated uses.

Much more specificity was provided in the 1983 regulation regarding the requirements for States on the form of water quality criteria adopted by the States. Under 40 CFR 131.11(b) of the regulation, States and Tribes may use the criteria developed by EPA under Section 304(a) of the Act, 304(a) guidance modified to reflect site-specific conditions, or criteria developed through other scientifically defensible methods. Section 304(a) criteria are the water quality criteria that EPA develops and provides in the form of guidance to States and Tribes pursuant to CWA section 304(a). In practice, States and Tribes have applied all of these provisions in setting water quality standards.

The 1983 regulation also clarified that States and subsequently Tribes may adopt discretionary policies affecting the implementation of standards, such as mixing zones, low flows, and variances. Such policies are subject to EPA review under 303(c). Section 131.11 of the regulation requires States and subsequently Tribes with water quality standards programs to review available information and "...to identify specific water

bodies where toxic pollutants may be adversely affecting water quality ...and... adopt criteria for such toxic pollutants applicable to the water body sufficient to protect the designated use."

Under the statutory scheme, during the 3-year review period following EPA's 1980 publication of section 304(a) water quality criteria to the protect human health and aquatic life, States were expected to review those criteria and adopt standards for many priority toxic pollutants. A few States adopted large numbers of numeric toxics criteria, primarily for the protection of aquatic life. Other States adopted few or no water quality criteria for priority toxic pollutants. Some relied on a narrative "free from toxicity" criterion, and "action levels" for toxic pollutants or occasionally calculated site-specific criteria. Few States addressed the protection of human health by adopting numeric human health criteria.

In support of the 1983 Regulation, EPA simultaneously issued program guidance entitled *Water Quality Standards Handbook* (December, 1983). The Handbook provided guidance on the interpretation and implementation of the Water Quality Standards Regulation. This document also contained information on scientific and technical analyses that are used in making decisions that would impact water quality standards. EPA also developed the *Technical Support Document for Water Quality Based Toxics Control* (EPA 44/485032, September, 1985)(TSD) which provided additional guidance for implementing State water quality standards. In 1991, EPA revised and expanded the TSD. (EPA 505/2-90-001, March 1991). In 1994, EPA issued the *Water Quality Standards Handbook: Second Edition* (EPA-823-B-94-006, August 1994).

To accelerate compliance with CWA section 303(c)(2)(B) (created by the 1987 Water Quality Act), EPA started action in 1990 to promulgate numeric water quality criteria for those States that had not adopted sufficient water quality standards for toxic pollutants. The intent of the rule making, known as the National Toxics Rule, was to strengthen State water quality management programs by increasing the level of protection afforded to aquatic life and human health through the adoption of all available criteria for toxic pollutants present or likely to be present in State waters. This action culminated on December 22, 1992, with EPA promulgating Federal water quality criteria for priority toxic pollutants for 14 States and Territories (see 57 FR 60848).

Subsequent to the promulgation of criteria under the National Toxics Rule, EPA altered its national policy on the expression of aquatic life criteria for metals. On May 4, 1995 at 60 FR 22228, EPA issued a stay of several metals criteria (expressed as total recoverable metal) previously promulgated under the National Toxics Rule for the protection of aquatic life. EPA simultaneously issued an interim final rule that changed

these metal criteria promulgated under the National Toxics Rule from the total recoverable form to the dissolved form.

The Water Quality Standards Regulation was amended in 1991 to implement Section 518 of the Act to expand the standards program to include Indian Tribes (56 FR 64893, December 12, 1991). EPA added 40 CFR 131.7 to describe the requirements of the issue dispute resolution mechanism (to resolve unreasonable consequences that may arise between a Tribe and a State or another Tribe when differing water quality standards have been adopted for a common body of water) and 40 CFR 131.8 to establish the procedures by which a Tribe applies for authorization to assume the responsibilities of the water quality standards and section 401 certification programs.

Water quality standards are essential to a wide range of surface water activities, including: (1) setting and revising water quality goals for watersheds and/or individual water bodies, (2) monitoring water quality to provide information upon which water quality based decisions will be made, (3) calculating total maximum daily loads (TMDLs), waste load allocations (WLAs) for point sources of pollution, and load allocations (LAs) for non point sources of pollution, (4) issuing water quality certifications for activities that may affect water quality and that require a federal license or permit, (5) developing water quality management plans which prescribe the regulatory, construction, and management activities necessary to meet the water body goals, (6) calculating NPDES water quality-based effluent limitations for point sources, in the absence of TMDLs, WLAs, LAs, and/or water quality management plans; (7) preparing various reports and lists that document the condition of the State's or Tribe's water quality, and (8) developing, revising, and implementing an effective section 319 management plan which outlines the State's or Tribe's control strategy for non point sources of pollution.

Also, as described in EPA's 40 CFR 131.21, EPA requires that water quality standards adopted by states and authorized tribes on or after May 30, 2000 must be approved by EPA before they can be used as the basis for actions, such as establishing water quality-based effluent limitations or total maximum daily loads (TMDLs), under the Clean Water Act. (See 65 FR 24641, April 27, 2000, for more information regarding this requirement).

Review and Approval of State Water Quality Standards

The Clean Water Act requires States and authorized Indian Tribes to review their standards from time to time, but at least once every three years, and revise them if appropriate. Updates may be needed, for example, due to changing water quality

conditions or water body uses or new scientific information on the effects of pollutants in the environment. In preparing proposed revisions to their standards, States and Tribes consider requests from industry, environmental groups, and the public, and review available information (e.g., CWA § 305(b) reports, EPA guidance).

Each State and authorized Tribe has its own legal and administrative procedures for adopting water quality standards. In general, standards are adopted following a process in which draft revisions are developed (this may include a work group process or informal public meetings) and formally proposed for public comment. A public hearing is then held to receive input from the public regarding the proposal. The proposed water quality standards and supporting information are made available to the public prior to the hearing. States and Tribes are required to prepare a summary of the public comments received and how each comment was addressed.

Pursuant to revisions to the water quality standards regulation promulgated in April of 2000 (*the "Alaska" rule*), new or revised water quality standards become effective for purposes of the Clean Water Act upon EPA approval.

EPA approval of a new or revised water quality standard is considered a federal action which may be subject to the Section 7 consultation requirements of the Endangered Species Act (ESA). Section 7 of the ESA requires federal agencies to protect endangered species and threatened species and prohibits actions "likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined to be critical..." Accordingly, consultation with the U.S. Fish and Wildlife Service is an important part of EPA's water quality standards approval process.

The Clean Water Act also authorizes EPA to promulgate superseding Federal water quality standards in cases where new or revised State or Tribal standards are not consistent with applicable requirements of the Act or in situations where the EPA Administrator determines that Federal standards are necessary to meet the requirements of the Act. EPA promulgation of water quality standards requires a rule making process and opportunity for public review and comment.

REFERENCES

US EPA. 1988. Introduction to Water Quality Standards. EPA 440/5 88-089. US Environmental Protection Agency, Office of Water, Washington, DC.

US EPA. 1991. Technical Support Document for Water Quality-based Toxics Control March 1991. EPA-505-2-90-001. US Environmental Protection Agency, Office of Water, Washington, DC.

US EPA. 2000. Nutrient Criteria: Technical Guidance Manual Rivers and Streams July 2000. EPA-822-B-01-002. US Environmental Protection Agency, Office of Water, Washington, DC.

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US EPA. 2003. Strategy for Water Quality Standards and Criteria. EPA-823-R03-010. US Environmental Protection Agency, Office of Water, Washington, DC.

US EPA. 2012. Water Quality Standards Handbook: Second Edition. EPA-823-B-12-002. March 2012. US Environmental Protection Agency, Office of Water, Washington, DC.

US EPA website: <http://www.epa.gov/ost/standards/> (01 February 2014)

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

WATER QUALITY STANDARDS

2014 TRI-ENNIAL REVIEW

SUMMARY OF PUBLIC COMMENTS

and responses by

BUREAU OF ENVIRONMENTAL AND COASTAL QUALITY

07 May 2014



Summary of Public Comments and Responses by Bureau of Environmental and Coastal Quality

The public comment period for proposed revisions to the CNMI Water Quality Standards (WQS) started 28 March 2014 and ended 28 April 2014. During this period, the Bureau of Environmental and Coastal and Quality (BECQ) received one written comment and one verbal comment during the public hearing on 07 April 2014.

Comments and BECQ responses are provided below. All comments received were considered by BECQ in preparing the final adopted regulations.

Comment #1: Units used for chlorine residual criteria (WQS Part 8.11)

One commenter noted that the units used for chlorine residual criteria in the 2004 WQS and the draft 2014 WQS were different than the units used in the US EPA National Recommended Water Quality Criteria, (<http://water.epa.gov/scitech/swguidance/standards/criteria/current/index.cfm>)

BECQ concurs that the units used in the CNMI WQS are different from the US EPA criteria and notes that incorrect units were included in the 2004 WQS as a typographical error. BECQ will correct the error and change the units for chlorine residual criteria in Part 8.11 from mg/L to µg/L in Part 8.11 of the final adopted regulations.

Comment #2: Addition of setback requirements for any human or animal source of wastewater or sewage (WQS Part 5.1(a) and (b), Part 5.2 (a) and (b), and Part 5.3)

One commenter proposed that all setback requirements for wastewater or sewage should be placed in the CNMI Wastewater Regulations instead of the Water Quality Standards.

BECQ considers it appropriate to place setbacks in the WQS when setbacks are intended to protect a designated use.

Water quality standards are the foundation of the water quality-based control program mandated by the Clean Water Act. Water Quality Standards define the goals for a water body by designating its uses, setting criteria to protect those uses, and establishing provisions to protect water quality from pollutants.



A number of States and Territories use setbacks for potential waste sources to protect designated uses in a variety of water quality statutes and regulations. Examples include:

- American Samoa Water Quality Standards (Administrative Rule No 006-2005);
- Pennsylvania Water Quality Management Regulations (25 Pa Code §91.36);
- Wyoming Water Quality Rules and Regulations (Chapter 20);
- Oregon Safe Drinking Water Regulations (OAR 333) and Ground Water Regulations (OAR 690-210 and 690-215);
- New Hampshire Shoreland Water Quality Protection Act (RSA 483-B).

BECQ has determined that the CNMI Wastewater Regulations provide inadequate protection for designated uses from sewage and wastewater sources. BECQ recognizes that the Wastewater Regulations provide some protection for designated uses through:

- Prohibition of discharge of treated or untreated sewage directly or indirectly onto the ground surface or into state waters and discharge of wastewater from a confined animal facility, and discharge of runoff that has contacted animal waste from a confined animal facility of any size into state waters.
- Wastewater Regulations setback distance for individual wastewater disposal systems (IWDS) and other wastewater treatment systems (OWTS). Confined animal facilities are considered OWTS if they contain a threshold number of animals (e.g., 15 or more pigs) or have been determined by BECQ to have caused by evidence direct or indirect discharge violations of the CNMI WQS or CNMI Drinking Water Regulations.

However, the Wastewater Regulations are developed around “larger systems,” but there are many “smaller systems” in the CNMI watersheds. BECQ recently completed a Surface Water Quality Monitoring Plan, one goal of which is to determine if fresh water drainages contribute to microbiological contamination on the CNMI beaches. Preliminary watershed sanitary surveys conducted by BECQ documented numerous small piggeries (fewer than 15 pigs) and outhouses located immediately adjacent to



waterways, and obvious signs of waste discharged from piggeries and outhouses into the waterways.

Piggery waste is a major source of leptospirosis in the Pacific Islands, and is recognized as a serious public health threat in the CNMI. For example, a leptospirosis outbreak in the CNMI in 2001 resulted in five deaths. Piggery waste is also a source of disease from other bacteria (Anthrax, Brucellosis, Tetanus, and Staphylococcus), intestinal parasites (Cryptosporidium, Giardia, and worms such as Ascaris, Tapeworm, and Trichinella), and fungi (Ringworm).

Inclusion of a setback requirement in the CNMI WQS to keep all sewage sources including small piggeries and outhouses away from waterbodies will help to protect the designated uses and therefore the health of CNMI residents and visitors. It will also help protect the economic development of the CNMI because tourism may be negatively impacted by the frequent notices of contaminated beaches.

The BECQ Legal Counsel rendered an opinion that inclusion of setbacks in both the WQS and Wastewater Regulations is an acceptable regulatory practice as long as requirements are complementary and not inconsistent or contradictory. The new setbacks in the WQS use the same distances for setbacks as the Wastewater Regulations.

BECQ has therefore determined that inclusion of setback requirements for any human or animal source of wastewater or sewage is appropriate in the WQS and does not agree with the commenter that all setbacks should be placed in the Wastewater Regulations. Therefore, no changes will be made to Parts 5.1, 5.2, and 5.3 of the draft WQS before final adoption.





Commonwealth of the Northern Mariana Islands
Bureau of Environmental and Coastal Quality,
Office of the Governor

Frank M. Rabauliman, Administrator
Gualo Rai Center, Chalan Pale Arnold (Middle Road, across from
"Subway")
P O Box 501204 Saipan MP 96950
Tel 670.664.8500; Fax:670.664.8540



PUBLIC NOTICE OF CERTIFICATION AND ADOPTION
The Bureau of Environmental and Coastal Quality, Office of the Governor

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER
AS PROPOSED AMENDMENTS TO REGULATIONS
Volume 36, Number 02, pp 034730-59, of Feb. 28, 2014

**Regulations of the Bureau of Environmental and Coastal Quality: Earthmoving
and Erosion Control**

ACTION TO ADOPT PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands, Bureau of Environmental and Coastal Quality ("BECQ") 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 BECQ announced that it intended to adopt them as permanent, and now does so. 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 BECQ adopted the regulations as final on April 21, 2014.

MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY: None

AUTHORITY: The BECQ is required by the Legislature to adopt rules and regulations regarding those matters over which the BECQ has jurisdiction, including its regulation of earthmoving and erosion control activities for the administration and enforcement of the Commonwealth Environmental Protection Act. 2 CMC § 3122.

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.

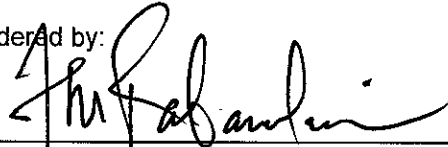
COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to the APA, 1 CMC sec. 9104(a)(2), the agency has considered fully all written and oral submissions respecting the proposed regulations. Upon this adoption of the regulations, the agency, if requested to do so by an interested person, either prior to adoption 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 25th day of April, 2014, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:



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

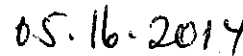


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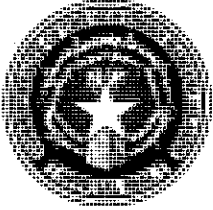
Filed and
Recorded by:



ESTHER M. SAN NICOLAS
Commonwealth Register



Date



STATE BOARD OF EDUCATION

Commonwealth of the Northern Mariana Islands — *Public School System*

PO Box 501370 Saipan, MP 96950 • Tel. 670 237-3027 • Fax 670 664-3711



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TEACHER REPRESENTATIVE

PUBLIC NOTICE OF CERTIFICATION AND ADOPTION ON REGULATIONS OF THE COMMONWEALTH STATE BOARD OF EDUCATION

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER
AS PROPOSED REGULATIONS

Volume 36, Number 02, pp 034760-034773, of February 28, 2014

Regulations of the State Board of Education

ACTION TO ADOPT PROPOSED REGULATIONS: The Commonwealth of the Northern Mariana Islands, State Board of Education (the Board), HEREBY ADOPTS AS PERMANENT regulations the PSS Procurement Appeal Process 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 announced that it intended to adopt as permanent, and now does so.

The Proposed Amendment to PSS Procurement Appeal Process as published, such adopted regulations are a true, complete and correct copy of the referenced Proposed Procurement Appeal Process, and that they are being adopted.

PRIOR PUBLICATION: The prior publication was as stated above. The Board adopted the regulation as final at its Special Board meeting of April 11, 2014.

MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY:
None

AUTHORITY: The Board is required by the Legislature to adopt rules and regulations regarding those matters over which the State Board of Education has jurisdiction.

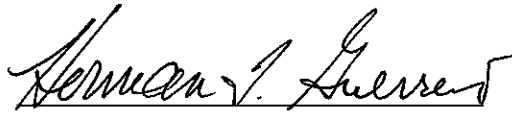
EFFECTIVE DATE: Pursuant to the APA, 1 CMC § 9105 (b), these adopted regulations are effective ten (10) days after compliance with the APA, 1 CMC §§9102 and 9104 (a) or (b), which, in this instance, is ten (10) days after this publication in the Commonwealth Register.

COMMENTS AND AGENCY CONCISE STATEMENT: Pursuant to the APA, 1 CMC §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.

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

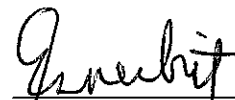
I DECLARE under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 9th day of May, 2014, at Saipan, Commonwealth of the Northern Mariana Islands.

Certified and ordered by:

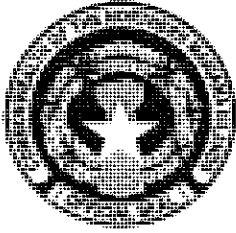

Herman T. Guerrero, Chairman
13th CNMI State Board of Education

5/9/14
Date

Filed and
Recorded by:


Esther SN. Nesbitt
Commonwealth Register

05.16.2014
Date



UNITED STATES
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
COUNCIL on DEVELOPMENTAL DISABILITIES
Developmental Disabilities Basic State Grant Program
Bldg. No. 1312, Capitol Hill • P.O. Box 502565, Saipan, MP 96950-2565
Tel.: (670) 664-7000 • Fax: (670) 664-7030 • Email: info@cnmicdd.org
Website: www.cnmicdd.org



NOTICE OF PROPOSED REGULATIONS FOR THE COMMONWEALTH RESPITE SERVICE PROGRAM

INTENDED ACTION TO ADOPT THESE PROPOSED REGULATIONS: The CNMI Council on Developmental Disabilities 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 compliance with 1 CMC §§ 9102 and 9104(a) or (b) (1 CMC §9105(b)).

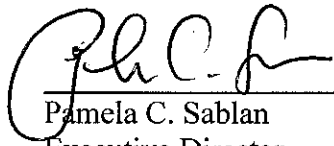
AUTHORITY: The Council on Developmental Disabilities has statutory power to promulgate and effect rules and regulations for the operation and administration of the Commonwealth Respite Services Program pursuant to P.L. 14-36, 3 CMC § 2435.

THE TERMS AND SUBSTANCE: Public Law 14-36 established the Commonwealth Respite Services Program to develop and encourage coordination of respite services in the CNMI and to work with community-based organizations in the establishment of community lifespan respite service programs. 3 CMC § 2432. Public Law 14-36 designates the Council on Developmental Disabilities as the administering authority for the Commonwealth Respite Services Program, with the duty to establish rules and regulations for the effective administration of the program. 3 CMC § 2433; 3 CMC § 2435. Thus, the Council on Developmental Disabilities submits the following proposed regulations to establish the criteria, procedures and guidelines for the operation of the Commonwealth Respite Services Program.

THE SUBJECTS AND ISSUES INVOLVED: These are the proposed regulations for the operation and administration of the Commonwealth Respite Services Program.

DIRECTIONS FOR FILING AND PUBLICATION: The Council on Developmental Disabilities is soliciting comments regarding these proposed regulations which must be received by the Council within thirty (30) days of first publication of this notice in the Commonwealth Register. Interested persons may request copies of the proposed regulations by contacting the Council at 664-7000, through email at info@cnmicdd.org, or by visiting the office located at Bldg. 1312, Capitol Hill, Saipan. Written comments on these amendments should be dropped off at the Council's office or sent by mail to the Council on Developmental Disabilities, P.O. Box 502565, Saipan, MP 96950, or by email info@cnmicdd.org.

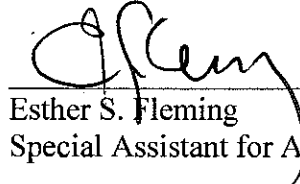
Submitted By:



Pamela C. Sablan
Executive Director
CNMI Council on Developmental Disabilities

11/22/13
Date

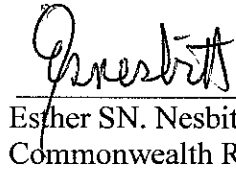
Received By:



Esther S. Fleming
Special Assistant for Administration

5/23/14
Date

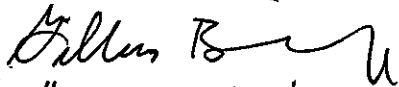
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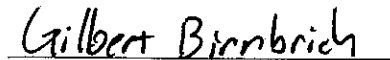


Esther SN. Nesbitt
Commonwealth Register

5.27.2014
Date

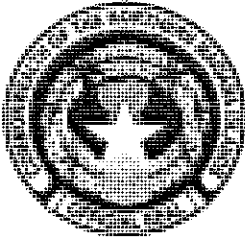
Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a) (3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, 1 CMC § 2153(f)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





for JOEY P. SAN NICOLAS
Attorney General

5/21/14
Date



ARONGORONG REEL POMMWOL ALLÉGH SÁNGI COMMONWEALTH
RESPITE SERVICE PROGRAM

MÁNGEMÁNGIL MWÓGHUT YEEL BWE EBWE ADAPTÁALI POMMWOL ALLÉGH KKAL:

CNMI Council on Developmental Disabilities re mengemengil rebwe adaptáali bwe ebwe llégh lló bwe allégh mille e appaschlong bwe pommwol atiwiligh, sáangi mwóghutughutúl Administrative Procedure Act, 1 CMC §9104(a). Allégh kka e bwe bwunguló llól 10 ráll mwiril yaal llégh ló sáangi 1 CMC §§ 9102 me 9104(a) me ngáre (b) (1 CMC §9105 (b)).

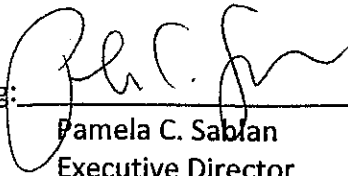
BWÁNGIL: Council on Developmental Disabilities nge eyoor bwángil ebwe attootowow me ghitipwotchuw allégh kkaal bwelle reel mwóghutughutúl me Bwulasiyol Commonwealth Respite Services Programs uruwqwl P.L. 14-36, 3 CMC § 2435.

KKAPASAL ME AWEWEEEL: Public Law 14-36 e fféer ngáli Commonwealth Respite Services Program bwe ebwe fféer me ebwe abwura mwóghutughutúl respite services program llól CNMI me rebwe angaang fengál me community-based organization rel igha rebwe bwúlúútá mille Community Lifespan Respite Services Programs. 3 CMC § 2432. Public Law 14-36 e affili Council on Developmental Disabilities bwe iir schóól Lemelemil Commonwealth Respite Services Progra, rel yaar angaang bwe rebwe fféeri ngáli allégh me atiwiligh kka ebwe ffat lemelemil Progróoma. 3 CMC § 2433; 3 CMC §2435. Council on Developmental Disabilities e isiislong pomwol atiwiligh rel ebwe fféer ngáli kkapasal, efaisúl, me afalafal rel mwóghutughutúl Commonwealth Respite Services Program.

KKAPASAL ME ÓUTOL: Ebwe fféer ngáli pomwol allégh rel angaang me lemelemil Commonwealth Respite Services Program.

AFALA REEL AMWELIL ME ARONGOWOWUL: Council on Developmental Disabilities e tittingóór bwe ebwe isiislong angiingi rel pomwol atiwiligh kka ebwe atoottolong rel Council llól 30 ráll sáangi ráll ie e akkatééwowul me Commonwealth Register. Ngáliir toulap ngáre re muschel emmwel rebwe tingóór copies rel pomwol atiwiligh nge rebwe faffaangi Council rel 664-7000 , ngáre rebwe email- li info@cnmicdd.org, ngáre igha ubwe ló rel bwulasiyo iye ello Bldg.1312, Capitol Hill Saipan. Ólongal iischil angiingi rel ameenda kkaal nge rebwe afanga long rel Bwulasiyol Council ngáre afanga ló rel Council on Developmental Disabilities, P.O. Box 502565, Saipan MP 96950, ngáre email-li ló rel info@cnmicdd.org.

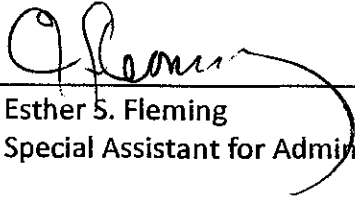
Isáliyalong:



Pamela C. Sablan
Executive Director
CNMI Council on Developmental Disabilities

12/11/13
Ráil

Mwir Sángi:



Esther S. Fleming
Special Assistant for Administration

5/23/14
Ráil

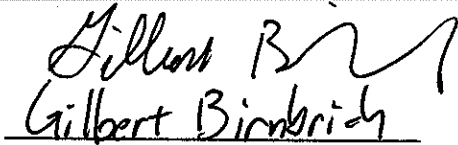
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Esther S.N. Nesbitt
Commonwealth Register

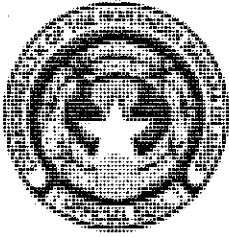
5.27.2014
Ráil

Sángi 1 CMC § 2153(e) Allégh kkaal a lléghló sángi AG bwe e fil reel fféerúl me 1 CMC §9104(a) (3) (mwir sángi AG) Pomwol atiwiligh kkal a appaaschlong a takkal amwuri fiischiy, me angúúngú ló fféerúl me legal sufficiency sángi CNMI Attorney General me ebwele akkatéwoow, 1 CMC §2153(f) (Arongowowul allégh me atiwiligh kkaal).



Joey P. San Nicolas
Attorney General

5/21/14
Ráil



**NUTISIA GI MANMAPROPONI NA REGULASION SIHA PARA I PRUGRĀMAN COMMONWEALTH
RESPITE NA SITBISIU**

I AKSION NI MA'INTENSIONA PARA U MA'ADĀPTA ESTI I MANMAPROPONI NA REGULASION SIHA: I CNMI Council on Developmental Disabilities ha intensiona para adĀpta kumu petmanienti na regulasion siha ni mañechettun i Manmaproponi na Regulasion siha, sigun gi manera siha gi Āktun Administrative Procedure, 1 CMC § 9104(a). I regulasion siha para u ifektibu gi halum i dies(10) dihas dispues di compliance i 1 CMC §§ 9102 yan i 9104(a) pat (b) (1 CMC § 9105(b)).

ĀturidĀt: I Council on Developmental Disabilities gai fuetsa para u cho'gui yan hiniyung areklamentu yan regulasion siha para i operasion yan i atministrasion PrugrĀman Commonwealth Respite na Sitbisiu siha sigun gi Lai Pupbliku 14-36, 3 CMC §2435.

I TEMA YAN SUSTĀNSIAN PALĀBRA SIHA: I Lai Pupbliku 14-36 ma'estapblesi i PrugrĀman Commonwealth Respite na Sitbisiu siha para u develop yan encourage coordination gi sitbisiun respite gi halum CNMI yan para u facho'chu' yan i community-based organizations gi halum prugrĀman inestapblesin komunidĀt lifespan na sitbisiu siha. 3 CMC § 2432. I Lai Pupbliku 14-36 ha disikna i Council on Developmental Disabilities kumu guiya i administering authority para i PrugrĀman Commonwealth Respite na Sitbisiu siha, yan che'cho' ni para u estapblesi areklamentu yan regulasion siha ni para u ifektibu i prugrĀman atministrasion. 3 CMC § 2433; 3 CMC § 2435. Pues, i Council on Developmental Disabilities ha na'hĀlum i sigienti na regulasion siha ni manmaproponi para u ma'estapblesi criteria, manera yan giniha siha para i operasion gi PrugrĀman Commonwealth Respite na Sitbisiu siha.

I SUHETU YAN ASUNTU NI MANTINEKKA: Esti i manmaproponi na regulasion siha para i operasion yan atministrasion gi PrugrĀman Commonwealth Respite na Sitbisiu siha.

DIREKSION SIHA PARA U MAPO'LU YAN PUBLIKASION: I Council on Developmental Disabilities mamamaisin upiñon put esti i manmaproponi na regulasion siha ni debi na u marisibi ni Council gi halum trenta(30) dihas gi primet publikasion esti na nutisia gi halum Rehistran Commonwealth. HĀyi manintirisĀo na petsona siña manmanggĀogĀo kopia siha gi manmaproponi na regulation siha gi para un āgang i Council gi 664-7000, gi kontra i email gi info@cnmicdd.org, pat bisita guatu i ufisina ni gaigi gi Bldg. 1312, Capitol Hill, Saipan. Tinigi' upiñon gi esti na amendasion siha debi na u machuli' guatu gi Council na ufisina pat na'hĀnĀo gi mail para i Council on Developmental Disabilities, P.O. Box 502565, Saipan, MP 96950, pat email gi info@cnmicdd.org.

Nina'hålum as:

Pamela C. Sablan
Direktot Eksakatibu
CNMI Council on Developmental Disabilities

12/11/13

Fetcha

Rinisibi as:

Esther S. Fleming
Espisiât Na Ayudânti Para i Aministrasion Gubietnu

5/20/14

Fetcha

Pine'lu yan Ninota as:

Esther Sn. Nesbitt
Rehistran Commonwealth

5.27.2014

Fetcha

Sigun i 1 CMC § 2153(e) (Inapruedan Abugâdu Henerât gi regulasion siha na para u macho'gui kumu para fotma) yan 1 CMC § 9104(a) (3) (hentan inapruedan Abugâdu Henerât) i maproponi na regulasion siha ni mañechettun guini gi manmaribisa yan ma'aprueda kumu fotma yan ligât sufisienti ginin i CNMI Abugâdu Henerât yan debi na u mapublika, (1 CMC § 2153(f) (publikasion areklamentu yan regulasion siha).

Joey P. San Nicolas
Abugâdu Henerât

5/21/14

Fetcha

American with Disabilities Act (ADA)
Technical Assistance

Prugrâman Trinangkulu
Alternative Financing

Prugrâman CNMI Assistive Technology

TITLE 75 OFFICE OF THE GOVERNOR

CHAPTER 75-50 COMMONWEALTH RESPITE SERVICE PROGRAM

ADMINISTRATIVE RULES AND REGULATIONS

Chapter Authority: 3 CMC § 2431.

Part 001 - General Provisions

§ 75-50-001 AUTHORITY

Under and by virtue of the authority vested in the CNMI Council on Developmental Disabilities ("Council") pursuant to 3 CMC § 2435 and Section 6 of Public Law 14-36, the Council hereby promulgates the rules and regulations in this chapter.

§ 75-50-005 PURPOSE

The Council promulgates the rules and regulations in this chapter to effectively administer the Commonwealth Respite Service Program ("CRSP") pursuant to Public Law 14-36 in its role as an advisory body to the CBO..

§ 75-50-010 COMMUNITY RESPITE SERVICES PROGRAM

The Council shall be responsible for the development of the CRSP in order to provide the CBO guidance in the regulation, management and supervision of respite care. It shall collaborate with other government agencies, for profit and non-profit organizations, in further developing the CRSP in order to meet the community's needs.

§ 75-50-015 DEFINITIONS

Applicability. The words and terms as used in this chapter shall have the meanings indicated and shall include the plural unless the context clearly indicates otherwise. The definitions herein provided shall supplement the public laws referenced in § 75-50-001.

(a) "Activities of daily living" means the tasks performed routinely by a person to maintain physical functioning and personal care, including transferring, moving about, dressing, grooming, toileting, and eating.

(b) "Caregiver" means an individual providing ongoing care to one who is unable to care for him or herself.

(c) "CBO" means the Community Based Organization who shall be responsible for regulating, managing and supervising the delivery of respite care services to the community.

(d) "Client" means a dependent person at risk of being institutionalized and presently unable to live independently.

(e) "CNMI Respite Care State Plan" means the development of and the administration of a comprehensive and coordinated respite care services for qualified clients in the CNMI, in accordance with all the requirements of Public Law 14-36.

(f) "Community respite services program" (CRSP) means a program that:

(1) is operated by a community based private non-profit or for-profit agency or a public agency that provides respite services;

(2) receives funding through the Commonwealth Respite Services Program established under Section 3 of this Act;

(3) serves an area in one or more of the three senatorial districts;

(4) acts as a single local source for respite services information and referral; and

(5) facilitates access to local respite services.

(g) "Council" means the CNMI Council on Developmental Disabilities.

(h) "Eligible recipients" means the primary caregivers of target dependents. The determination of eligibility for services is based on the needs of the family, with special attention given to the needs of the individual receiving care and the primary caregiver.

(i) "Economic resources" means the client's own resources together with other types of assistance, financial or otherwise, which are available to a client and would help maintain the client in the client's own home.

(j) "Federal Poverty Income Guidelines" or "FPIG" means the financial amount set annually by the U.S. Department of Health and Human Services ("HHS") in the Federal Register in order to simplify the poverty thresholds to be used in administrative setting such as to determine financial eligibility for certain federal programs.

(k) "Gross Income" means any benefit which is received by the client as a result of current or past labor or services (before deductions), business activities which generates recurring income, or as a contribution from persons, organizations, or assistance agencies such as wages and salary.

(l) "Health status" means the client's medical condition based on a diagnosis of the client's existing illnesses or disabilities, the medical care and medications needed in response to the diagnosis, and an assessment of the client's ability to perform daily tasks.

(m) "Home" means the client's residence which may not include a nursing facility, hospital, assisted living facility, penal institution, detention center, school, intermediate care facility for persons with mental retardation, or an institution that treats individuals who have mental diseases.

(n) "Home environment" means the client's dwelling unit, building, or house and its furnishings and the neighborhood in which the client resides.

(o) "Non-categorical care" means care without regard to age, income, ethnicity, race, nationality, special need or situation, or other status of the individual receiving care.

(p) "Needs assessment and evaluation" means a procedure for evaluating a client for respite care.

(q) "Paid Provider" means an individual or agency who meets the requirements to be a provider and who will provide services for a fee.

(r) "Personal adjustment" means the indicators of an individual's mood, judgment, and memory which are essential to remaining independent.

(s) "Primary caregiver" means an individual who provides a client with continuous at-home care at no cost.

(t) "Provider" means an individual or agency selected by a family or caregiver to provide respite services to an individual with special needs.

(u) "Respite care" means temporary relief for primary caregivers to prevent individual and family breakdown, institutionalization of the person being cared for, or abuse by the primary caregiver as a result of stress from giving continuous support and care to a dependent person.

(v) "Respite services" include but are not limited to:

- (1) recruiting and screening of paid and unpaid respite care providers.
- (2) identifying local training resources and organizing training opportunities for respite care providers.
- (3) matching families and caregivers with providers and other types of respite care.
- (4) providing vouchers, payment, subsidies, loans, grants, and linking families and caregivers with payment resources.

(5) identifying, coordinating, and developing community resources for respite services.

(6) quality assurance and evaluation.

(7) assisting families and caregivers to identify respite care needs and resources.

(8) assisting with the development of existing or needed facilities for respite care services.

(w) "Social resources" means support or assistance available to a client from family, friends, neighbors, community organizations such as churches, civic groups, or senior centers, or other agencies providing services to residents of the community.

(x) "Target dependents" means children with developmental disabilities residing at home, or adults with developmental disabilities who reside with aging parents, children, and older individuals who are medically fragile, have developmental disabilities, dementia, and other conditions and who reside at home of primary caregiver such as adult children, grandchildren, or other care-giving relative.

(y) "Unpaid Provider" means an individual or agency who meets the requirements to be a provider and who will provide services without a fee.

§ 75-50-020 CLIENTS

§ 75-50-020.01 Persons eligible for respite care

Depending on availability of funds, A client may be eligible for respite care when the following criterias are met:

- (a) The client's needs assessment and evaluation plan indicates a need for respite care; OR
- (b) **Income:** The client has a monthly Gross Income below the FPIG for a family of the same size; AND
- (c) **Residency:** The client must be living in the CNMI with the intention of making the CNMI his/her home permanently. Acceptable documentation includes, but is not limited to, utility payment receipts, house rental/mortgage receipts, etc.; AND
- (d) **Citizenship:** Only the citizenship and immigration status of the client is required for eligibility purposes. The client must be a U.S. citizen or a qualified alien, as defined in Personal Responsibility Work Opportunity Act (PRWORA), to be eligible for respite care services. Acceptable documentation includes, but is not limited to, birth certificate or passport; AND

(e) The individual has a primary caregiver.

§ 75-50-020.02 Income Guideline for Qualification

In order to qualify for respite care, an applicant, primary care provider, family member or authorized person may fill out an application for the potential client. The CBO shall use the FPIG for a family of the same size as the guideline for qualification. However, an applicant who is a recipient of any CNMI or federal assistance program automatically qualifies for respite care.

The client's monthly Gross Income shall be used to determine an applicant's eligibility.

(a) **Exclusions from Gross Income.** Excluded from the computation of gross income are the following:

1. Money received from the sale of property such as stocks, bonds, a house, or a car unless the person was engaged in the business of selling the property, in which case, the net proceeds would be counted as self employed income;
2. Withdrawals of bank deposits;
3. Loans;
4. Gifts, including in-kind gifts such as free room and board, when the gift is not a form of compensation in lieu of wages or salary;
5. Monies received in the form of a nonrecurring lump sum payment including, but not limited to, the following:
 - i. Income tax refunds, rebates, credits;
 - ii. Retroactive lump sum social security, SSI, or unemployment compensation benefits;
 - iii. Retroactive annual adjustment payments in the veteran administration's (VA) disability pensions;
 - iv. Lump sum inheritance or insurance payments;
6. Refunds of security deposits on rental property or utilities;
7. Earnings of minor children who are members of the household and are students at least half-time shall be excluded even during temporary interruptions in school attendance due to semester or vacation breaks, provided the minors' enrollment will resume following the break;

8. Capital gains
9. Loans, grants, and scholarships obtained and used under conditions that prohibit use for current living expenses;
10. Any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the United States Secretary of Education;
11. Home produce utilized for home consumption;
12. The value of coupon allotment under the Food Stamp Act of 1977, as amended.
13. The value of USDA donated or surplus foods;
14. The value of supplemental food assistance under the Child Nutrition Act of 1966 (42 U.S.C. § 1771-1789) and the special food service program for children under the National School Lunch Act, as amended;
15. Benefits received from the special supplemental food program for women, infants, and children (WIC) (Pub. L. No.92-443);
16. Allowances and payments to participants in programs, other than on-the-job training, under the Work Investment Act (WIA) of 1998 (20 U.S.C. § 9201);
17. The earned income of individuals participating in on-the-job training program under the Job Training Partnership Act (JTPA) of 1982 (25 U.S.C. § 640d-640d-28) who are between 18 and 19 years of age and under the parental control of another household member;
18. Earned income tax credit (EITC) payments received either as a lump sum or recurring payments under section 3507 of the Internal Revenue Code of 1986;
19. Financial assistance provided by a program funded in whole or in part under title IV of the Higher Education Act in accordance with Pub. L. No.99-498
20. Payments or allowances under any federal or local laws for the purpose of energy assistance;
21. Assistance payments received as a result of a declared federal major disaster or emergency from the federal emergency management agency

(FEMA), and other comparable disaster assistance provided by any state or local government agency, and disaster assistance organizations;

22. Payments made from the Agent Orange Settlement Fund or any other fund established in connection with settling liability claims concerning the chemical Agent Orange (Pub. L. No.101-201);
23. Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4636);
24. Payments received under the Radiation Exposure Compensation Act (Pub. L. No. 101-426) to compensate individuals for injuries or deaths resulting from the exposure to radiation from nuclear testing or uranium mining;
25. Payments to individuals participating in the Senior Community Service Employment Program (SCSEP) funded under title V of the Older American Act of 1965 (Pub. L. No.100-175);
26. Payments to volunteers derived from the volunteer's participation in the following program authorized by the Domestic Volunteer Service Act of 1973 (42 U.S.C. §§ 5011, 4951-4958):
 - i. Foster grandparent program;
 - ii. Senior companion program; and
 - iii. Volunteers in service to America (VISTA) and AmeriCorps program.
27. Military re-enlistment bonus;
28. Any other payments made in accordance with territory and federal laws that preclude the payments from being counted as income.

§ 75-50-020.03 Payment for Respite Care

§ 75-50-020.031 Method of computing respite care payment

- (a) The Council shall establish the hourly rate to be paid for respite care.
- (b) The respite care provider shall provide verification of the number of hours of respite care provided to the client, certified by the client or the client's primary care provider to the CBO.
- (c) The CBO will compute the monthly projected cost of the respite care based on:

1. Hours of respite care provided;
2. The client or the family's share of the cost of respite care in accordance with the Sliding Fee Scale as set forth in the current state plan.

(d) The projected respite care payment rate shall be calculated by:

1. The hours of respite care provided to the client;
2. The respite care amount to be paid each month of eligibility shall be the respite care hourly rate, times the number of hours of respite care provided, minus the co-payment amount, if any (hourly rate x respite care hours provided – co-payment amount = payment to respite care provider).

(e) Eligibility for respite care subsidized payment shall be suspended for any month the total monthly income exceeds the income criteria for the size of the family as adopted by the Council.

§ 75-50-020.032 Respite Care Payments

- (a) The payment rate shall be established by the current State Plan.
- (b) Respite care payments shall be an expense that is reimbursed to the respite care provider.
- (c) The client or primary care provider's co-payment shall be established by the current Sliding Fee Scale as set forth in the current State Plan.
- (d) The CBO shall issue a Payment Invoice and an attendance form to respite care providers who must then secure the client or their primary care provider's signature to be submitted for a reimbursable payment for respite care services rendered the previous month. The attendance form must show the number of hours the client is in the care of the service provider. Failure to submit a completed and signed payment invoice and/or an attendance form shall result in no payment.
- (e) A completed and signed payment invoice and/or attendance form must be received by the CBO within the first three working days of the month. Invoices received after the third (3rd) working day of the month will be considered late and will not be processed until the following month.

(f) The client or the primary care provider shall pay their portion of the respite care cost.

(g) All clients or primary care providers will pay their co-payments directly to the CNMI Treasury.

(h) The client or primary care provider shall be responsible for any respite care costs in excess of the maximum respite care rates as set forth in the current state plan.

§ 75-50-020.04 Priority

§ 75-50-020.04 Priority for Services

Priority for respite care services is determined in the following order:

1. Clients or primary care providers who are classified as no to very low income or below the FPIG level.
2. Clients or primary care providers who are classified as no to very low income or below the FPIG level with special needs children.
3. Clients or primary care providers who are homeless.

§ 75-50-020.041 Priority of Applications

If requests for respite care services cannot be honored because of the unavailability of services, applicants whose demonstrated need includes immediate danger of leaving their home or family shall be the first to receive respite care services regardless of the date of application.

All other eligible applicants for respite care who cannot receive service because of its unavailability shall be placed on a waiting list in order of date of application for services. A change in an applicant's condition may warrant a change in priority.

§ 75-50-020.05 Respite Care Settings

Respite care services may be provided in the following settings:

- (1) In the client's home as long as the primary caregiver lives in the client's home;
- (2) In the primary caregiver's home;
- (3) In the respite care provider's home; or
- (4) With prior approval from the CBO, in another type of community setting such as child or adult day care.

§ 75-50-020.06 Clients with Diverse Families

Family diversity is reflected in each family's unique characteristics such as race, ethnicity, language, family composition, socio-economic status, and religious beliefs. It is important that respite programs and providers respect these characteristics.

(1) Each family's cultural, racial, and linguistic identities are acknowledged, respected and supported.

(2) Each family's spiritual beliefs are acknowledged and respected.

(3) Diversity in family composition is acknowledged and supported in the provision of respite services (e.g. grandfamilies; foster and adoptive families; single parent families; lesbian, gay, bisexual and transgender families (LGBT)).

(4) Every effort is made to incorporate the family's cultural and linguistic needs into respite services.

Source: National Respite Guidelines, October 2011

§ 75-50-025 TYPES OF PROVIDERS

(1) **Paid providers** are those who will provide services for a fee to be paid by the CBO.

(2) **Unpaid providers** are those who provide services whose fees will be paid by someone other than the CBO.

§ 75-50-025.01 Provider Qualifications

(1) The CBO shall screen potential provider applicants as follows:

(a) conduct provider interviews, contact references, and require criminal background checks.

(b) assess provider knowledge about human development and developmentally appropriate activities.

(c) ensure that providers have work or volunteer experience working with the population they are serving (i.e., family caregivers, children with disabilities, adults with dementia, families in crisis).

(d) ensure that providers are physically and emotionally able to provide the care (e.g., by assessing work/volunteer experience, asking specific open-ended interview questions, and checking work and character references).

§ 75-50-025.02 Recruiting Providers

(1) The CBO shall collaborate with other agencies, local or federal, for profit or non-profit organizations to recruit and screen providers. If providers have been screened by an organization other than the CBO, the providers must, at a minimum, have been qualified with established criteria by the other organization.

(2) Recruitment campaigns for providers are carefully planned to encourage potential providers to respond to the need for respite.

(3) Family caregivers are encouraged to identify their own respite providers whenever appropriate from formal or informal supports.

(4) Efforts will be made to recruit respite providers from various ethnic, racial, linguistic, and cultural groups, as well as from socially diverse families (e.g., grandfamilies; foster and adoptive families; single parent families; lesbian, gay, bisexual and transgender families (LGBT)) in order to provide a diverse workforce.

(5) The CBO shall recruit providers who can effectively address specific family and care recipient needs (e.g., fluent in family's first language, trained to work with individuals with dementia).

(6) The CBO shall recruit respite providers representing both male and female role models for children and youth.

(7) The CBO shall recruit respite providers who live in areas easily accessible to families needing services, or plan to address resulting transportation issues if this is not possible.

Source: National Respite Guidelines, October 2011

§ 75-50-025.03 Hiring and Retaining Providers

(1) The CBO will develop job descriptions for all paid and volunteer respite positions, including the knowledge and skills needed to perform the designated job.

(2) The CBO will require that respite providers and volunteers submit a job application, provide references, and participate in an interview.

(3) The CBO will conduct criminal background checks.

(4) The CBO will provide to all respite providers a contract outlining provider and/or volunteer roles and responsibilities.

(5) Once hired, respite providers and volunteers will be given a general program orientation and participate in pertinent training activities.

(6) The CBO will provide ongoing support and supervision, including evaluating and providing feedback on the performance of each provider and volunteer.

Source: National Respite Guidelines, October 2011

§ 75-50-025.04 Volunteer Providers

(1) The CBO will use volunteers to provide a number of roles including clerical, fund raising, grounds' improvements, direct services and any other role if qualified.

(2) The CBO will dedicate administrative staff time to careful recruitment, training, retention and supervision of volunteers.

(3) Volunteers are recruited from the general community targeting potential volunteers through entities such as senior organizations, colleges and universities, corporate volunteer programs, service organizations, and faith based communities.

(4) The CBO shall coordinate with any institution of higher learning, such as the Northern Marianas College ("NMC"), or trade institute to encourage a volunteer program to be implemented for classroom credit for all student volunteers. If possible, the CBO shall encourage NMC to implement an internship and/or apprentice program for NMC students.

(5) If volunteers are providing direct services, the CBO will plan for a comprehensive orientation, training, ongoing support and supervision, as well as specific volunteer job roles.

(6) Volunteers are carefully matched with respite program needs. For example, more complex medical needs among children or adults with disabilities, or older care recipients with later stages dementia, may require more highly trained or more closely supervised volunteers to provide respite.

(7) The CBO will plan for ways they can recognize volunteers for the services they perform (e.g., recognition events, participation in staff training).

Source: National Respite Guidelines, October 2011

§ 75-50-025.05 Provider Relationship With Client Prohibited

A client's spouse, parent, or child may not be a respite care provider. Another family member may be a provider if the family member is neither living with the client nor receiving compensation as the client's caregiver.

§ 75-50-030 FAMILY CAREGIVER

Family caregivers are those persons, whether related to the client or not, who provide care to the client.

§ 75-50-030.01 Family Caregiver Involvement

Family caregiver involvement encompasses the inclusion of family caregivers in all aspects of quality, accessible respite service delivery. It is important to clearly define family roles so that they can be effectively involved in activities such as surveying caregiver needs, planning respite services, and program evaluation. However, no information deemed confidential by local or federal law shall be disseminated about clients.

(1) The CBO shall provide information about respite services and options to physicians, health care, social work, disability, and aging service providers to facilitate family caregivers having access to respite early in the caregiving experience.

(2) The CBO shall assist family caregivers in identifying their particular need(s) for services through timely, volunteer caregiver assessments or through informal discussion to ensure that they gain the greatest benefits from respite.

(3) Family caregivers are involved in service design and implementation.

(4) The CBO shall solicit family caregiver input regarding service delivery on an ongoing basis (e.g., needs assessments, service satisfaction surveys, advisory boards).

(5) The CBO and family caregivers shall work together to clearly define family roles and responsibilities within the services being provided.

(6) The CBO shall develop respite care services so that they are family-centered (take into consideration the needs of all family members).

(7) The CBO shall build on the strengths and resources of families.

(8) The CBO shall plan respite care services so that it can be available early in the caregiving experience and in a frequently and therapeutically sufficient dosage to positively affect the family caregiver's health and well-being.

(9) Family caregivers receive appropriate emotional support and reassurance about having their loved one in care.

(10) Family caregiver preferences for service entry, location, hours, activities and delivery, are respected and accommodated, as appropriate.

(11) Families have access to their loved ones while they are in care.

(12) Family caregivers are encouraged to value their respite time and engage in respite activities that will maximize their benefits and outcomes.

Source: National Respite Guidelines, October 2011

§ 75-50-035 RESPITE SERVICE ADMINISTRATION

The CBO shall administer the respite program with the advise and supervision of the Council. These rules and regulations shall be construed liberally in order for the CBO to provide respite care services.

§ 75-50-035.01 Plan for Respite Care Services

The CBO in cooperation with the client, the primary caregiver, and the respite care provider shall develop a plan for respite care services. The plan shall be based on the client's needs assessment and evaluation. The CBO shall retain a copy of the plan in the client's file. The plan shall be reviewed every six months. The plan shall contain the following information;

- (1) The total number of respite care hours approved in each quarter;
- (2) The scheduled use of hours;
- (3) A description of the approved tasks or duties of the respite care provider; and
- (4) The cost-sharing amount determined by the sliding fee scale as adopted by the Council.

§ 75-50-035.02 Covered Services

Covered services may include any of the following:

- (1) Companionship;
- (2) Involvement in the client's activities of daily living;
- (3) Recreational activities;
- (4) Meal preparation;
- (5) Transportation;

(6) Light housekeeping and personal hygiene tasks only when care is required over several days and as long as the services are essential to the client's health and comfort in the home; and

(7) Additional tasks or duties specified in the client's plan for respite care service.

§ 75-50-035.03 Services Not Covered

Services which are not covered under respite care includes skilled nursing services, however the administration of prescribed and over the counter medications shall be followed according to the client's primary medical provider.

§ 75-50-035.04 Needs Assessment and Evaluation for Respite Care

The CBO shall assess the respite care service needs of the client with the goal of improving or stabilizing the client's condition thereby lessening or eliminating the client's dependence on the respite care services. The CBO shall reassess the client's condition and the continued need for services at least once every six months. In determining continuing need, the CBO shall consider the client's ability to complete tasks and whether other resources are available to provide the needed services. The needs assessment and evaluation shall also consider information provided by the client in the following areas:

- (1) Social resources;
- (2) Home environment;
- (3) Health status;
- (4) Activities of daily living;
- (5) Personal adjustment; and
- (6) Economic resources.

§ 75-50-035.05 Limit on Number of Service Hours

An individual qualifying for services under this chapter may not receive more than 210 hours of respite care services a quarter.

§ 75-50-035.06 Supervision

Supervision is a means of overseeing one's work, offering guidance and verbal and emotional support to those who are providing care either on a paid or volunteer basis. Such teaching and debriefing opportunities enhance the quality of the care being provided.

(1) All respite providers, whether paid or volunteer, receive ongoing supervision and support.

(2) An administrative staff person is assigned the duty of maintaining consistent and ongoing contact with respite providers to answer questions, listen to their concerns, and share in the joys of providing respite services.

(3) Regular staff meetings and in-service training are available to all respite providers.

(4) In case of emergencies while an individual is in care, respite providers have access to an administrative staff person at all times.

(5) Whether performing their work in the company of co-workers or in the isolation of their home or the family's home, respite providers have access to peer support to share concerns and receive support.

(6) Respite providers and respite programs exceed state licensing requirements, as needed, in determining the ratio of caregivers to providers. Some individuals in care, especially young children or the elderly with dementia, frequently have additional needs for assistance and supervision. Respite providers can more readily respond to those needs if they have only a few individuals in their care.

(7) Respite programs determine the provider/care recipient ratio by assessing the individualized needs of each care recipient. In practice this will mean that some care will be appropriately provided in small groups, and, in some instances, care will be provided on an individual basis.

(8) Documentation and reporting procedures are in place to reflect the respite provider service location if it is different from the immediate supervisor's location.

Source: National Respite Guidelines, October 2011

§ 75-50-035.07 Training

Once respite programs and volunteers have been recruited and hired, it is essential that they receive pre-service training as well as regular in-service training on topics relevant to their work. Training activities can be designed to include an initial orientation, group training, individualized training on specific care recipients' needs, and periodic in-service training to enhance provider skills. Ideally, more than one method of training is offered to address various provider learning styles and needs.

(1) Family caregivers and adult care recipients are involved in determining training content and in supervising or assisting in the training of providers, as appropriate.

Training can involve formal group presentations, as well as direct training of respite providers by family caregivers and/or adult care recipients in the home.

(2) Respite providers and volunteers receive training which not only enhances their skills, but also lets them know they are a valued member of a respite team, worthy of receiving information to improve the quality of their work.

(3) Respite providers and volunteers receive training prior to providing care. Training is individualized to meet the needs of providers. In some situations, providers may already possess the requisite skills and background. In general, the following topics are included in training for providers. Additional topics may need to be added in specific circumstances:

- (a) Overview of respite services and importance of respite as a valued service.
- (b) Overview of family caregiving issues, including but not limited to the positive and negative physical, emotional and familial consequences of caregiving.
- (c) Caregiver stress and resultant outcomes.
- (d) Confidentiality.
- (e) Communication skills.
- (f) Disability awareness.
- (g) Respect for the independence and abilities of the care recipient.
- (h) Child, adolescent, and adult development and aging issues, as appropriate for the respite setting.
- (i) Conditions of individuals which respite providers are likely to encounter, such as disabilities, chronic or terminal illnesses, dementia and those at risk of abuse and neglect.
- (j) Family diversity (cultural, ethnic, racial, linguistic, family composition).
- (k) Effective ways to work with families of individuals with disabilities and chronic or terminal illnesses and/or families in crisis.
- (l) Planning and preparing developmentally appropriate activities; maintaining appropriate routines and schedules for those in care.
- (m) Policies and procedures for the respite program, including expectations for reporting and documentation.

- (n) Emergency procedures (First Aid, CPR, program emergency protocols).
- (o) General information about the spread of infectious disease, and universal precautions to be used in the care of individuals to avoid the spread of disease.
- (p) Program procedures for the administration of medication and other health related tasks; special hair and skin care.
- (q) Abuse and neglect detection and reporting protocol for mandated reporters.
- (r) Crisis intervention; issues in domestic violence and substance abuse.
- (s) Behavior management; what behaviors to expect from individuals with specific disabilities such as autism, and managing individuals with difficult behaviors, including dementia, and of those whose family is experiencing a crisis.

Source: National Respite Guidelines, October 2011

§ 75-50-035.08 Discontinuance of Services

The CBO may discontinue services provided under this chapter when the Council exhausts its resources for providing the services, the client can no longer benefit from the services provided, or the client's or the provider's health or safety would be jeopardized if the services were continued. Specific reasons for discontinuing services may include the following:

- (1) The client's medical needs may require daily nursing. Indications are the client experiencing falls, failing to take needed medication, or suffering from uncontrolled tuberculosis or two people are needed to move the client;
- (2) The client is sexually harassing, verbally abusive, threatening, or combative towards the person delivering services;
- (3) The client's care plan exceeds the limits of the in-home care limits;
- (4) The client's living environment presents health and fire hazards or unsafe conditions for the person delivering services;
- (5) The client's family and individuals from other support systems have discontinued providing care or are unable to provide the care needed;
- (6) The client is not in compliance with the case service plan;

(7) The client's cognitive ability is limited to the extent that the client is not oriented to person, place, or time;

(8) The client is not capable of self-preservation in an emergency;

(9) The client's condition has improved and no longer meets program eligibility;

(10) The client failed to contribute to the program as required;

(11) The client refuses to allow the service provider on the premises;

(12) The client or others in the household are under the influence of drugs or alcohol;
or

(13) The client has pornographic materials exhibited in the home.

§ 75-50-035.09 Payment Sources to Assist Families

The CBO shall implement a procedure in order to provide information to interested persons on ways to obtain vouchers, payments, subsidies, loans grants, and linking families and caregivers with payment sources for respite services.

§ 75-50-035.10 Community Resources

(a) The CBO shall identify community resources that could help alleviate or subsidize the cost respite care for the CBO, client or primary caregivers.

(b) The CBO shall coordinate with other government agencies, private for or non-profit organizations and any other entity to ensure a community approach is taken in providing respite care.

§ 75-50-035.11 Community Collaboration

The CBO shall collaborate with other agencies, for and non-profit organizations and human service organizations to enhance service provision and program evaluation when planning and providing, respite programs.

(a) The CBO shall develop service options that meet the needs of family caregivers who are unserved or underserved and which interface effectively with existing service systems, programs, and natural supports.

(b) The CBO shall engage in interagency collaboration to enhance the array of respite services, thus providing family caregivers with appropriate choices and options.

(c) The CBO shall consider collaboration on training, funding, sharing technical expertise and support, and the development of multiple community service options with partner agencies.

(d) The CBO shall collaborate with other interested organizations to raise funds to subsidize respite program needs.

§ 75-50-035.12 Access to Program

The CBO shall ensure the respite care program is available to everyone, regardless of race, ethnicity, gender or religious belief on all 3 Senatorial Districts.

§ 75-50-035.13 Data Collection of Participants for Program Improvement and Distribution of Information

In order to enhance respite service evaluation, the CBO shall form partnerships with state and community agencies (e.g., institutions of higher education, state agencies) to collaborate on needs assessments and program evaluation. These information can be used by the CBO for budgetary purposes, grants application, program improvement or for any other purpose.

The CBO shall collect the following information:

- (a) Reasons family caregivers are seeking services;
- (b) Impact of services on family caregiver stress and quality of life;
- (c) Impact on caregiver interpersonal relationships;
- (d) Caregiver work-related secondary benefits;
- (e) Family caregiver requests for service changes, expansion, and new service development;
- (f) Family caregiver involvement in services;
- (g) Staff satisfaction;
- (h) Program cost-effectiveness;
- (i) Achievement of program goals and benefits;
- (j) Impact of the services on the community;
- (k) Special activities (e.g., public awareness, fundraising);

(l) Provider and volunteer training is assessed in terms of skill levels as well as satisfaction with the training;

(m) Units of service (i.e., numbers of care recipients and families served; hours/days of care);

(n) Service location (e.g., home, community, hospital, group home);

(o) Ethnicity, family composition and primary language of families;

(p) Requests for service;

(q) Unmet service needs and waiting lists; and

(r) Costs of services.



Commonwealth of the Northern Mariana Islands
 BOARD OF PROFESSIONAL LICENSING
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 Capitol Hill, Saipan, MP 96950
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 Email: bpl@pticom.com

NOTICE OF PROPOSED AMENDMENTS TO THE
 BOARD OF PROFESSIONAL LICENSING
 RULES OF PROFESSIONAL CONDUCT FOR
 ENGINEERS, ARCHITECTS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

INTENDED ACTION TO ADOPT THESE PROPOSED RULES: The Board of Professional Licensing (BPL) intends to adopt as permanent rules the attached Proposed Rules, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The rules would become effective 10 days after compliance with 1 CMC §§ 9102 and 9104(a) or (b) (1 CMC § 9105(b)).

AUTHORITY: The Board of Professional Licensing has statutory power to promulgate and affect rules pursuant to P.L. 14-95, as amended. See also Executive Order 94-3 (effective August 23, 1994, reorganizing the Executive branch).

THE TERMS AND SUBSTANCE: The BPL shall amend the rules to update it in accordance with the model guidelines adopted by the NCEES and NCARB.

THE SUBJECTS AND ISSUES INVOLVED: The Rules of Professional Conduct for Engineers, Architects, Land Surveyors and Landscape Architects.

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

Submitted By: Roman Demapan
 Roman S. Demapan
 Chairman, BPL

5.14.14
 Date

Received By: Esther S. Fleming
 Esther S. Fleming
 Special Assistant for Administration

5/23/14
 Date

Filed and Recorded By:

Esther SN Nesbitt

Esther SN Nesbitt
Commonwealth Register

5.27.2014

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).

Gilbert Birtbrich

Gilbert Birtbrich

JOEY P. SAN NICOLAS
Attorney General

5/20/14

Date

Commonwealth gi Sangkattan na Islan Marianas Siha
BOARD OF PROFESSIONAL LICENSING
P.O. Box 502078, #1242 Pohnpei Court
Capitol Hill, Saipan, MP 96950
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**NUTISIA PUT I MANMAPROPONI NA AMENDASION PARA I
BOARD OF PROFESSIONAL LICENSING NA AREKLAMENTU SIHA GI
PROFESSIONAL CONDUCT PARA I ENGINEERS, ARCHITECTS, YAN LAND SURVEYORS YAN LANDSCAPE
ARCHITECTS**

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

ÁTURIDÁT: I Kuetpun Professional Licensing gai áturidát para u cho'gui yan u ifektibu i areklamentu siha sigun gi Lai Puplicu 14-95, kumu ma'amenda. Atan lokku' i Etdin Eksakatibu 94-3 (ifektibu gi Agostu 23, 1994, ya u mata'lun otganisa i rámas Eksakatibu).

I TEMA YAN SUSTANSIAN I PALÁBRA SIHA: I BPL debi na u amenda i areklamentu siha ni para u update gi sigun i ginagagão yan i model guidelines ni ma'adapta ginin i NCEES yan i NCARB.


SUHETU NI MASUMÁRIA YAN ASUNTU NI TINEKKA: I Areklamentun i Professional Conduct para i Engineers, Architects, Land Surveyors and Landscape Architects.

DIREKSION PARA U MAPO'LU YAN MAPUBLICA: I Kuetpu mamamaisin upiñon siha sigun gi esti i manmaproponi na amendasion siha ni debi na u marisibi ginin i Kuetpu gi halum i trenta(30) dihas gi gi primet na publikasion esti na nutisia gi halum i Rehistran Commonwealth. Maseha háyi na petsona manintirisão manmamaisin kopia siha gi i manmaproponi na amendasion á'agang ham gi 664-4809 pat i email gi bpl@pticom.com pat fáfattu gi ufisinan-mâmi ni gaigi gi Bldg. 1242, Pohnpei Ct., Capitol Hill, Saipan. Tinigi' upiñon put esti na amendasion siha debi na u machuli' guatu gi ufisinan-mâmi pat na'hânão para i BPL, P. O. Box 502078, Saipan, MP 96950.

Nina'hálum as: Roman Demapan
Roman S. Demapan
Kabesityu, BPL

5.14.14
Fetcha


Rinisibi as:



Esther S. Fleming
Ispisiât Na Ayudânti Parali Atministrasion

5/23/14
Fetcha


Pine'lu yan
Ninota as:



Esther SN. Nesbitt
Rehistran Commonwealth

5.27.2014
Fetcha

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


Gilbert Birnbridge
JOEY P. SAN NICOLAS
Attorney General

5/20/14
Fetcha

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ARONGORONG REL POMMOL LIWELL REL BOARD OF PROFESSIONAL LICENSING REL ALLÉGHÚL
PROFESSIONAL CONDUCTS NGÁLIIR ENGINEERS, ARCHITECTS, LAND SURVEYORS, ME LANDSCAPE
ARCHITECTS

MÁNGEMÁNGIL MWÓGHUT YEEL BWE EBWE ADAPTÁÁLI POMMWOL ATIWELIGH KKAL:

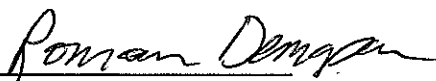
Board of Professional Licensing (BPL) re mángemángil re bwe adaptááli bwe e bwe llégh ló allégh kka re appasch long bwe pommol allégh, sáangi mwóghutughútúl Administrative Procedure Act, 1 CMC § 9104 (a) ngáre (b) (1 CMC § 9105 (b)).

BWÁNGIL: Eyoor bwángil Board of Professional Licensing bwe re bwe arongowow me rebwe mwóghut agháli allégh sáangi P.L. 14-95, igha re liweli. Amweri Executive Order 94-3 (e bwungu ló August 23, 1994, ighiwe e fféerú sefáliy Executive branch).

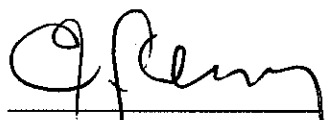
KKAPASAL ME AWEWEEL: BPL e bwe liweli allégh bwe e bwe ayoora aweewel ngáli mwóghutughútúl rel mille re bwe attabweey ikka re adaptááli sáangi NCEES me NCARB.

KKAPASAL ME ÓUTOL: Alléghúl Professional Conduct, reer Engineers, Architects, Land Surveyors me Landscape Architects.

AFAL REEL AMWELIL ME ARONGOWOWUL: Board e tittingor mángemángiir toulap rel pommol liwell kka iye re bwe bwughil lóll eliigh ráll ngáre schagh aa akkatééwow arongongorong merel Commonwealth Register. Schóó kka re re mweschál copy-il pommol liwell kkal emmwel re bwe faingi numero ye 664-4809 me ngáre email bpl@pticom.com me ngare mweteló reel bwulasiyo Bldg. 1242, Pohnpei Ct., Capitol Hill, Saipan. Ischil mángemáng ebwe iisilong llól bwulasiyo me ngáre afanga ngáli BPL, P.O. Box 502078, Saipan, MP 96950.

Isáliiyalong: 
Roman S. Demapan
Chairman, BPL

5.14.14
Ráll

Mwir Sáangi: 
Esther S. Fleming
Special Assistant for Administration

5/23/14
Ráll


Ammwel Sáangi:




Esther SN. Nesbitt
Commonwealth Register

5-27-2014
Ráll

Sáangi 1 CMC § 2153(e) (Allégh kkaal a lléghló sáangi AG bwe e fil reel fféerúúl) me 1 CMC § 9104 (a) (3) (mwiir sáangi AG) Pomwol atiweligh kkal a appaschlong a takkal amwuri fischiiy, me angúngú ló fféerúúl me legal sufficiency sáangi CNMI Attorney General me e bwele akkatewoow, 1 CMC § 2153 (f) (Arongowowul allégh me atiwiligh kkaal.



Gilbert Birtch

 Joey P. San Nicolas
Attorney General

5/24/14
Ráll

BOARD OF PROFESSIONAL LICENSING
Rules of Professional Conduct
for
Engineers, Architects, Land Surveyors and Landscape Architects

PREAMBLE

To comply with the purpose of 4 CMC, § 3108 which is to safeguard life, health, and property, to promote the public welfare, and to maintain a high standard of integrity and practice, the Board of Professional Licensing has adopted the following "Rules of Professional Conduct." These rules shall be binding on every person **or firm** holding a license **or a certificate of authorization** to offer or perform engineering, architecture, land surveying, or landscape architecture services in the Commonwealth of the Northern Mariana Islands. All persons **or firm** licensed pursuant to 4 CMC, §§ 3101 are required to be familiar with the statute, the regulations and these rules. The "Rules of Professional conduct" delineates specific obligations the licensee **or firm** must reach. In addition, each licensee **or firm** is charged with the responsibility of adhering to standards of highest ethical and moral conduct in all aspects of the practice of professional engineering, architecture, land surveying, or landscape architecture.

The practice of professional engineering, architecture, land surveying, and landscape architecture is a privilege, as opposed to a right. All licensees **or firm** shall exercise their privilege of practicing by performing services only in the areas of their competence according to current standards of technical competence.

Licensees **or firm** shall recognize their responsibility to the public and shall represent themselves before the public only in an objective and truthful manner.

They shall avoid conflicts of interest and faithfully serve the legitimate interests of their employers, clients, and customers within the limits defined by these rules. Their professional reputation shall be built on the merit of their services and they shall not compete unfairly with others.

The "Rules of Professional Conduct" as promulgated herein are enforced under the power vested by the Board of Professional Licensing.

I. Licensees/Firms Obligation to the Public

a. Licensees or firms, in the performance of their services for clients, employers, and customers, shall be cognizant that their first and foremost responsibility is to the public welfare.

b. Licensees or firms shall approve and seal only those documents and surveys that conform to accepted engineering, architecture, land surveying, or landscape architecture standards and safeguard the life, property, and welfare of the public is endangered.

c. Licensees or firms shall notify their employer or client and such other authority as may be appropriate when their professional judgment is overruled under circumstances where life, health, property, or welfare of the public is endangered.

d. Licensees or firms shall be objective and truthful in professional reports, statements, or testimony. They shall include all relevant and pertinent information in such reports, statements, or testimony.

e. Licensees or firms shall express a professional opinion publicly only when it is founded upon on adequate knowledge of the facts and a competent evaluation of the subject matter.

f. Licensees or firms shall issue no statements, criticisms, or arguments on technical matters which are inspired or paid for by interested parties, unless they explicitly identify the interested parties on whose behalf they are speaking, and reveal any interest they have in the matters.

g. Licensees or firm shall not permit the use of their name or firm name by, nor associate in the business ventures with, any person or firm who is engaging in fraudulent or dishonest business or professional practices.

h. Licensees or firm having knowledge of possible violations of any of these "Rules of Professional Conduct" shall provide the Board information and assistance necessary to the final determination of such violation.

II. Licensees/Firms Obligation to Employer and Clients

a. Licensees or firm shall undertake assignments only when qualified by education or experience in the specific technical fields of architecture, engineering, land surveying or landscape architecture involved.

b. Licensees or firm shall not affix their signatures or seals to any plans or documents dealing with subject matter in which they lack competence, nor to any such plan or document not prepared under their direct control and personal supervision.

c. Licensees or firm may accept assignments for coordination of an entire project, provided that each design segment is signed and sealed by the licensee responsible for preparation of that design segment.

d. Licensees or firm shall not reveal facts, data, or information obtained in a professional capacity without the prior consent of the client or employer as authorized or required by law.

e. Licensees or firm shall not solicit or accept financial or other valuable consideration, directly or indirectly from contractor, their agents, or other parties in connection with work for employers and clients.

f. Licensees or firm shall make full prior disclosures to their employers or clients of potential conflicts of interest or other circumstances which could influence or appear to influence their judgment or the quality of their services.

g. Licensees or firm shall not accept compensation, financial or otherwise, from more than one party for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.

h. Licensees or firm shall not solicit or accept a professional contract from a government body on which a principal or officer of their organization serves as a member. Conversely, licensees serving as members, advisors, or employees of a government body or department, who are the principals or employees of a private concern, shall not participate

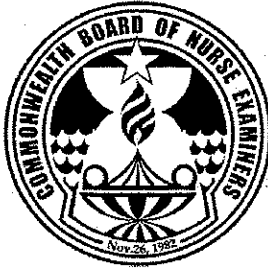
in decisions with respect to professional services offered or provided by said concern to the government body which they serve.

III. LICENSEES/FIRM OBLIGATION TO OTHER LICENSEES/FIRM

a. Licensees shall not falsify or permit misrepresentation of their or their associates' academic or professional qualification. They shall not misrepresent or exaggerate neither their degree of responsibility in prior assignments nor the complexity of said assignments. Presentations incident to the solicitation of employment or business shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures or past accomplishments.

b. Licensees or firm shall not offer, give, solicit, or receive, either directly or indirectly, any commission or gift, or other valuable consideration in order to secure work, and shall not make any political contribution with the intent to influence the award of a contract by public authority.

c. Licensees or firm shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of other licensees or firm, nor indiscriminately criticize other licensees or firm's work.



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PUBLIC NOTICE OF PROPOSED PERMANENT REGULATIONS

REGULATIONS ESTABLISHING STANDARDS FOR EDUCATIONAL PROGRAMS IN NURSING

INTENDED ACTION TO ADOPT THESE PROPOSED REGULATIONS: The Northern Mariana Islands Board of Nursing (NMI Board of Nursing), previously known as the CNMI Board of Nurse Examiners, intends to adopt as permanent regulations the attached Proposed Regulations pursuant to the procedures of the Administrative Procedure Act, 1 CMC §9104(a). These regulations will become effective 10 days after compliance with 1 CMC §§9102 and 9104(a) or (b).


AUTHORITY: The NMI Board of Nursing has the statutory authority to promulgate rules and regulations pursuant to 3 CMC §2306 of the Nurse Practice Act, as amended by Public Law No. 18-25.

THE TERMS AND SUBSTANCE: The attached Proposed Rules and Regulations will:


- 1) Amend NMIAC §140-60.1-310(a)(1) by changing "surgical/psychiatric technician program" to "Nursing Assistant program."
- 2) Add a section §140-60.1-312 to authorize any Nursing Assistants working by December 21, 2010, with at least two (2) consecutive years of work as a Nursing Assistant in a healthcare setting, to be deemed licensed as a Nursing Assistant under the NMI Board of Nursing rules and regulations (Grandfather Clause).
- 3) Amend NMIAC §140-60.1-403 by defining the scope of practice for Registered Nurses.
- 4) Amend NMIAC §140-60.1-415(b) to authorize the Board to grant prescribing and ordering authority to Certified Nurse Specialists on a case-by-case basis.
- 5) Add a Part 900-1000 to Subchapter 140-60.1 of the NMIAC to include Standards for Educational Programs in Nursing for: (A) Associate and Bachelors Degree programs; (B) Licensed Practical/ Licensed Vocational Nursing programs; and (C) Nurse Practitioner Clinical Preceptorship Programs.

DIRECTIONS FOR FILING AND PUBLICATION: The NMI Board of Nursing is soliciting comments regarding these Proposed Regulations, which must be received by the NMI Board of Nursing within thirty (30) days of the publication of this notice in the Commonwealth Register. Interested persons may request copies of the Proposed Regulations by contacting the NMI Board of Nursing at 234-8950, ext. 2909, by emailing the Board at cbone@pticom.com, or by coming to the NMI Board of Nursing Office, located at the Commonwealth Healthcare Corporation (CHCC). Written comments

should be emailed to the above-mentioned email address or dropped off at the NMI Board of Nursing Office, located at CHCC.

Submitted by: 
Aurelia G. Long
Chairperson, CBNE

4/28/14
Date

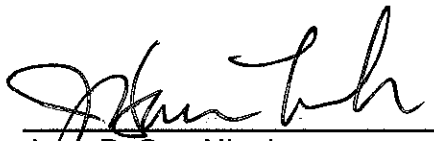
Received by: 
Esther S. Fleming
Special Assistant for Administration

5/23/14
Date

Filed and Recorded by: 
Esther M. Nesbitt
Commonwealth Register

5.27.2014
Date

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


Joey P. San Nicolas
Attorney General

5/23/14
Date

NMI BOARD OF NURSING
P.O. Box 501458, CK
Saipan, M.P. 96950
Tel: 670.234-8950. ext. 2909
Email: cbone@pticom.com
arleylong3@gmail.com
(670) 287-8429

NUTISIAN PUBLIKU GI MANMAPROPONI PETMANIENTI NA REGULASION SIHA

REGULASION SIHA NI INISTAPBLELESI I STANDARDS PARA EDUCATIONAL NA PRUGRĀMA SIHA GI HALUM I NURSING

I AKSION NI MA'INTENSIONA NA PARA U MA'ADĀPTA ESTI I MANMAPROPONI NA REGULASION SIHA: I Sangkattan na Islas Marianas Board of Nursing (NMI Board of Nursing), itmās matungo'fia kumu i CNMI Board of Nurse Examiners, ha intensiona para u adāpta kumu petmanienti na regulasion siha ni mañechettun i Manmaproponi na Regulasion sigun gi manera siha gi Āktun Administrative Procedure, 1 CMC §9104(a). Esti na regulasion siha para u ifektibu gi halum dies(10) diha na tiempu dispues di compliance i 1 CMC §§9102 yan i 9104(a) pat i (b).

ĀTURIDĀT: I NMI Board of Nursing gai āturidāt para u cho'gui i areklamentu yan regulasion siha sigun i 3 CMC §2306 gi Āktun i Nurse Practice, kumu ma'amenda ni Lai Pubblica Numiru 18-25.

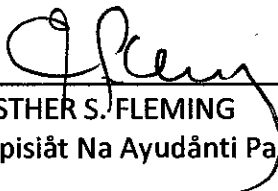
I TEMA YAN SUSTĀNSIAN I PALĀBRA SIHA: I mañechettun na Manmaproponi na Areklamentu yan Regulasion siha para u:

- 1) Para u amenda i NMIAC §140-60.1-310(a)(1) ni tinilaika "prugāman surgical/psychiatric technician" para i "Prugrāman Nursing Assistant."
- 2) Para u ma'āomenta i seksiona § 140-60.1-312 ni para u ma'āturisa maseha hāfa na Nursing Assistants ni machocho'chu' gi Disembri 21, 2010, putlumenus dos(2) āñus umatattiyi kumu Nursing Assistant gi healthcare setting, para u makunsidera na malisensia kumu Nursing Assistant gi papa' i areklamentu yan regulasion siha gi NMI Board of Nursing(Grandfather Clause).
- 3) Para u ma'amenda i NMIAC § 140-60.1-403 ni ha dififina i scope of practice para i Registered Nurses.
- 4) Para u ma'amenda i NMIAC § 140-60.1-415(b) ni para u āturisa i Kuetpu para u nā'i āturidāt gi prescribing yan ordering para i Cerified Nurse Specialists gi case-by-case basis.
- 5) Para u ma'āomenta i Pātti 900-1000 para i Subchapter 140-60.1 gi NMIAC ni para u sãonão i Standards para i Prugrāman Educational gi para i Nursing: (A) Prugrāman Associate yan Bachelors Degree siha; (B) Prugrāman Licensed Practical/Licensed Vocational Nursing siha; yan (C) Prugrāman Nurse Practitioner Clinical Preceptorship siha.

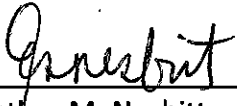
DIREKSION NI PARA U MAPO'LU YAN MAPUPBLIKA: I NMI Board of Nursing manggagagao upiñon siha sigun gi esti i Manmaproponi na Regulasion siha, ni debi na u marisibi ni i NMI Board of Nursing gi halum trenta(30) dihas ni esti na publikasion esti na nutisia gi halum i Rehistran Commonwealth. Maseha hãyi na petsona siha ni manggai intires mamanggagao kopia siha ni Manmaproponi na Regulasion siha a'agang i NMI Board of Nursing gi 234-8950, ext. 2909, i email i Board gi cbone@pticom.com, pat fãfattu guatu gi Ufisinan NMI Board of Nursing ni gaigi gi Commonwealth Healthcare corporation (CHCC). Tiningi' upiñon debi na u ma'-email guatu gi sanhilu' ni mamensiona na email address pat chuli' guatu gi Ufisinan NMI Board of Nursing, gaigi gi CHCC.

Nina' hãlum as: _____
Aurelia G. Long
Kabiseyu, CBNE

Fetcha

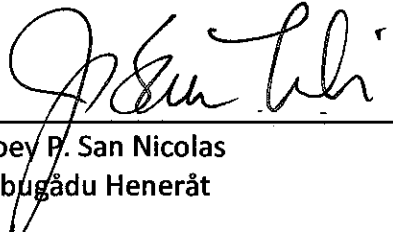
Rinisibi as: _____

ESTHER S. FLEMING
Ispisiãt Na Ayudãnti Para I Atministrasion

5/23/14
Fetcha

Pine'lu yan
Ninota as: _____

Esther M. Nesbitt
Rehistran Commonwealth

5.27.2014
fetcha

Sigun i 1 CMC § 2153(e) yan i 1 CMC § 9104(a)(3), i Manmaproponi na Areklamentu yan Regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligãt ginin i Abugãdu Henerãt yan debi na u mapupblika. 1 CMC § 2153(f)).


Joey P. San Nicolas
Abugãdu Henerãt

5/23/14
Fetcha

NMI BOARD OF NURSING
P.O. BOX 501458, CK
Telephone: (670) 234-8950, ext.2909
Email: cbone@pticom.com
arleylong3@gmail.com
(670) 287-8429

ARONGORONG REL POMMOL BWE E BWE LLÉGH LÓ ALLÉGH

MWÓGHÚTUGHÚTÚL ALLÉGH E FFÉÉR NGÁLI EDUCATIONAL PROGRAMS REL NURSING

MÁNGEMÁNGIL MWÓGHUT YEEL BWE E BWE ADAPTÁALI POMMOL ATIWELIGH KKAL:

Sáangi Northern Mariana Islands Board of Nursing (NMI Board of Nursing) ighiwe nge CNMI Board of Nurse Examiners, re pommol bwe re bwe adaptáali bwe e bwe llégh ló allégh ye e appaschlong bwe pommol allégh sáangi mwóghútughútúl Administrative Procedure Act 1 CMC § 9104 (a). Allégh kkaal nge e bwe bwunguló seigh (10) ráll mwiril yal palúweli 1CMC §§ 9102 me 9104 (a) ngáre (b).

BWÁNGIL: Eyoor bwángil NMI Board of Nursing bwe re bwe arongowow allégh me mwóghútughút sáangi 3 CMC §2306 merel Nurse Practice Act, igha e liwell sáangi Public Law No. 18-25.

KKAPASAL ME ÓUTOL: Allégh me mwóghútughút e bwe:

1. Liwell rel NMIAC § 140.60.1-310 (a) (1) e bwe liwelli “surgical/psychiatric technician program” ngáli “Nursing Assistant Program”
2. Isiislong leyil eew Section § 140-60.1-312 bwe e bwe ngáleey bwángil Nursing Assistant iye e angaang lól December 21, 2010, iye e yoor ruwoow (2) rághil bwe e ghal Nursing Assistant rel leliyel Health Care, bwe e bwe rághi liseesiyal rel Nursing sáangi yal allégh me mwóghútughút NMI Board of Nursing. (Grandfather Clause).
3. Liwell rel NMIAC § 140-60.1-403 igha re bwe selátiy mwóghútughútúl Registered Nurses.
4. Liwell rel NMIAC § 140-60.1-415 (b) bwe re bwe ngáleey bwángil Board bwe re bwe grant Prescribing me ordering authority Certified Nurse Specialist.
5. Appaschlong Part 900-1000 rel subchapter 14060.1 rel NMIAC bwe e bwe schuu Standards for Education PRigram rel Nursing: (A) Associate me Bachelor’s Degree Programs (B) Licensed Practical/Licensed Vocational Nursing Programs; me (C) Nurse Practitioner Clinical Preceptorship Programs.


AFAL REL AMWELIL ME ARONGOWOWUL: NMI Board of Nursing re tittingóór mwálili rel pommol allégh, ikka re atiweligh bwe re bwe attotoolong rel NMI Board of Nursing lól 30 ráll mwiril arongowowul merel Commonwealth Register. Ngáre U mweschel emmwel bwe U bwe ayégh yóómw Copy-il *Proposed Regulations*, U bwe fafaingí NMI Board of Nursing rel 234-8950, ext. 2909, me Email rel cbone@pticom.com, me ngáre U bwe ló rel bwulasiyol NMI Board of Nursing, iye e llo rel Commonwealth Healthcare Corporation (CHCC). Iischiy meeta mángemáng nge Uwa afangalong rel email address me ngáre bwughilong rel NMI Board of Nursing Office, iye e llo CHCC.

Isáliiyalong:

Aurelia G. Long
Chairperson, CBNE

Ráll

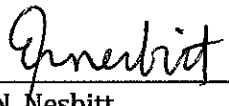
Mwir Sáangi:


Esther S. Fleming
Special Assistant for Administration

5/23/14

Ráll

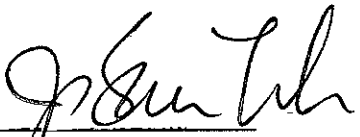
Ammwel Sáangi:


Esther SN. Nesbitt
Commonwealth Register

5.27.2014

Ráll

Sáangi 1 CMC § 2153(e) me 1 CMC §9104(a)(3) Pomwol allégh me mwóghútughút re appaschlong a takkal amweeri fiischiy, me bwunguló fféerúl me legal sufficiency sáangi CNMI Attorney General me e bwele arongowow, (1 CMC §2153(f))


Joey P. San Nicolas
Attorney General

5/23/14

Ráll

1) To amend NMIAC §140-60.1-310(a)(1) to read as follows:

140-60.1-310 Certification- Certified Nurse Assistants

- (a) Initial Certification. An applicant may apply for certification in the CNMI as the first jurisdiction of certification by providing an application on the form prescribed by the Board and the following:
 - (1) Verification of completion of a Board-approved Nursing Assistant program;

2) To add a NMIAC §140-60.1-312 to read as follows:

140-60.1-312 Certified Nurse Assistant Grandfather Clause

Any Nursing Assistant working in the Commonwealth on or before December 31, 2010, with at least two (2) consecutive years of experience as a Nursing Assistant in a healthcare setting shall be deemed eligible for licensure as a Certified Nurse Assistant under the provisions of this Act and shall be eligible for renewal of such license under the conditions and standards prescribed in this Act.

3) To amend NMIAC §140-60.1-403 to read as follows:

140-60.1-403 Scope of Practice-RN

The practice of registered nursing means the performance of acts requiring substantial specialized knowledge, judgment, and skill based upon the principles of the biological, behavioral, and social sciences in the following:

- (a) The observation, comprehensive assessment, evaluation and recording of physiological and behavioral signs and symptoms of health, disease, and injury, including the performance of examinations and testing and their evaluation for the purpose of identifying the needs of the client and family;
- (b) The development of a comprehensive nursing plan that establishes nursing diagnoses, sets goals to meet identified health care needs, and prescribes and implements nursing interventions of a therapeutic, preventative, and restorative nature in response to an assessment of the client's requirements;
- (c) The performance of services, counseling, advocating and education for the safety, comfort, personal hygiene, and protection of clients, the prevention of disease and injury, and the promotion of health in individuals, families, and communities, which may include psychotherapeutic intervention, referral and consultation;
- (d) The administration of medications and treatment as prescribed by a legally authorized health care professional licensed in the Commonwealth of the Northern Mariana Islands;
- (e) The administration of nursing services, which includes:
 - (1) Delegating and assigning nursing interventions to implement the plan of care;
 - (2) Managing, supervising and evaluating the practice of nursing;
 - (3) Developing organization-wide client care programs, policies and procedures that identify the processes to be utilized by nursing personnel to assess, identify, evaluate, and meet the needs of the clients or population served;

- (4) Developing and implementing an organizational plan for providing nursing services;
- (5) Implementing an ongoing program to assess, measure, evaluate and improve the quality of nursing care being offered or provided; and
- (6) Providing an environment for the maintenance of safe and effective nursing care.
- (f) Evaluating responses and outcomes to interventions and the effectiveness of the plan of care;
- (g) Promoting a safe and therapeutic environment;
- (h) The education and training of person(s) in the direct and indirect nursing care of the client; and
- (i) Communicating and collaborating with other health care professionals.

4) To amend NMIAC §140-60.1-415(b) to read as follows:

140-60.1-415 APRN Scope of Practice – Prescribing and Ordering Authority

- (b) The Board grants prescribing and ordering authority to CNMI-licensed Nurse Practitioners, Certified Registered Nurse Anesthetists, and Certified Nurse Midwives. Further, the Board may grant prescribing and ordering authority to CNMI-licensed Clinical Nurse Specialists on a case-by-case basis. A CNMI-licensed NP, CRNA, CNM, or CNS may prescribe, procure, administer, and dispense over-the-counter, legend, and controlled substances II-V, pursuant to applicable state and federal laws and the Board's regulatory authority. These licensees may also plan and initiate a therapeutic regimen that includes ordering and prescribing medical devices and equipment, nutrition, diagnostic, and supportive services including, but not limited to, home health care, hospice, physical, and occupational therapy. The Board may, by official order, limit the ability of APRNs to prescribe and order.

5) To add a Part 900-1000 [Standards for Educational Programs in Nursing] to Subchapter 140-60.1 of the Northern Mariana Islands Administrative Code, as follows:

A. Associate and Bachelors Degree

140-60.1-902 Philosophy Governing Approval of Schools of Nursing.

- 1) While the Board of Nurse Examiners herein has established minimum standards for approved schools of nursing, it believes that each school of nursing should have flexibility in developing and implementing its philosophy, purpose, and objectives. Such development and implementation should be based not only upon the minimum standards for approved schools of nursing, but also upon sound educational and professional principles for the preparation of registered Nurses to meet current and future nursing needs of the public.

- 2) The Board of Nurse Examiners believes that there must be congruence between the total program activities of the school of nursing and its stated philosophy, purposes, and objectives.
- 3) The Board further believes that the minimum standards for approved schools of nursing can be useful to schools of nursing by promoting self-evaluation which may lead to program development and improvement.

140-60.1-905 Purpose of Board.

The Board of Nurse Examiners approves schools of nursing for the following purposes:

- 1) To ensure the safe practice of nursing by setting minimum standards for schools of nursing preparing persons for licensure as Registered or Practical nurses.
- 2) To provide the public and prospective students with a list of schools of nursing that meet the minimum standards.
- 3) To safeguard the educational preparation of the students.
- 4) To assure the graduates of approved schools of their eligibility for admission to the licensing examination for Registered or Practical Nurses.
- 5) To facilitate interested endorsement of graduates from other state boards' approved schools of nursing.

140-60.1-907 Purpose, Philosophy and Objectives for Approved Schools of Nursing.

- 1) The purpose, philosophy and objectives of the school shall be stated clearly and shall be available in written form. They shall be consistent with the definition of nursing practice.
- 2) The school shall have a statement of philosophy that is consistent with the philosophy of the college or university.
- 3) The objectives shall be consistent with the philosophy and shall describe the cognitive, affective and psychomotor capabilities of the graduate.
- 4) The philosophy and objectives shall be used by the faculty in planning, implementing and evaluating the total program.

140-60.1-910 Organization and Administration for Approved Schools of Nursing.

- 1) Accreditation of colleges and universities and of extended learning sites:
 - a. Colleges and universities which sponsor a school of nursing shall be accredited by their appropriate accrediting bodies.

- b. Extended learning sites shall be accredited or approved by the appropriate body.
- 2) There shall be adequate financial support to provide stability for the development and continuation of the school of nursing.
- 3) School of nursing organization and administration.
 - a. Administration of the school of nursing shall be the responsibility of a Nurse Administrator.
 - b. There shall be an organizational chart showing lines of authority, formal communication and cooperative relationships among the school of nursing and the educational, administrative and support service units of the college or university.
 - c. Administrative policies shall be stated clearly and be available in written form. Nursing education program policies and procedures shall be in written form, congruent with those of the institution, and shall be reviewed periodically.
 - d. Administrative records shall be maintained and shall include general school records, faculty vitae, minutes of faculty and committee meetings, and reports to the college or university. Nursing education program policies and procedures shall be in written form, congruent with those of the institution, and shall be reviewed and updated periodically by both school staff and CBNE.
 - e. The Nurse Administrator of the school of nursing shall be responsible for preparing budget recommendations and for budget administration.
 - f. Allocation of the school budget shall reflect the purpose, philosophy and objectives of the school.
 - g. A current school bulletin shall be available and shall provide an accurate description of the school of Nursing and its program.

140-60.1-915 Resources, Facilities and Services for Approved Schools of Nursing.

- 1) Classrooms, laboratories and conference rooms shall be available and shall be adequate in size, number and type according to the number of students and the educational purposes for which the rooms are to be used.
- 2) Offices shall be available and adequate in size, number and type to provide faculty with opportunity for uninterrupted work and privacy for conferences with students. Offices shall have adequate space for clerical staff, records, files, and other equipment.
- 3) Extended learning site:
 - a. A variety of sites may be utilized for student experience. These may include, but need not be limited to hospitals, mental health clinics and public health departments.
 - b. Extended learning sites shall provide learning experiences of sufficient number and variety for student achievement of the course/curriculum objectives.

- c. Written agreement shall be maintained between the school and the extended learning sites. Such agreement shall be reviewed periodically and shall state the responsibilities and privileges of each party, which shall include a termination clause.
 - d. Extended learning sites shall be approved by the CNMI BON for their educational use.
- 4) Library facilities shall be provided for use by the faculty and students. Physical arrangement, usefulness, scope and currency of books, periodicals, and hours shall be appropriate for the purpose of the school and the number of faculty and students.
 - 5) Secretarial and support services shall be adequate to meet the needs of the nursing school.

140-60.1-920 Nurse Administrator Qualifications

A Nurse Administrator for an Approved School of Nursing shall have the following qualifications:

- 1) A current license to practice as a Registered Nurse in the Commonwealth.
- 2) A baccalaureate degree in nursing and a master's degree with a major in nursing or education from an accredited college or university.
- 3) A minimum of five years of professional experience as a Registered Nurse which includes two years teaching in an approved school of nursing.
- 4) Exceptions shall be justified to and approved by the CBNE.

A Nurse Administrator shall have sufficient time provided for carrying out administrative and instructional responsibilities that are consistent with the scope of the administrative responsibility.

140-60.1-925 Nurse Administrator Responsibilities

All Nurse Administrators are responsible for the following functions:

- 1) Create and maintain an environment conducive to teaching and learning.
- 2) Serve as liaison with the central administration and other units of the college or university.
- 3) Organize and administer the nursing program.
- 4) Provide educational leadership for the faculty and students of the school.
- 5) Facilitate recruitment, selection and development of qualified faculty.
- 6) Recommend faculty for appointment, promotion, tenure and retention.
- 7) Facilitate recruitment, selection and development of qualified faculty.
- 8) Plan and administer the budget.

- 9) Facilitate arrangements for all necessary resources and services.
- 10) Facilitate peer and student evaluation of teaching effectiveness.
- 11) Facilitate development of long range goals and objectives for the nursing program.
- 12) Facilitate the recruitment, selection and retention of students.
- 13) Assure that the minimum rules and regulations of the CBNE are effectively implemented.

140-60.1-930 Faculty for Approved Schools of Nursing

- 1) Faculty shall have the following qualifications:
 - a. A current license to practice as a Registered Nurse in the United States or U.S. territory, and the CNMI.
 - b. The Nurse Educator or Nurse Educator Associate shall hold at least a master's degree in nursing or a baccalaureate degree in nursing with a master's degree in a related field and have at least 3 years of nursing experience.
 - c. Each Clinical Teaching Associate shall hold at least a bachelor's degree in nursing with no less than three years of nursing experience. Each Clinical Teaching Associate shall hold at least the level of preparation for which students are being taught; and have at least three years of nursing experience.
 - d. Exceptions shall be justified to and approved by the Board of Nurse Examiners.
- 2) Principal functions of the faculty shall include but not be limited to:
 - a. Develop, implement and evaluate the philosophy and objectives of the program.
 - b. Construct, implement, evaluate, and revise the curriculum.
 - c. Develop and evaluate policies and standards for the selection, admission, promotion and graduation of nursing students within the framework of the policies of the college or university.
 - d. Evaluate student achievement in terms of course and program objectives, assign grades for courses according to policies, and recommend successful candidates for the degree or diploma.
 - e. Develop, implement and evaluate statements of policy necessary for the operation of the program, and participate in appropriate activities of the college or university.
 - f. Participate in academic counseling of students.
 - g. Provide for peer and student evaluation of teaching effectiveness.
 - h. Participate in periodic review of the total nursing program.
 - i. Participate in the overall faculty activities of the college or university, (e.g. governance, interdepartmental teaching and research).

- 3) A nursing faculty organization, with delineated policies and procedures, shall be established in harmony with the policies of the college or university.
 - a. All faculties shall participate in the activities of the faculty organization in ways consistent with their position and responsibilities.
 - b. Committees shall be established, as necessary, to effectively carry out the functions of the faculty. The purpose and membership of each committee shall be defined clearly.
 - c. Meetings shall be held on a regular basis.
 - d. Minutes, including faculty action, shall be recorded in writing and kept on file for ready reference.

- 4) Facility/student ratio:
 - a. Faculty shall be provided in adequate number and kind to meet the purposes and objectives of the program
 - b. Twelve students is the maximum a faculty member shall be responsible for at any one time in the clinic area. A lower ratio may apply to students in initial or highly complex learning situations. Factors to be considered in determining the ratio are:
 - i. The preparation and expertise of the faculty member
 - ii. The objectives to be achieved
 - iii. The level of students
 - iv. The number, type, and conditions of patients
 - v. The number, type, location and physical layout of clinical facilities

140-60.1-935 Curriculum for Approved Schools of Nursing

- 1) The basic curriculum shall not be less than two academic years.
- 2) The length, organization, content, instruction methods, and placement of courses shall be consistent with the philosophy and objectives of the school and of the college or university.
- 3) The curriculum shall reflect faculty-wide participation in its planning, implementation and evaluation.
- 4) The curriculum shall include:
 - a. Instruction in the physical and biological sciences and shall include content drawn from the areas of anatomy and physiology, physics, chemistry, microbiology, pharmacology and nutrition, which may be integrated, combined or presented as separate courses.

- b. Instruction in the social and behavioral sciences and shall include content drawn from the areas of psychology, sociology, and which may be integrated, combined or presented as separate courses.
- c. Theory and clinical experiences in the areas of medical nursing, surgical nursing, obstetric nursing, nursing of children and psychiatric nursing which may be integrated, combined or presented as separate courses.
- d. History, trends, and legal and ethical issues pertaining to the nursing profession that may be integrated, combined or presented as separate courses. Baccalaureate programs shall include study of research principal.
- e. Opportunities for the student to learn assessment of needs, planning, implementation and evaluation of nursing care for diverse individuals and groups.
- f. Clinical experiences in the care of persons at each state of the human life cycle. These experiences shall include opportunities for the student to learn and provide nursing care in the areas of acute and chronic illnesses, promotion and maintenance of wellness, prevention of illness and rehabilitation. The emphasis placed on these areas, the scope encompassed, and other allied experiences offered shall be in keeping with the purpose, philosophy and objectives of the program.

5) Dedicated Education Unit (DEU) Conceptual Model for Clinical Teaching

- a. ~~A Dedicated Education Unit (DEU) is a client Unit that is developed into an optimal teaching/learning environment through the collaborative efforts of nurses, clinicians, management and faculty. It is designed to provide students with a positive clinical learning environment that maximizes the achievement of student learning outcomes, uses proven teaching/learning strategies and capitalizes on the expertise of both clinicians and faculty while giving excellent patient care.~~
- b. The DEU concept is built on the belief that the clinician's educational roles are vital to the development of students' professional skills and knowledge.
- c. Clinicians on the DEU are the primary teachers of the students. Staff are selected on this unit and agreed to collaborate with faculty to be preceptors, educators, and clinical expert role models for the students. Staff are prepared for their teaching role through a one-day workshop at the School of Nursing to introduce the concept of the DEU, review the curriculum, clinical course content and expected clinical outcomes and explore teaching/learning strategies to facilitate clinical learning.
- d. The DEU climate is one of mutual respect, open communication and collaboration. DEU clinicians, faculty and students are committed to work together to build an optimal learning community.
- e. A School of Nursing using the DEU Conceptual Model for clinical teaching and best practice for clinical learning, its students are the only ones present on the unit. Clinicians selected to be a Clinical Teaching Associate on a DEU for one Nursing Program cannot be a Clinical Teaching Associate for another Nursing

Program. This allows staff to develop closer relationships with both the students and the faculty and avoid the confusion of different outcomes and expectations of different nursing programs.

- f. A clinical faculty member is assigned to the DEU and is present at various scheduled times during the week. A faculty's primary role is to work directly with the staff as coach to support their teaching, facilitate the transfer of classroom learning to practice, assure the achievement of expected learning outcomes and assist with the resolution of problems that may arise.
 - g. Faculty have the final responsibility for evaluation, but will collaborate with the staff in their evaluation of student's achievement.
 - h. Description of roles & responsibilities for Nurse Manager of a DEU, DEU Clinicians (Clinical Teaching Associate), DEU Coordinator, Clinical Faculty Coordinator, and Student will be defined by the School of Nursing using the DEU Conceptual Model for clinical teaching.
- 6) Provision shall be made for systematic and periodic evaluation of the curriculum by faculty and students.
 - 7) Any proposed major curriculum revision, such as changes affecting the philosophy and objectives, significant course content changes, or changes in the length of the program, shall be presented to the Board at least three months prior to implementation and in accordance with procedures outlined by the Board.

140-60.1-940 Students in Approved Schools of Nursing.

- 1) Policies and Procedures for selection, admission, promotion, Graduation, withdrawal and dismissal shall be consistent with the policy of the college or university, and shall be available in written form.
- 2) Students who seek admission by transfer from another approved school of nursing or re-admission for completion of the program, shall meet the equivalent of the school's current standards required of those regularly enrolled.
- 3) A comprehensive system of student records shall be maintained and shall include:
 - a. Application for admission, which shall include, but not be limited to the following:
 - i. Completed application form;
 - ii. Official transcript of completion of high school or equivalent GED; and/or
 - iii. College work.
 - iv. A physical examination and report on health status is required.
 - b. Performance evaluation reports, which shall be completed at systematic intervals in keeping with the objectives of the program.
 - c. Course and clinical experience records.

- d. A summary record completed on graduation. Such record will be turned over to the Board of Nurse Examiners if school ceases to exist.

140.60.1-945 Program Evaluation by Approved Schools of Nursing

There shall be a systematic, ongoing, written plan for evaluation of the program, with evidence of its implementation that is directed toward the improvement of the program. The plan shall include, but not limited to:

- 1) Purpose, philosophy and objectives.
- 2) Organization and administration.
- 3) Resources, facilities and services.
- 4) Faculty.
- 5) Curriculum.
- 6) Students.
 - a. Evaluation of student achievement and performance, including, performance on the National Council of Licensure Examination. Minimum NCLEX passing rate for approved RN Nursing school programs shall maintain a yearly average minimum pass rate on the licensure examination that does not fall below 10 percentage points of the CNMI average pass rate for first time candidates of accredited vocational nursing schools for the same period.
 - b. Failure to achieve the required yearly average minimum pass rate within two years of initial approval may be cause to place a program on provisional accreditation.
 - c. Failure to maintain the required yearly average minimum pass rate for two years or eight consecutive quarters may be cause to place a program on provisional accreditation.
- 7) Follow-up studies on performance of graduates

140-60.1-950 Reports to the Board of Nurse Examiners by Approved Schools of Nursing.

- 1) One month following spring graduation, an annual report concerning the program and progress of the school shall be submitted by each school on forms supplied by the CBNE.
- 2) Written notification shall be sent to the Board of Nurse Examiners regarding major changes related, but not limited to the following:
 - a. Change in the Nurse Administrator.
 - b. Organizational change.
 - c. Changes in the program of study.
 - d. Changes in the extended learning sites.
 - e. License numbers of new nursing faculty.

The information submitted to the CBNE shall include the rationale for the proposed change with comparison to the present situation. And the Board may require such additional reports as it deems necessary.

140-60.1-955 Survey Visits

- 1) The CBNE, through its authorized representative, shall survey each approved school of nursing at least every four years. Full approval is for a four year period; however, approval may carry recommendations for continued improvements.
- 2) The survey visit to the program shall be scheduled on dates mutually acceptable to the Board and to the school.
- 3) The Board shall require a comprehensive self-evaluation report by the Nurse Administrator and the faculty of the school of nursing based on the rules and regulations for approval of schools and in accordance with guidelines and forms provided by the Board.
- 4) Four copies of the self-evaluation report shall be submitted to the CBNE at least one month prior to the scheduled visit.
- 5) The self-evaluation report prepared for the National Nursing Accreditation body may be substituted in lieu of the Board's survey report for the year if a national accreditation survey is scheduled for that year.
- 6) The authorized representative of the Board shall prepare a report of the survey visit to be submitted to the Board. The school shall receive a copy of the report. If the school is in disagreement with any portion of the report, it may furnish written materials regarding its disagreement to be presented to the Board of Nurse Examiners for its consideration.

140-60.1-960 Board of Nurse Examiners Action Following Survey Visits

- 1) Wherever a matter directly concerning a school of nursing is being considered by the Board of Nurse Examiners, any Board member who is associated with the school of nursing shall not participate in the deliberation or decision-making action of the Board of Nurse Examiners.
- 2) Each school shall be evaluated in terms of its total program.
- 3) The Board shall give written notice to the college or university and the Nurse Administrator of the school of nursing regarding its decision on the school's approval status.
- 4) Full approval shall be granted to a school of nursing that meets the requirements of the Law and the Rules and Regulations of the Board of Nurse Examiners. Full approval may carry recommendations for continued improvements.
- 5) Conditional approval shall be granted a school that has failed to meet the minimum standards contained in the Law and the Rules and Regulations of the Board of Nurse Examiners. Conditions that must be met within a designated time period shall be specified in writing.

- 6) A conditionally approved school shall be reviewed at the end of the designated time. Such review shall result in one of the following actions:
 - a. Restoration of full approval/
 - b. Continuation of conditional approval for a specified period of time; or
 - c. Removal of approval if a school of nursing fails to meet conditions established by the Board.

140-60.1-965 Restoration of Approval.

A school of nursing may petition the CBNE for restoration of approval by submitting evidence to the CBNE for restoration of approval by standards for schools of nursing.

140-60.1-970 Appeal of Board of Nurse Examiners Decisions.

A school of nursing deeming itself aggrieved by a decision of the Board affecting its approval status shall have the right to appeal the CBNE's decision to the Board.

140-60.1-975 Consultation Services.

Consultation will be provided by the Board of Nurse Examiners at the request of a school of nursing. A request for consultation shall be in writing and shall include the purpose and objectives for the visit. Consultation fee may apply.

140-60.1-980 Closure of an Approved School of Nursing

- 1) When an organization has decided to discontinue its school of nursing, it should immediately send written notification of its plans to the Board.
- 2) A school in the process of closing shall remain approved until the enrolled students have been graduated, provided that the minimum standards are maintained.
- 3) Upon graduating all students, the Board of Nurse Examiners approval of the school of nursing shall be terminated.
- 4) An organization closing a school of nursing shall provide for safe storage of vital school records and shall confer with the Board concerning the matter.

140-60.1-985 Establishment of a New School of Nursing

- 1) Application
 - a. An organization desiring to establish a Board approved school of nursing shall submit an application in the form requested by the Board. It is recommended that

the organization seek consultation from the Board in the initial planning of the program.

- b. The organization shall submit a statement that addresses the need for program and the size and type of the program proposed in relation to the nursing needs of the geographical area to be served. The statement also shall include information on the potential students, the potential impact on other schools of nursing in the geographical area, the availability of learning experiences, anticipated human and material resources, community support, relationship of school to parent organization, purposes and accreditation status of the sponsoring organization, and a tentative timetable for initiating the program.
- c. Supplementary information may be sought by the Board through a site visit.
- d. If the Board's review of the statement and any supplementary information provided results in approval of the plan, the organization shall be notified that program development may proceed.
- e. And pay a non-refundable fee.

2) Program Development

- a. At least one year in advance of the anticipated admission of students, the organization shall appoint a qualified Nurse Administrator to develop a tentative program. The tentative program plan shall include:
 - i. Purpose, philosophy and objectives
 - ii. Organization and administration
 - iii. Budget
 - iv. Resources, facilities and services
 - v. Provisions for faculty, including qualifications, functions, organization and faculty/student ratio
 - vi. Curriculum, including course descriptions
 - vii. Policies and procedures for student selection
 - viii. Sample form of written agreements between the school and extended learning sites
 - ix. Projected plans for the orderly expansion of the program.
- b. The Nurse Administrator shall submit to the Board a written report of the tentative program plan at least five weeks prior to the scheduled Board's meeting at which the plan is to be reviewed. This review shall take place six (6) months prior to the scheduled opening date of the program.
- c. The Nurse Administrator of the program and other administrative officers of the organization shall meet with the Board to present the formal application and clarify and amplify materials included in the written report.

- d. The Board shall grant or withhold initial approval of the proposed nursing program.
- e. Schools receiving initial approval shall:
 - i. Submit course outlines to the Board for review and approval at least three months prior to offering the course.
 - ii. Submit progress reports as requested by the Board.
 - iii. Be scheduled for survey when deemed necessary by the Board during the period of initial approval.
 - iv. Be surveyed to assess its eligibility for full approval at least four months prior to graduation of the first class.

140-60.1-990 Criteria for Approved Refresher Course

- 1) Philosophy, Purpose and Objectives:
 - a. Philosophy, purpose and objectives of the course shall be clearly stated and available written form. They shall be consistent with the definition of nursing.
 - b. Objectives reflecting the philosophy of the school shall be stated in behavioral terms and describe the capabilities and competencies of the graduate.
- 2) Nurse Faculty:
 - a. All faculty shall hold a current license to practice as a Registered Nurse in the Commonwealth.
 - b. All faculty shall be qualified academically and professionally for their respective areas of responsibility.
 - c. There shall be an adequate number of qualified faculty to develop and implement the program and to achieve that stated objectives. The maximum faculty/student ratio in the clinical area shall be 1 to 12. Exceptions shall be justified to and approve by the Board.
- 3) Course Content:
 - a. The course content, length, methods of instruction and learning experiences shall be consistent with the philosophy and objectives of the course. Outlines and descriptions of all learning experiences shall be available in writing.
 - b. The course content shall include, but not be limited to minimum of eighty hours of theory in current basic concepts of:
 - i. Nursing process
 - ii. Pharmacology
 - iii. Review of the concepts in the areas of:
 - 1. Contemporary nursing including legal expectation.
 - 2. Basic communications and observational practices needed for identification, reporting, and recording patient needs.

3. Basic physical, biological and social sciences necessary for practice.
 - c. The course shall include a minimum of one hundred hours of clinical practice in the areas listed in subsection (4b) below. Exceptions shall be justified to and approved by the Board.
 - d. Examination shall be given to measure knowledge of content.
 - e. Method shall be used to measure the student's achievement of the stated clinical objectives.
 - f. The course shall be periodically evaluated by faculty and students.
- 4) Reviewing and Updating Basic Nursing Knowledge Necessary for Assisting People With:
 - a. Maintenance of physical and mental health throughout life span.
 - b. Medical/surgical problems.
 - c. Behavioral problems.
 - d. Problems of development and aging.
- 5) Admission Requirements
 - a. Requirements for admission shall be available in writing.
 - b. All students shall hold a current valid limited educational license approved by the Board.
 - c. Refresher courses taken outside the CNMI shall be reviewed individually for approval by the Board.

B. Licensed Practical/ Licensed Vocational Nurse

140-60.1-995 Procedure for Accreditation

- 1) The institution shall apply to the Board for accreditation. A written documentation shall be prepared by the director and shall include:
 - a. Philosophy of the program.
 - b. Conceptual framework.
- 2) Terminal objectives to indicate expected student outcomes upon successful completion of the program.
 - a. Curriculum objectives.
 - b. Course outlines.
 - c. Course objectives.
 - d. Instructional Plan.

- e. Evaluation methodology for curriculum.
 - f. Faculty who meet the qualifications set forth in this Section.
 - g. Clinical facilities.
 - h. Evaluation methodology for clinical facilities.
 - i. Admission criteria.
 - j. Screening and selection criteria.
 - k. Number of students.
- 3) A school may admit alternate students in each new class to replace students who may drop out.
 - 4) The number of alternate students admitted may not exceed 10% of the school's Board approved number of students per class.
 - 5) Prior to admission, alternate students must be informed in writing of their alternate status and that they may be dropped from the program.
 - 6) Alternate students may participate in classes until the commencement of scheduled clinical experience at approved clinical facilities.
 - 7) Upon commencement of clinical experience at approved clinical facilities, the actual number of students in the class may not exceed the number of students approved by the Board for that particular class.
 - 8) Evaluation methodology for student progress.

140-60.1-1000 Student Policies.

- 1) Credit granting.
- 2) Attendance.
- 3) Grievance

140-60.1-1005 Organizational Chart

140-60.1-1010 Proposed Starting Date

140-60.1-1015 Evidence of program need to include, but not be limited to:

- 1) A description of the geographic area and community to be served by the proposed program;
- 2) clinical affiliations available for student clinical experience; and
- 3) existing nursing programs with which clinical affiliations are shared.
 - a. An institution may commence a new vocational nursing program upon Board's approval.
 - b. A Board representative shall make a survey visit prior to graduation of the initial class. A program shall not commence another class without prior Board approval.
 - c. Accreditation will be granted by the Board when a vocational nursing program demonstrates that it meets all requirements as set forth in this Chapter.

- d. The accreditation period shall be for a term of four years unless the Board grants an extension.
 - e. An extension may be granted when the program demonstrates to the satisfaction of the Board that it is in full compliance with all requirements as set forth in this Section and in Section 2312 of the Act and may be granted for a period not to exceed four years.
- 4) six months prior to the date of accreditation expiration, a program may apply for continued accreditation based upon submission of documentation satisfactory to the Board. A subsequent survey visit may be conducted by a Board representative.
 - 5) a material misrepresentation of fact by a vocational nursing program in any information submitted to the Board is cause for denial or revocation of accreditation or provisional accreditation.

140-60.1-1020 Provisional Accreditation

- 1) Provisional accreditation means a program has not met all requirements as set forth in this Section.
- 2) Provisional accreditation shall be granted for a period not to exceed two years unless the Board grants an extension.
- 3) The Board may place any program on provisional accreditation when a program does not meet all requirements as set forth in this Chapter and in this Section. A provisional accreditation may be extended when a program demonstrates to the satisfaction of the Board a good faith effort to correct all deficiencies.
- 4) Any program holding provisional accreditation may not admit "new" classes beyond the established pattern of admission previously approved by the Board.
- 5) A program placed on provisional accreditation shall receive written notification from the Board. The notification to the program shall include specific areas of noncompliance and requirements for correction. A program's failure to correct delineated areas of noncompliance is cause for revocation of provisional accreditation.
- 6) A material misrepresentation of fact by a vocational nursing program in any information submitted to the Board is cause for revocation of provisional accreditation.
- 7) A revocation of provisional accreditation is cause for removal from the Board's list of accredited programs.

140-60.1-1025 Reports

- 1) The Board shall require such reports by schools and conduct such investigations as necessary to determine whether or not accreditation will be continued.
- 2) A school shall report to the Board within ten days of the termination of a faculty member.
- 3) A material misrepresentation of fact by a vocational nursing program in any information submitted to the Board is cause for denial or revocation of accreditation of provisional accreditation.

140-60.1-1030 Report of Changes of Faculty Qualifications.

- 1) A school shall submit qualifications of the proposed faculty members for approval by the Board prior to employments.
- 2) Each vocational nursing program shall have one faculty member, designated as a director who meets the requirements

C. Nurse Practitioner Clinical Preceptorship Programs in the CNMI

140-60.1-1035 Purpose

Distance learning is prevalent and growing throughout the country as technology advances and as the nursing profession develops new strategies to provide greater access to nursing education. Therefore, the purpose of recognizing NP clinical preceptorship programs is to advance the education of the nursing workforce in the CNMI.

140-60.1-1040 Organization and Administration

- 1) The institution shall center the administrative control of the NP program
- 2) The institution shall appoint an NP program administrator who meets the requirements established by the Board
- 3) An NP program shall notify the Board of a vacancy or pending vacancy in the position of nursing program administrator within 15 days of the program's awareness of the vacancy or pending vacancy and do the following:
 - a. Appoint an interim administrator or a permanent administrator who meets the requirements of the Board within 15 days of the effective date of the vacancy; and
 - b. Notify the Board of the appointment of an interim or permanent administrator within 15 days of appointment and provide a copy of the administrator's credentials to the Board

140-60.1-1045 Resources, Facilities, Services, and Records

- 1) The institution of an NP program shall consider the size of the program faculty and number of program students and shall provide facilities for the program that meet the following requirements:
 - a. A private office for the administrator of the NP program

140-60.1-1050 Administrator; Qualifications and Duties

- 1) An NP shall appoint an administrator who holds a current and valid CNMI registered nurse license and:
 - a. For professional NP programs, a graduate degree with a major in nursing;
 - b. For practical nursing programs, a baccalaureate degree with a major in nursing
 - c. For online NP programs, the administrator need not hold a CNMI registered nurse license. The NP program shall follow their state requirements for administrator licensing and education qualifications.

- 2) The administrator shall have comparable status with other program administrators in the institution and shall report directly to an academic officer of the institution.
- 3) The administrator shall:
 - a. Administer the NP program;
 - b. Facilitate and coordinate activities related to academic policies, personnel policies, curriculum, resources, facilities, services, and program evaluation;
 - c. Prepare and administer the budget;
 - d. Recommend candidates for faculty appointment, retention, and promotion;
 - e. In addition to any other evaluations used by the institution, ensure that faculty is evaluated:
 1. at least every three years- if online, an NP must follow their state requirements
 2. by the nurse administrator or a nurse educator designated by the nurse administrator
 - f. Maintain, enforce and evaluate written policies and procedures that require all students, faculty and preceptors who participate in clinical practice settings to be physically and mentally able to provide safe client care; and
 - g. Participate in activities that contribute to the governance of the institution.
- 4) The administrator of the nursing program shall not teach more than 45 contact hours per academic session

140-60.1-1055 Faculty; Personnel Policies; Qualifications and Duties

- 1) The NP program faculty, together with the program administrator, shall:
 - a. Develop, implement and evaluate the program of learning; and
 - b. Develop and implement standards for the admission, progression and graduation of students

140-60.1-1060 Memorandum of Understanding

Each student and preceptor shall sign a Memorandum of Understanding (“MOU”) provided by the Board setting forth the parties’ roles and responsibilities prior to engaging in any preceptorship program.

140-60.1-1065 Institutional Fee

Any online APRN educational institution wanting to establish a clinical preceptorship program in the CNMI shall submit a onetime, nonrefundable fee to the Board, as established in the Board’s fee schedule. No student may begin clinical work unless there has been an agreement between the institution and the Board which authorizes the student to begin the preceptorship program.

Commonwealth of the Northern Mariana Islands
Department of Community and Cultural Affairs – Historic Preservation
Office

Laura T. Ogumoro, Secretary
Department of Community and Cultural Affairs, Historic Preservation Office
Caller Box 10007, Building No. 1339
Ascension Road, Capitol Hill
Saipan, MP 96950

Tel no. 670-664-2587 Fax no. 670-664-2571

PUBLIC NOTICE OF PROPOSED RULES AND REGULATIONS
WHICH ARE AMENDMENTS TO THE RULES AND REGULATIONS OF THE
Department of Community and Cultural Affairs, Historic Preservation Office

INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS:
The Commonwealth of the Northern Mariana Islands, Department of Community and Cultural Affairs, Historic Preservation Office (“HPO”), pursuant to a resolution passed by the Historic Preservation Review Board, intends to adopt as permanent regulations the attached Proposed Amendments to the Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Regulations would become effective 10 days after compliance with 1 CMC §§ 9102 and 9104 (a). See 1 CMC § 9105(b).

AUTHORITY: The Department of Community and Cultural Affairs is empowered by the Legislature to adopt rules and regulations for the administration and enforcement of the statutes governing activities over which the department has jurisdiction. See 1 CMC § 2354.

THE TERMS AND SUBSTANCE: These are proposed repeals of some of the language contained in the regulations of the Historic Preservation Office.

THE SUBJECTS AND ISSUES INVOLVED: These rules and regulations shall be amended as follows:

Part IV Historic Preservation Review Board

§ 55-10.4.2 Pursuant to Section 6 of the Act, 2 CMC § 4875, the provisions of Title 1(a), Chapter 1, Section 1 of the Executive Branch Organization Act, 1 CMC § 2901(g), shall not apply to the composition of the Board. *All further language in this section is repealed.*

§ 55-10.4.3 *This section is repealed.*

§ 55-10.4.4 *This section is repealed.*

§ 55-10.4.5 *This section is repealed.*

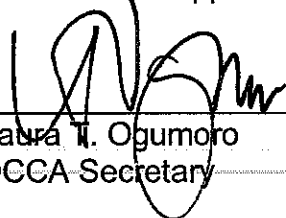
§ 55-10.4.6 *This section is repealed.*

§ 55-10.4.7 *This section is repealed.*

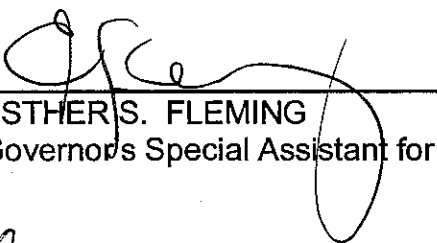
§ 55-10.4.8 The Board shall elect from its members a Chairman and a Vice-Chairman. *All further language in this section is repealed.*

TO PROVIDE COMMENTS: Send or deliver your comments to Laura T. Ogumoro, DCCA Secretary, *Attn: Historic Preservation Office Regulations*, at the above address, fax or email address. Please use the subject line: "Proposed Historic Preservation Board Regulation changes." Comments must be submitted within 30 days of the date of publication of this notice. The DCCA welcomes your data, views and arguments. See 1 CMC § 9104(a)(2).

These proposed regulations were approved by the DCCA Secretary on April _____, 2014.

Submitted by: 
Laura T. Ogumoro
DCCA Secretary

4/28/14
Date

Received by: 
ESTHER S. FLEMING
Governor's Special Assistant for Administration

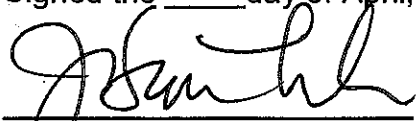
4/28/14
Date

Filed and Recorded by: 
ESTHER S.N. NESBITT
Commonwealth Register

04.28.2014
Date

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

Signed the 25th day of April, 2014.


Joey P. San Nicolas
Attorney General

Commonwealth of the Marianas me Téé kka Efáng
Bwulasiyol Community and Cultural Affairs
Bwulasiyol Historic Preservation

Laura T. Ogumoro, Sekkretóriya
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ARONGORONGOL TOULAP REL POMMWOL ALLÉGH ME MWÓGHUTUGHÚT
IGHA RE BWE AMENDÁALI ALLÉGH REL
BWULASIYOL Community and Cultural Affairs,
Low Income Energy Assistance Program

POMMWOL MWÓGHUTUGHÚT BWE REBWE ADAPTÁALI ALLÉGH: Commonwealth lóll Marianas me Téé kka Efáng, Bwulasiyol Community me Cultural Affairs, Bwulasiyol Historic Preservation (HPO), arongowowul mwóghútughút igha a bwung ló sáangi Historic Preservation Board, re bwe adaptáali bwe ebwe llégh ló mille e appasch long bwe pommol allégh, arongowoowul mwóghútughút sáangi *Administrative Procedure Act*, 1 CMC §§ 9104 (a). Ebwe bwung ló llól seigh (10) ráll mwiril yaal palúweli sáangi 1 CMC §§ 9102 me 9104 (a). *Amweeri 1 CMC §§ 9105 (b).*

BWÁNGIL: Sáangi Legislature re ayoora ngáli bwángil Bwulasiyol Community me Cultural Affairs bwe rebwe adaptáali allégh me mwóghútughút ngáli Administration and Enforcement statutes rel lemelemil me kkapasal bwe iye eyoor yaal lemelem bwulasiyol. *Amweeri 1 CMC §2354*

KKAPASAL ME AWEEWEL: Ello bwe re pommol re bwe milaaló akkááw kkapasal ikka re llo lóll alléghúl Historic Preservation Office.

KKAPASAL ME ÓUTOL: Pommwol liwil ngáli *allégh me mwóghútughút* ikka re talliy:

Part IV Historic Preservation Review Board

§55-10.4.2 sáangi Section 6 merel Act, 2 CMC §4875, rel mille e fféer ngáli Title 1(a), Chapter 1, Section 1, merel Executive Branch Organization Act, 1 CMC §2901(g). nge ese schuufengál me mwóghútughútúl me Board. *Ólongal Kkapasal nge re- bwe fféerú sefáliy.*

§ 55-10.4.3 Section yel nge re bwe amalaaló

§ 55-10.4.4 Section yel nge re bwe amalaaló

§ 55-10.4.5 Section yel nge re bwe amalaaló

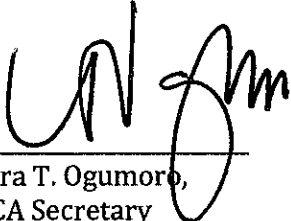
§ 55-10.4.6 Section yel nge re bwe amalaaló

§ 55-10.4.7 Section yel nge re bwe amalaaló

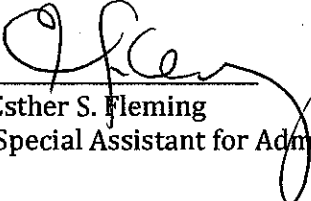
§ 55-10.4.8 Board Re bwe bwootay Chairman me Vice Chairman me leyiir members. *Ólongal kkapasal section yel nge re bwe amalaaló.*

ATTOOTOLONGOL MÁNGEMÁNG: Afanga me ngáre igha bwughilong yóomw mángemáng rel Ms. Laura T. Ogumoro DCCA, Secretary, *Attn; Historic Preservation Office Regulations*, rel address iye e iisch weiláng, fax me email address. Ów bwe iischitiw wól Subject line: *"Proposed Historic Preservation Board of Regulation Changes."* Attotoolongol mángemáng nge llól (30) ráll mwiril akkatééwoowul arongoroong yel. DCCA e atiwa yáámi data, views me ngingi. Amweeri 1 CMC § 9104(a)(2)

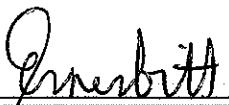
Pomwol mwóghutughút rel allégh nge aa llégh ló sáangi DCCA Secretary wól Abrit _____ 2014.

Isáliiyallong: 
Laura T. Ogumoro,
DCCA Secretary


Ráll

Aramas ye: 
E bwughi Esther S. Fleming
Special Assistant for Administration

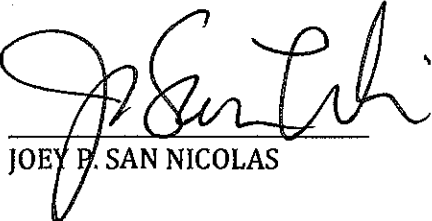

Ráll

File me
Rekoodliiyal: 
Esther SN. Nesbitt
Commonwealth Register


Ráll

Sáangi 1 CMC § 2153(e) me 1 CMC § 9104 (a) (3) Allégh kkaal ebwe lléghló sáangi AG bwe e fil rel fféerúl me legal sufficiency sáangi CNMI Attorney General me ebwele attootowoow, amweeri 1 CMC § 2153(f).

E máákkeitiw lóll ráálil iye 25 Abrit 2014.


JOEY E. SAN NICOLAS

Commonwealth gi Sangkattan na Islas Marianas Siha
Dipattamentun Asuntun Kumunidât yan Kuttura – Ufisinan Historic Preservation

Laura T. Ogumoro, Sekretaria
Dipattamentun Asuntun Kumunidât yan Kuttura, Ufisinan Historic Preservation
Caller Box 10007. Building No. 1339
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Saipan, MP 96950

Numirun Tilifon: 670-664-2587 Fax: 670-664-2571

NUTISIAN PUBLIKU GI MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA
NA AMENDASION SIHA GI AREKLAMENTU YAN REGULASION SIHA GI
Dipattamentun Asuntun Kumunidât yan Kuttura, Ufisinan Historic Preservation

I AKSION NI MA'INTENSIONA PARA U MA'ADAPTA ESTI I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA: I Commonwealth gi Sangkattan na Islas Marianas siha, Dipattamentun Asuntun Kumunidât yan Kuttura, Ufisinan Historic Preservation ("HPO"), sigun gi regulasion ni mapâsa ni Historic Preservation Review Board, ha intensiona para u adâpta kumu petmanenti na regulasion siha ni mañechettun i Manmaproponi na Regulasion siha, sigun gi manera siha gi Âktun i Administrative Procedure, 1 CMC § 9104(a). I Regulasion siha para u ifektibu gi dies(10) dihas dispues di compliance i 1 CMC §§ 9102 yan 9104 (a). *Atan i (1 CMC § 9105 (b))*

Âturidât: I Dipattamentun Asuntu Kumunidât yan Kuttura nina'i fuetsa ni Leyislatura para u adâpta i areklamentu yan i regulasion siha para i atministrasion yan i enforcement i estatua ni ginibebetna i aktibidât siha gi anai mânu na dipattamentu gai jurisdiction. *Atan i 1 CMC § 2354.*

I TEMA YAN I SUSTÂNSIAN I PALÂBRA SIHA: Esti i manmaproponi na repeals gi palu na lingguâhi ni ha sasahguan gi regulasion siha gi Ufisinan Historic Preservation.

I SUHETU NI MASUMÂRIA YAN ASUNTU NI TINEKKA: Esti i manmaproponi na regulasion siha debi na u ma'amenda kumu i sigienti:

Pâtti IV Historic Preservation Review Board

§ 55-10.4.2 Sigun gi Seksiona 6 gi Âktu, 2 CMC § 4875, i prubension siha gi Titulu 1(a), Kapitolu 1, Seksiona 1 gi Âktun Râmas Otganisasion Eksakatibu, 1 CMC § 2901(g), debi na ti u inaplika para i composition i Kuetpu. Todu mäs na lingguâhin gi halum esti na seksiona u madiroga.

§ 55-10.4.3 Esti na seksiona madiroga.

§ 55-10.4.4 Esti na seksiona madiroga.

§ 55.10.4.5 Esti na seksiona madiroga.

§ 55.10.4.6 Esti na seksiona madiroga.

§ 55.10.4.7 Esti na seksiona madiroga.

§ 55.10.4.8 I Kuetpu debi na u ma'ilihi ginin i miembron-ña siha i Kabiseyu yan i Sigundun Kabiseyu. Todu mäs na lingguâhi gi halum esti na seksiona u madiroga.

PARA U MAPRIBENIYI UPIÑON: Na'hânao pat intrega i imfetmasion-mu guatu gi as Siñora Laura T. Ogumoro , Sekretarian DCCA, *Attn: Regulasion siha gi Historic Preservation Office* gi sanhilu' na address, fax pat email address, yan i râyan suhetu: "Tinilaika siha gi Maproponi na Regulasion i Kuetpun Historic Preservation. Todu imfotmasion siha debi na u fanhâlum trenta(30) dihas ginin i fetchan publikasion esti na nutisia. I DCCA ha aksesepta i imfotmasion, upiñon, pat testamoñon kinentra siha. Atan i 1 CMC § 9104(a)(2)).

Esti i manmaproponi na regulasion siha manma'aprueba ni Sekretarian DCCA gi Abrit _____, 2014.

Nina'hâlum as:



Laura T. Ogumoro
DCCA Sekretaria

4/20/14
Fetcha

Rinisibi as:



ESTHER S. FLEMING
Ispisiât na Ayudânti para Atministradot Gubietnu

4/28/14
Fetcha

Pine'lu yan
Ninota as:



ESTHER S. N. NESBITT
Rehistran Commonwealth

04.28.2014
Fetcha

Sigun i 1 CMC § 2153(e) yan i 1 CMC § 9104(a)(3), Esti i maproponi na regulasion siha manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligât ginin i CNMI Ufisanan Abugâdu Henerât yan debi na u mapupblika, 1 CMC 2153(f).

Mafitma gi diha 25 di Abrit, 2014.



Joey P. San Nicolas
Abugâdu Henerât



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Eloy S. Inos
Governor

Jude U. Hofschneider
Lieutenant Governor

DIRECTIVE No. 2014-03

DATE:

21 MAY 2014

TO:

All Department/Activity Heads

FROM:

GOVERNOR

SUBJECT:

Lifting of Suspension for Civil Service employee promotions (NMIAC §10-20.-2-1101)

In consultation with the Civil Service Commission, we have agreed that the suspension of Civil Service employee promotions and other suspended increases listed in the Personnel Service System Rules & Regulations (NMIAC §10-20.-2-1101) can now be lifted. The step increase based on attendance at workshops and other training programs will remain suspended. Those employees who have been previously promoted to their current position without increase will receive the appropriate increase on the date the Civil Service Commission sets in its notice of expiry in the Commonwealth Register. No retroactive increases are authorized. The budgetary impact is expected to be minimal.

Department and Activity Heads must review their budgets prior to approving promotions to ensure that funding is available. The Administration, by lifting the suspension, commits to funding the specified promotional increases. If assistance is needed, the Office of Management and budget and Office of Personnel Manage are directed to help with any administrative and budgetary problems.

I sincerely hope that this will be the first step in returning suspended benefits to the Government's hardworking employees.

A handwritten signature in black ink, appearing to read "Eloy S. Inos".

ELOY S. INOS

Caller Box 10007 Saipan, MP 96950 Telephone: (670) 237-2200 Facsimile: (670) 664-2211/2311



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Criminal Division

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Facsimile: (670) 234-7016

Joey P. San Nicolas
Attorney General

To : Esther Muna, Chief Executive Officer of the
Commonwealth Healthcare Corporation

From : Joey P. San Nicolas, Attorney General

Subject: Authority of CHCC Board of Trustees to direct the CEO to make a
decision concerning the credentialing of a physician

ATTORNEY GENERAL'S LEGAL OPINION NO. 2014-01

Esther Muna, the Chief Executive Officer ("CEO") of the Commonwealth Healthcare Corporation, has inquired as to whether she has a legal obligation to comply with the Commonwealth Healthcare Corporation Board of Trustees Resolution No. 2014-02. This resolution, issued by a majority of the members of the Board of Trustees on April 23, 2014, directed that within ten days, the CEO must grant a specific physician medical staff privileges at the hospital for ninety days or show cause why she should not do so.

QUESTION PRESENTED

Does the Commonwealth Healthcare Corporation Board of Trustees have the authority to issue a resolution which directs the CEO to make a decision concerning the credentialing of a physician?

SHORT ANSWER

No, the Board of Trustees does not have the authority to issue a resolution which directs the CEO to make a decision concerning the credentialing of a physician; the Board's role with respect to this matter may only be advisory.

ANALYSIS

On January 15, 2009, former Governor Benigno R. Fitial signed House Bill No. 16-9 into law, which became Public Law No. 16-51. This law, cited as the "Commonwealth Healthcare Corporation Act of 2008," established the Commonwealth Healthcare Corporation ("CHCC") as a public corporation with the duty to assume the functions of the Department of Public Health and to operate a healthcare system in the Commonwealth. 3 CMC §2823(a)-(b). Pursuant to PL 16-51, CHCC is to be governed by a CEO appointed by the Governor to a four (4) year term. 3 CMC §2823(c). PL 16-51

also establishes a seven member Board of Trustees that the CEO may call on from time to time for advice and assistance. 3 CMC §2823(d).

Commonwealth courts will interpret a statute such as Public Law No. 16-51 with its plain language, reading it “with an aim to effect the plain meaning of [its] object.” *N. Mariana Islands v. Minto*, 2011MP 14 ¶ 34 (quoting *Commonwealth v. Crisostomo*, 2005 MP 9 ¶ 39).

The plain language of Public Law No. 16-51 indicates that the Board of Trustees’ role is limited to advising the CEO of CHCC, with the exception of a few added responsibilities that are specifically included in the law. Pursuant to 3 CMC §2825, the provision of PL 16-51 which establishes CHCC’s Board of Trustees, “[t]here shall be a Board of Trustees whose role shall be advisory to the CEO, except as provided in this section.” 3 CMC §2825(b). Reiterating this point, PL 16-51 provides that the Board may periodically issue nonbinding advisory recommendations to the CEO. 3 CMC §2825(l). PL 16-51 explicitly states that the Board’s role with respect to CHCC’s finances and management is no more than advisory. *Id.*


The following listed duties are the only specified exceptions to the Board’s general advisory role that are provided in the law, within the meaning of “*except as provided in this section*” in 3 CMC §2825(b):

1. The Board shall recommend to the Governor the name of a qualified CEO, the compensation to be paid, and the other terms of the CEO’s employment. 3 CMC §2825(j).
2. The Board shall annually evaluate the CEO’s performance. The Board may recommend the removal of the CEO to the Governor, who shall accept such recommendations. 3 CMC §2825(k).

PL 16-51 further states, “[t]he focus of the Board shall be upon strategic planning, the recruitment and retention of a qualified CEO, credentialing medical staff, and ensuring the highest possible quality of healthcare.” 3 CMC §2825(j). This provision cannot be construed to imply that the Board has a governing, non-advisory role with respect to these four areas of concern. As stated above, PL 16-51 explicitly provides that the Board’s role with regards to the management of the hospital, which would include the credentialing of the hospital’s medical staff, is merely advisory. *See* 3 CMC §2825(l). Rather, a plain language reading of this provision read in conjunction with PL 16-51 as a whole indicates that the Board’s focus in advising the CEO must be limited to these four general areas of concern.

CONCLUSION

Public Law No. 16-51 does not authorize the CHCC Board of Trustees to issue a resolution directing the CEO to make a decision concerning the credentialing of a physician. PL 16-51 explicitly provides that the Board’s authority with respect to the management of the hospital is advisory. The Board of Trustees may only issue nonbinding advisory recommendations to the CEO on matters which concern the management of the hospital, such as the credentialing of a physician.


Joey P. San Nicolas
Attorney General

5/27/14
Date