

CHAPTER 20-10  
ALCOHOL BEVERAGE AND TOBACCO CONTROL DIVISION

SUBCHAPTER 20-10.3  
BETEL NUT CONTROL RULES REGULATIONS

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Subchapter Authority: 1 CMC § 2454; 4 CMC § 51920; 1 CMC §§ 9101–9115.

Subchapter History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

**Part 001 -      General Provisions**

**§ 20-10.3-001      Authority**

The proposed Betel Nut Control Rules and Regulations have been promulgated for adoption pursuant to 4 CMC § 51920, of the Commonwealth Code, as enacted under Public Law 19-66, Betel Nut Control Act of 2015.

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Modified, 1 CMC § 3806(g).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

### **§ 20-10.3-005 Purpose**

To establish uniform regulations in order to carry out the intent and purpose of Public Law 19-66 (effective date September 23, 2016), as enacted and codified at Title 4, Division 5, Chapter 19 of the Commonwealth Code.

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

### **§ 20-10.3-010 Construction**

(a) Nothing contained in these regulations shall be construed as to conflict with any provision of the Consumer Protection Act (codified at 4 CMC §§ 5101-5123).

(b) These regulations shall be interpreted in accordance with generally accepted principles of statutory construction.

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

### **§ 20-10.3-015 Severability**

If any clause, sentence, subparagraph, paragraph, subsection, section, chapter, or other portion of these entire regulations or the application thereof to any person or circumstance shall be held to be invalid, such holding shall not affect, impair, or invalidate the remainder of these regulations or the application of such portion held invalid to any other person or circumstances, but shall be confined in its operation to the clause, sentence, subparagraph, paragraph, subsection, section, chapter, or other portion thereof directly involved in such holding or to the person or circumstance therein involved.

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

### **§ 20-10.3-020 Definitions. Words and Terms: Tense, Number, and Gender**

In interpreting these regulations, except when otherwise plainly declared or clearly apparent from the context: Words in the present tense include the future tense; the singular includes the plural and the plural includes the singular; and words of one gender include the other genders.

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

### **§ 20-10.3-025 Definitions**

Except as hereinafter stated and unless a different meaning of a term is clear from its context, the definitions of terms used in this chapter shall be the same as those used in Public Law 19-66 (codified at 4 CMC §§ 51901–51921):

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- (a) “ABTC” shall mean Alcohol Beverage and Tobacco Control.
- (b) “Act” shall mean the Betel Nut Control Act of 2015 (codified at 4 CMC §§ 51901–51921).
- (c) “Areca Nut” or “Betel Nut” shall mean the seed of the areca palm.
- (d) “Business” includes every trade, occupation, profession, and other lawful purpose, whether or not carried on for profit.
- (e) “CMC” means the Northern Mariana Islands Commonwealth Code.
- (f) “Commonwealth” or “CNMI” means the Commonwealth of the Northern Mariana Islands.
- (g) “Department of Commerce” means the CNMI Department of Commerce.
- (h) “Employee” means any individual, who under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee.
- (i) “Employer” includes any person acting directly or indirectly in the interest of an employer in relation to an employee.
- (j) “Entity” includes corporation and foreign corporation; nonprofit corporation; profit and nonprofit unincorporated associations; business, trust, estate, partnership, trust, and two or more persons having a joint or common economic interest; and state, United States and foreign government.
- (k) “Person” shall mean any natural person, corporation, firm, partnership, association, institution, joint-stock company, trust, other organizations of persons, or any other legal entity.
- (l) “Secretary” shall mean the Secretary of Commerce.

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

### **Part 100 - Requirements**

#### **§ 20-10.3-101 License Required**

A person or business entity shall be required to obtain a Betel Nut Control License issued by the Department of Commerce, Alcohol Beverage and Tobacco Control (“ABTC”) Division prior to engaging in the importation and/or selling of betel nut in the Commonwealth of the Northern Mariana Islands.

Modified, 1 CMC § 3806(f).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

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**§ 20-10.3-105 License Applications**

- (a) Applications for any Betel Nut Control License or transfer of any license shall be submitted upon proper forms to be provided and approved by the Secretary or his/her designee.
- (b) Each application must be properly and completely filled out and accompanied by any and all required data supplementing the application form. If the Secretary or his/her designee determines that additional information is necessary, consideration of the application may be postponed and a reasonable period of time may be afforded to the applicant to comply with this requirement.
- (c) A deposit of \$50 to cover the cost of processing the application must accompany all applications for license. Full payment of the license fee is due and payable at the time the license is issued.
- (d) An assessment of \$25 shall cover the cost of any amendment of license made or duplication of license requested in addition to the filing fee in § 20-10.3-105(c).

Modified, 1 CMC § 3806(g).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

**§ 20-10.3-110 Type of License**

<u>Class</u>	<u>Fee</u>
Class 1 – Betel Nut Importation License.....	\$75
Class 2 – Betel Nut Retail Dealer License.....	\$75

Modified, 1 CMC § 3806(g).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

**§ 20-10.3-115 License Duration**

Upon payment of required license fees, each license shall be for a period of one year commencing on the date the license is approved by the Director of ABTC Division and Secretary.

Modified, 1 CMC § 3806(e).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

**§ 20-10.3-120 License Renewal**

To renew a license, the license fees for renewal must be fully paid on or before the expiration date of the license. If the required renewal license fees are not paid on or before the expiration date, the license shall automatically be suspended and a penalty of \$25 shall be assessed for each day the license is not renewed. If a Licensee fails to renew a license within 30 calendar days from the date of expiration, the license shall automatically be revoked and the Secretary shall not

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issue a license except upon a new original application, provided however, that any penalty fee pending for payment must be paid in full prior to the issuance of a new license.

Modified, 1 CMC§ 3806(g).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

### **§ 20-10.3-125 License Restrictions**

The Secretary or his/her designee shall not issue a license based on the following restrictions:

- (a) The applicant is not the real party in interest;
- (b) The applicant is under the age of 18 years old; and
- (c) The applicant is a person or business entity that held a license to sell betel nut that was revoked within the prior year by the Secretary.

Modified, 1 CMC § 3806(a), (f), (g).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

### **§ 20-10.3-130 Qualifications of Prospective Licensee**

(a) Prior to the Secretary or his/her designee considering an application for a Betel Nut Control License, a thorough investigation into an applicant's background will be conducted. The Secretary or his/her designee may inquire into an applicant's:

- (1) moral character;
- (2) prior criminal record;
- (3) past business conduct and practices;
- (4) condition of premises; and
- (5) any and all other matters which in the judgment of the Secretary or his/her designee pertain to or affect the matter of the application, its issuance or the exercise of the license applied for.

(b) The Secretary or his/her designee will carefully consider the results of this investigation and may make a determination as to approval or disapproval of the application.

(c) Any applicants for a Betel Nut Control License who are otherwise involved in any way as proprietors or authorized representatives of the business being considered for licensing, shall be listed by legal name in the current application on file with the Alcohol Beverage and Tobacco Control Division. No license shall be issued or renewed unless these listings are complete and legally accurate and reveal sufficient compliance with all pertinent provisions of 4 CMC §§ 51901-51921 and/or these regulations as made applicable.

(d) All applicants, as a condition for obtaining a Betel Nut Control License, shall meet the following requirements prior to the issuance of license:

- (1) Attend the training and certification program on responsible betel nut sales and services

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provided by the Alcohol Beverage and Tobacco Control Division. Upon completion of training and certification, the Secretary or his/her designee shall issue identification cards certifying the owner and each employee of his/her establishment, which shall be worn at all times during on-duty hours. Such certified identification cards shall expire three years from the date of issuance and certification.

(2) Make a deposit of \$25 for the cost of certification which will be assessed for each person that completes the certification process. Full payment of the certification fee is due at the time the certified identification card is issued. This certification shall be concurrent in conjunction with the alcohol and tobacco certification process as required under NMIAC §§ 20-10.1-120(d)(1)-(3).

(3) In the event a new employee is hired, it shall be the responsibility of the licensee to register the newly hired employee within 24 hours with the ABTC Division. The licensee shall arrange an appointment with the ABTC Division to have such new employee undergo the training and certification prior to handling any sales of betel nut.

(4) Except in the existing employment under the same corporation or licensee, in the event that a certified person transfers to another licensed establishment/employer prior to the expiration of his/her certified identification card, the person may carryover his/her certification credential. Provided however that the person transferring to another licensed establishment/employer shall be responsible to inform the ABTC division within 24 hours to amend his/her certification to be carried over to his/her new place of employment. The new employer shall be responsible for the transfer of a certified identification card, at a cost of \$25.

Modified, 1 CMC § 3806(e), (f), (g).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

### **§ 20-10.3-135 Application Review**

(a) Upon inspection and investigation, and in reference to the guidelines set forth in § 20-10.3-120, the Secretary or his/her designee shall consider the application and shall within 15 days give its decision, granting or refusing, the application.

(b) If the Secretary or his/her designee decides in favor of the applicant or licensee, the applicant or licensee shall be promptly notified of the decision. If the Secretary or his/her designee decides otherwise, an appropriate decision and order shall be issued and provided to the applicant or licensee. The Secretary shall explain his/her findings to support his/her decision. The Secretary or his/her designee shall within a reasonable amount of time send a certified copy thereof to the applicant or licensee.

(c) Where an application for license has been denied, a person aggrieved by such a denial shall be entitled to a review of the decision pursuant to the procedures established under the Administrative Procedures Act, 1 CMC §§ 9108-9115.

(d) Judicial review shall be as provided by law.

Modified, 1 CMC § 3806(g).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

**§ 20-10.3-140            Transfer of License**

(a)     Where a license has been issued to or in the name of a corporation, partnership, limited liability company, or sole-proprietorship, no substitution, addition, removal or other change to the license holder shall be made until the proposed change has first been approved by the Secretary or his/her designee upon application for transfer between two distinct business entities.

(b)     No application for transfer of a license shall be approved by the Secretary or his/her designee unless the applicant has met the same qualifications as required in § 20-10.3-130 for an original license.

Modified, 1 CMC § 3806(e), (g).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

Commission Comment: The Commission renumbered “Section 8” to “§ 20-10.3-130” in (b) pursuant to 1 CMC § 3806(g).

**§ 20-10.3-145            Responsibilities of the Licensee**

(a)     It shall be the responsibility of a licensee to notify the Secretary or his/her designee in writing of any and all changes in a licensed business ownership, management, agents, or any other changes which materially affect or modify the data on file and recorded as the basis for granting or renewal of such license prior to the time such change occurs. This shall include any event a licensee intends or is in the process of foreclosing his/her business, which shall include a brief purpose of the foreclosure. Failure to do so within 24 hours of such change shall require an immediate temporary suspension of the license pending investigation and review by the Secretary or his/her designee. The suspension of the license shall remain in effect until removal, modification, or other action as may be deemed necessary and appropriate.

(b)     A licensee proposing to transfer or who is in the process of transferring his/her license to another party shall remain responsible for the conduct of the business and liable for compliance with all terms of the licensed business and all CNMI laws and regulations pertaining thereto until such time as the Secretary or his/her designee has approved the transfer and the transferred license has been re-issued in the new licensee's name. It shall be the responsibility of a licensee to register or cause to be registered with the ABTC Division, the names of employees employed by his/her establishment who will be engaged in handling the sale of betel nut within 24 hours after employment.

(c)     Every license issued and in effect under 4 CMC §§ 51901-51921, shall at all times be conspicuously posted and exposed to view, convenient for inspection, on the licensed premises or business establishment.

Modified, 1 CMC § 3806(g).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

**§ 20-10.3-150            Prohibitions**

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(a) Underage Sales. Unless based on actual knowledge that the person buying betel nut is at least 18 years old, at no time under any circumstances shall any betel nut be sold or furnished by any licensee:

(1) To any person under the age of 18 without first requesting that the person provide a valid government identification card; and

(2) To any person who does not immediately carry in his/her possession a valid official identification card issued by the CNMI Government, Municipalities of the CNMI, the United States Government, United States, United States territories, or by foreign governments which bears:

(i) the person's full name;

(ii) current photograph;

(iii) sex; and

(iv) date of birth indicating that the possessor is 18 years of age or older and that said presentation and verification occurs.

(b) Condition of Premises: Betel Nut Display and Required Sign.

(1) A person or business entity shall ensure that betel nut is displayed in accordance with this section. Betel nut shall not be displayed openly or in any manner in any part of the business premises generally open to the public. Such packages or bags of betel nut shall be secured underneath or behind the cashier counter at the point of sale, which can only be accessed by the owner or an authorized agent (cashier) of the retail establishment upon the request from a person of legal age to purchase such item or product.

(2) Any person or business entity which sells or permits to be sold on its premises betel nut shall clearly, continuously, and conspicuously post signs reading "BETEL NUT SALE IS PROHIBITED TO PERSONS UNDER THE AGE OF 18" at the area where the betel nut is displayed or available for sale, and next to any cash register or any other place(s) where such items may be purchased from the point of sale. Said signs shall be at least 11 inches by 8.5 inches in dimension, and the letters on said signs shall be printed in a bright color, with large capitalized letters, printed in a plain easily readable font or lettering style.

Modified, 1 CMC § 3806(a), (g).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

### **§ 20-10.3-155 Enforcement: Fines, Penalties, and Suspension and Revocation of Licenses**

(a) Any person or business entity that offers, gives, or permits to be given or sold any betel nut to an individual under the age of 18 (a minor) shall, upon the issuance of a notice of violation to the owner, agent, or employee in charge at the time of violation by any representative of the Department of Commerce, ABTC Division, or the Commonwealth Health Care Corporation, Community Guidance Center, who has properly identified himself or herself, shall be fined and penalized within a period of two years, in the following manner:

(1) First Offense: A fine of not less than \$ 100 but not more than \$300.

(2) Second Offense: A fine of not less than \$300 but not more than \$500.

(3) Third Offense: A maximum fine of \$500 and revocation of license up to one year.

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(4) Any person or business entity who violates the provisions of § 20-10.3-140 shall be penalized and pay a maximum of \$300 in monetary fine.

(5) Any person, parent or legal guardian, of any minor who suffers or permits to allow by either willfully or negligently, such persons under the age of 18 years old to carry, possess, or consume betel nut, shall be penalized and pay a maximum fine of \$300.

(6) Any person(s) or business establishment found to be operating and selling betel nut without a valid Betel Nut Control License issued by the Department of Commerce, ABTC Division, in violation of Section 1,\* shall pay a maximum fine of \$500.

(b) **Suspension and Revocation of Licenses.** A Betel Nut Control License may be suspended and/or revoked for any of the following reasons:

(1) Where the continuation of a license would be contrary to the public interest;

(2) Violation of, causing or permitting a violation of, or failure or refusal by a licensee to comply with any provision of 4 CMC §§ 51901–51921 and/or these regulations;

(3) Misrepresentation of a material fact by an applicant in obtaining or renewing a license;

(4) A plea, verdict, or judgment of guilty to any public offense involving moral turpitude; or

(5) Upon filing of a sworn written report with the ABTC Director by an inspector setting forth any of the grounds in § 20-10.3-150 for the suspension or revocation of license.

\* So in original.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

### **§ 20-10.3-160 Right to Administrative Hearing**

Upon the filing of a request for such hearing with the Secretary, any person or business entity found subject to a fine or penalty, including suspension or revocation of license, for an offense established under any of the provisions established under these regulations, shall have the right to an administrative hearing in accordance with the procedures established under the Administrative Procedures Act, 1 CMC §§ 9108–9115.

Modified, 1 CMC § 3806(g).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

### **§ 20-10.3-165 Procedures on Revocation or Suspension of License**

(a) The Secretary may revoke or suspend the right of the licensee to use his/her license for the violation of any provision of 4 CMC §§ 51901-51921 and/or any rule or regulation applicable thereto.

(b) In any case where it is proposed to revoke or suspend the exercise of any license, the licensee shall be given:

(1) Notice and hearing; the notice to be given at least five business days before hearing;

(2) At the hearing, the licensee shall be entitled to be heard in person or through counsel and shall be given a full and fair opportunity to present any facts showing that the alleged cause or

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causes for the proposed action do not exist;

(3) The testimony taken shall be under oath and taken steno-graphically or by machine, but the parties shall not be bound by strict rules of evidence. The Commonwealth Administrative Procedures Act shall apply wherever applicable; and

(4) Copies of any transcript made at the hearing shall be given to the licensee upon request at his/her expense.

Modified, 1 CMC § 3806(e).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).

### **§ 20-10.3-170 Procedure on Unlicensed Sales of Betel Nut “Areca Nut” – Disposal of Confiscated Betel Nut “Areca Nut”**

(a) In the case that a person is advertising, offering to sell, or selling betel nut without a license, all betel nut “areca nut” may be confiscated in the Commonwealth pursuant to an administrative order by the Secretary, in accordance with the Administrative Procedures Act, 1 CMC §§ 9108-9115. Upon an administrative order issued by the Secretary, betel nut subject to that administrative order shall be disposed of at the discretion of the Secretary by either:

(1) Dumping in public by the Secretary or his/her authorized representative in the presence of one employee of the Department of Safety and one employee of the Office of the Attorney General; or

(2) Sale by public auction with the reserve yet without warranty of fitness or merchantability, and after execution of appropriate releases and/or covenants not to sue by the bidders, and following 14 days public notice in a newspaper of general circulation.

Modified, 1 CMC § 3806(e), (f), (g).

History: Adopted 40 Com. Reg. 40510 (Jan. 28, 2018); Proposed 39 Com. Reg. 40395 (Nov. 28, 2017).