

**CHAPTER 55-10
HISTORIC PRESERVATION OFFICE**

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Chapter History: Amdts Adopted 36 Com. Reg. 35485 (Sept. 28, 2014); Amdts Proposed 36 Com. Reg. 35072 (May 28, 2014); Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Chapter Authority: 1 CMC § 2354; 1 CMC §§ 2381 and 2382; 2 CMC §§ 4811-4842.

Commission Comment: 1 CMC § 2351 creates the Department of Community and Cultural Affairs (DCCA). The Department has certain duties enumerated in 1 CMC § 2353, including responsibility for historic and landmark conservation and preservation. See 1 CMC § 2353(d). 1 CMC § 2354 directs DCCA to adopt rules and regulations regarding activities over which the Department has jurisdiction.

PL 3-39 (effective Jan. 3, 1983), the "Commonwealth Historic Preservation Act of 1982," codified as amended at 1 CMC §§ 2381-2382 and at 2 CMC §§ 4811-4842, created the Historic Preservation Office within DCCA and an independent Historic Preservation Review Board. See 1 CMC § 2381; 2 CMC § 4821. PL 3-39 empowered the Office and the Board to implement the provisions of the act and to develop rules and regulations necessary to carry out the purposes of the act. 1 CMC § 2382(i).

Executive Order 94-3 (effective Aug. 23, 1994) reorganized the Commonwealth government's executive branch, changed agency names and official titles, and effected numerous other revisions. According to Executive Order 94-3 § 308:

Section 308. Department of Community and Cultural Affairs.

(a) Sports and Recreation. There is established in the Department of Community and Cultural Affairs a Division of Sports and Recreation, which shall have at its head a Director of Sports and Recreation. The Division shall develop and administer programs relating to team and individual sports, recreation activities, and physical fitness for youth and adults, including senior citizens and persons with mental or physical disabilities.

(b) Amateur Sports Association. The Northern Marianas Amateur Sports Association is allocated to the Division of Sports and Recreation of the Department of Community and Cultural Affairs for purposes of administration and coordination.

(c) Council for Arts and Culture. The Commonwealth Council for Arts and Culture is allocated to the Department of Community and Cultural Affairs for purposes of administration and coordination.

(d) Chamorro-Carolinian Language Policy Commission. The Chamorro-Carolinian Language Policy Commission is allocated to the Department of Community and Cultural

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Affairs for purposes of administration and coordination.

(e) Library Council. The Commonwealth Library Council is allocated to the Department of Community and Cultural Affairs for purposes of administration and coordination.

(f) Historic Preservation Review Board. The Historic Preservation Review Board is abolished and its functions transferred to the Historic Preservation Office in the Department of Community and Cultural Affairs.

(g) Hall of Fame. The Commonwealth Hall of Fame is abolished and its records, property, facilities, equipment, and supplies transferred to the Department of Community and Cultural Affairs.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

On June 15, 1995, DCCA published proposed “Regulations Governing the Use of the Carolinian Utt (Pavilion) & Related Facilities.” See 17 Com. Reg. 13499 (Jun. 15, 1995) pursuant to the authority of PL 3-11 § 601 (formerly codified at 4 CMC § 1601). PL 3-11 § 601 authorized DCCA to regulate the use of the Carolinian Utt and charge a fee for its use. PL 9-22 (retroactively effective January 1, 1995) repealed PL 3-11 § 601. See the commission comment to 4 CMC § 1601; see also the commission comment to 4 CMC § 1101. As a result, the authority to issue the June 1995 proposed regulations was repealed, and the regulations were never adopted.

The HPO did not provide section titles for this chapter. The Commission named the sections.

Part 001 - General Provisions

§ 55-10-001 Name

These regulations shall be known as the CNMI Historic Preservation Office Regulations and shall be cited as “HPO Regs § 10.xx.xx” or “55 NMIAC 5 10.xx.xx”

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: The Commission inserted the final period pursuant to 1 CMC § 3806(g).

§ 55-10-005 Authority

These regulations are established under the authority of Section 3 of Article XIV of the Constitution of the Northern Mariana Islands; Section 3(d) of Chapter 7 of Public Law 1-8 [1 CMC § 2353], the Executive Branch Organization Act of 1978; and Section 5(i) of Public Law 3-39 [1 CMC § 2382], the Commonwealth Historic Preservation Act of 1982.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

§ 55-10-010 Definitions

As used in these regulations:

(a) “Act” means the Commonwealth Historic Preservation Act of 1982, Public Law 3-39, codified at 2 CMC § 4811, et seq.

(b) “Adaptive use” means the use of a cultural and historic property for a contemporary purpose or purposes, usually different from its historical use and usually with some alteration of its character, but retaining its major significant historical characteristics.

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- (c) “Agency” means any agency of the Commonwealth Government or its political subdivisions, including independent boards and commissions.
- (d) “Archeologist” means an individual meeting the current standards of the Department of the Interior for archeologists serving on State Review Boards under the authority of Section 101(b)(1)(B) of the National Historic Preservation Act.
- (e) “Architect” means an individual meeting the current standards of the Department of the Interior for architects serving on State Review Boards under the authority of Section 101(b)(1)(B) of the National Historic Preservation Act.
- (f) “Architectural historian” means an individual meeting the current standards of the Department of the Interior for architectural historians serving on State Review Boards under the authority of Section 101(b)(1)(B) of the National Historic Preservation Act.
- (g) “Artifact” means any object related to, derived from, or contained in a cultural and historic property that is important in the study, interpretation, or public appreciation of such Property.
- (h) “Board” means the Review Board created by Section 6 of the Act.
- (i)(1) “Cultural and historic property” means any site, structure, district, building, object, or combination thereof, that:
- (i) is included in the National Register of Historic Places;
 - (ii) is determined by the Historic Preservation Office or the Keeper of the National Register of Historic Places to be eligible for the National Register; or
 - (iii) meets any of the criteria set forth in Appendix I.
- (2) The term explicitly embraces the terms “historic and cultural property,” “cultural and historic property,” and “valuable historic property” as used in the Act. Cultural and historic properties may be recognized as such individually or as members of “groups” of like or unlike properties whose numbers and locations can be specified, or as “classes” of like properties whose characteristics can be specified but whose precise total numbers and locations may not be specifiable.
- (j) “Cultural anthropologist” means an individual whose training and experience, usually including receipt of a postgraduate degree, equips him or her for the professional practice of cultural anthropology as recognized in the academic institutions of the United States, Japan, Australia, New Zealand, Canada, or the countries of western Europe.
- (k) “Cultural exchange” means the exchange of artifacts and/or information, practices, ideas, arts, or crafts between the Commonwealth and any other political entity, organization, or institution.
- (l) “Culture” means the traditions, beliefs, traditional practices, lifeways, arts, crafts and social institutions of the Chamorro and Carolinian peoples, or of a particular community within

the Commonwealth.

(m) “Data recovery” means the study of a cultural and historic property, by or under the supervision of qualified scholars with expertise appropriate to the property, and including appropriate analysis and dissemination of study results, in order to recover, understand, and make available information about the property.

(n) “Development” means the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision of land and any other division of land including lot parceling; change in the intensity of use of water and ecology related thereto; alteration of the size of any structure, including any facility of any private, public, or municipal government or utility; and land clearing of any amount (Deleted: of 100 square meters or more on any slope greater than three percent)*

(o) “Donation” means providing artifacts or other material derived from or related to a cultural and historic property, either permanently or for a fixed period of time, to a non-profit organization recognized and approved by the Historic Preservation Office.

(p) “Historian” means an individual meeting the current standards of the Department of the Interior for historians serving on State Review Boards under the authority of Section 101(b)(1)(B) of the National Historic Preservation Act.

(q) “HPO” means the Historic Preservation Office created by Section 4 of the Act, including its head, the Historic Preservation Officer, and his or her staff acting in official capacities.

(r) “Impact” means any modification in an element of a cultural and historic property that tends to damage or reduce the integrity of such element. “Impacts” include:

(1) “Direct impacts,” which are caused by a given action and occur at the same time and place, and

(2) “Indirect impacts,” which are caused by a given action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect impacts may include, but are not limited to, the inducement of population growth, the inducement of changes in the density or distribution of land uses, and changes in traffic patterns.

(s) “Interpretation” means making a cultural and historic property, or the information and artifacts it contains, understandable to the public for purposes of education and enlightenment.

(t) “Parties” means the agency or agencies involved in the action subject to review, the HPO, and any other person, organization, or group with a financial, professional, or cultural interest in the action or property involved.

(u) “Permitting” means issuance of a written license or authorization (including any condition) to any person, empowering such person to do some act not forbidden by law, but not allowed without such authority, or the modification or amendment of any permit or condition

thereof subsequent to its issuance.

(v) “Person” means the Government of the United States of America or any agency or department thereof; the Government of the Commonwealth or any agency or department or any municipality thereof; any sovereign state or nation; any public or private institution; any public or private corporation, association, partnership, or joint venture, any lessee or other occupant of property, or any individual, acting singly or as part of a group.

(w) “Physical anthropologist” means an individual whose training and experience, usually including receipt of a postgraduate degree, equips him or her for the professional practice of physical anthropology as recognized in the academic institutions of the United States, Japan, Australia, New Zealand, Canada, or the countries of western Europe.

(x) “Plan,” depending on context, means:

(1) The design, specifications, and schedule of a development action;

(2) A cultural and historic preservation plan, designed to ensure that cultural and historic properties are wisely integrated into contemporary land uses and development; or

(3) A plan for treatment of a particular cultural and historic property or group of such properties subject to impact by a development action or actions.

(y) “Predictive model” means an element of a cultural and historic preservation plan which, on the basis of existing information and extrapolation, predicts the distribution and density of various classes of historic properties over a given island or other area.

(z) “Preservation” means the identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, or reconstruction of a cultural and historic property, or any combination of the foregoing activities.

(aa) “Project” means any use, development, or other activity subject to review under these regulations, or where the context so indicates, a preservation activity carried out pursuant to these regulations.

(bb) “Records” of a preservation activity mean the notes, other documents, photographs, forms, files, electronic records, maps, specifications, and other material describing the activity, its results, the property involved, and any data recovered from or pertaining to the property.

(cc) “Regulated activity on private lands” means any use of private lands that is subject to issuance of a permit by any agency, or that is wholly or partly dependent on financial, technical, or other forms of assistance by any Commonwealth or Federal agency, including but not limited to those activities requiring permits or assistance under the Department of Public Lands homestead program or commercial lease, the Coastal Resources Management Regulations, or any Division of Environmental Quality Regulation.

(dd) “Rehabilitation” means the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving or restoring the property’s significant historical or cultural elements.

(ee) “Restoration” means the process of accurately recovering the form and details of a property as it appeared at a particular period of time by removing later work and replacing missing original work.

(ff) “Scientific identification” means the study of artifacts, other material, and/or information derived from or relating to a cultural and historic property or properties, for purposes of increasing knowledge about such properties or about topics of scientific or humanistic research; such study may include destructive activities such as the gasification of samples for radiometric age determination, where appropriate.

(gg) “Significant element” of a cultural and historic property means an element integral to the property’s cultural or historical significance, disturbance of which will impair such significance. Where pertinent, a significant element may be present in the environment surrounding the property, or in its airspace, as well as or rather than in the property itself.

(hh) “Survey,” when used as a noun, means a systematic, planned effort to identify, record, and evaluate cultural and historic properties in a manner consistent with applicable professional standards. Survey may be conducted at a general level, as in the survey of an entire island, or at the level of a particular parcel or tract of land. When used as a verb, “to survey” means the act of conducting a survey as defined above.

(ii) “Use” of a cultural and historic property means its use for traditional cultural purposes, for scientific or humanistic study, or for productive contemporary purposes. It is recognized that such use may, in the public interest, require the alteration of the property’s significant elements or even its total destruction.

(jj) “Wartime context,” with reference to a cultural and historical property associated with World War II, means the context in which the property was made or used during World War II, as opposed to a context to which it may have been removed after World War II.

* So in original.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: The Commission removed an extraneous quotation mark after the word “that” in subsection (i)(1) pursuant to 1 CMC § 3806(g). The Commission corrected the comma after the word “Register” in subsection (i)(1)(ii) to a semicolon pursuant to 1 CMC § 3806(g). The Commission moved commas inside quotation marks in subsections (i)(2), (r), (x), (hh), and (jj) pursuant to 1 CMC § 3806(g). The Commission corrected a comma in subsection (x)(2) to a semicolon pursuant to 1 CMC § 3806(g). The Commission inserted a comma after the word “development” in subsection (aa) pursuant to 1 CMC § 3806(g).

Part 100 - Policy

§ 55-10-101 Balance of Preservation and Development

These regulations shall be implemented in a manner that balances the preservation of cultural and historic properties against the needs of development and continuing use of land and other

resources.

(a) Commonwealth policy favoring the preservation of cultural and historic properties is articulated in Section 3 of Article XIV of the Constitution, which directs that “places of importance to the culture, traditions, and history of the people of the Northern Mariana Islands” and “(a)rtifacts and other things of cultural or historical significance... shall be protected and preserved,” and in Section 3 of the Commonwealth Historic Preservation Act of 1982, which declares the policy “to promote and preserve historic and cultural properties in the Commonwealth.”

(b) It is recognized, however, that cultural and historic properties can in most cases coexist with modern development, and that preservation of such properties; may involve creative activities other than static protection in place and unchanged, including but not limited to adaptive use, rehabilitation, and data recovery.

(c) It is further recognized that protection of all cultural and historic properties in place and unchanged could seriously impede the wise use and development of lands in the public interest, frustrate scientific research, unduly restrict the cultural use of such properties, and allow such properties to fall into disrepair through disuse.

(d) Accordingly, the guiding principle to be used in implementation of these regulations shall be the United States Government policy articulated in Section 2(1) of the National Historic Preservation Act: that is: “to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations.”

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: The Commission moved punctuation inside the quotation marks in subsection (a) pursuant to 1 CMC § 3806(g).

§ 55-10-105 Chamorro and Carolinian Properties

Cultural and historic properties that play or may play continuing roles in the culture of the Chamorro or Carolinian people, or in the culture of a given island, area, or community, shall be considered in planning with sensitivity to the concerns of the people who ascribe cultural value to them, in consultation with such people. It is recognized that such properties may be particularly sensitive to the indirect impacts of development. In planning for the use of such properties, consideration shall be given to the "Recommendation concerning the safeguarding of the beauty and character of landscapes and sites", adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO) at Paris, December 11, 1962.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: The Commission moved punctuation inside the quotation marks in subsection (a) pursuant to 1 CMC § 3806(g).

§ 55-10-110 Archeological Research Properties

Cultural and historic properties that are now or may be of importance in archeological research shall be considered in planning in a way that balances this value against the needs of development, as well as against any non-archeological values they may possess. It is recognized that the research value of such properties can often be preserved or realized through careful data recovery before their destruction in the interests of development, provided such study is well organized to define and address significant research topics, meets the standards of the Register of Professional Archeologists, and takes into account the “Recommendations on international principles applicable to archeological excavations,” adopted by the General Conference of UNESCO at New Delhi, December 5, 1956.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: The Commission moved punctuation inside the quotation marks pursuant to 1 CMC § 3806(g).

§ 55-10-115 Architectural Merit

Cultural and historic properties having architectural merit, or representing architectural style or building practices typical of past periods in the history of the Commonwealth, are recognized to be rare and accordingly shall be preserved in place to the extent feasible. Rehabilitation and adaptive use of such properties shall be encouraged. Special efforts shall be made to identify and preserve, as functional and active living areas, neighborhoods and communities whose buildings are of historical architectural interest, in a manner consistent with the recommended treatments in the United States Secretary of the Interior’s “Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Buildings,” taking into account the “Recommendation concerning the safeguarding and contemporary role of historic areas” adopted by the General Conference of UNESCO at Nairobi, November 26, 1976.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: The Commission moved punctuation inside the quotation marks pursuant to 1 CMC § 3806(g).

§ 55-10-120 World War II

Recognizing the importance of the Northern Mariana Islands in the history of World War II and the diversity of material remains of that war on these islands, special efforts shall be made to identify, study, and preserve good examples of cultural and historic properties and artifacts associated with the war, and to interpret these for the public. Preservation and interpretation shall be undertaken in a manner that has the least impact feasible on productive contemporary land uses, and with recognition of the fact that the gradual decay and transformation of war materiel originally designed for short-term use is inevitable. As a rule, the relocation of such materiel as tanks, large guns, and armored vehicles shall be discouraged, as shall their restoration, while the interpretation of such materiel in place and in its natural condition shall be encouraged. An

exception to this rule shall be made with respect to materiel relocated from its wartime context at or near the end of the war, after American capture of the Northern Mariana Islands; where the wartime context of a piece of materiel has already been lost, further relocation and/or restoration shall not be discouraged.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: The Commission corrected the capitalization of “war” pursuant to 1 CMC § 3806(f).

§ 55-10-125 Development Costs

Pursuant to Section 10 of the Act, 2 CMC § 4832, where development will result in impacts to a cultural and historic property, and costs must be incurred to preserve, protect, rehabilitate or recover data from the property, it shall be the responsibility of the person whose actions damage the property to bear such costs unless undue hardship would result. Where undue hardship would result, the HFO shall work with the person otherwise responsible for bearing the costs, to identify alternative funding sources and mechanisms for sharing costs.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

§ 55-10-130 New Buildings and Improvements

The HFO shall encourage the adoption of measures to ensure that new buildings and infrastructure improvements adapt harmoniously to the spatial organization and setting of cultural and historic properties, and that they take into account the social and cultural activities, ways of life and social relationships, and land tenure practices of the occupants and/or users of such properties.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

§ 55-10-135 Minimizing Paperwork

The HPO shall administer these regulations in a manner that minimizes paperwork and redundant permit requirements.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

§ 55-10-140 Coordination with Other Jurisdictions

The HPO shall seek to coordinate implementation of these regulations with the implementation of historic and cultural preservation laws in and by the several states of the United States of America, Guam, the Federated States of Micronesia, the Republic of Palau, the Republic of the Marshall Islands, and Japan.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

§ 55-10-145 Export Controls

The HPO shall take necessary steps to control the export of artifacts from the Commonwealth, in accordance with law and in cooperation with other agencies having jurisdiction, and shall cooperate with the authorized officials of other governments in the control of such exportation.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Part 200 - Historic Preservation Review Board

§ 55-10-201 Name

The Review Board proposed (Deleted: created)* by Section 6 of the Act shall be referred to as the Commonwealth Historic Preservation Review Board, and hereinafter as the Board. The Board shall commence the implementation of its duties, described in Section 7 of the Act, upon the full composition of the Board by nine members appointed by the Governor.

* So in original.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

§ 55-10-205 Inapplicability of Executive Branch Organization Act

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.

History: Amdts Adopted 36 Com. Reg. 35485 (Sept. 28, 2014); Amdts Proposed 36 Com. Reg. 35072 (May 28, 2014); Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

§ 55-10-210 Qualifications of Board Members [Repealed]

[Repealed.]

History: Amdts Adopted 36 Com. Reg. 35485 (Sept. 28, 2014); Amdts Proposed 36 Com. Reg. 35072 (May 28, 2014); Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

§ 55-10-215 HPO Nominees [Repealed]

[Repealed.]

History: Amdts Adopted 36 Com. Reg. 35485 (Sept. 28, 2014); Amdts Proposed 36 Com. Reg. 35072 (May 28, 2014); Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

§ 55-10-220 Appointment and Terms [Repealed]

[Repealed.]

History: Amdts Adopted 36 Com. Reg. 35485 (Sept. 28, 2014); Amdts Proposed 36 Com. Reg. 35072 (May 28,

2014); Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

§ 55-10-225 Nomination of Technical Advisors [Repealed]

[Repealed.]

History: Amdts Adopted 36 Com. Reg. 35485 (Sept. 28, 2014); Amdts Proposed 36 Com. Reg. 35072 (May 28, 2014); Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

§ 55-10-230 Appointment and Terms of Technical Advisors [Repealed]

[Repealed.]

History: Amdts Adopted 36 Com. Reg. 35485 (Sept. 28, 2014); Amdts Proposed 36 Com. Reg. 35072 (May 28, 2014); Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

§ 55-10-235 Officers and Quorum

The Board shall elect from among its members a Chairman and a Vice-Chairman.

History: Amdts Adopted 36 Com. Reg. 35485 (Sept. 28, 2014); Amdts Proposed 36 Com. Reg. 35072 (May 28, 2014); Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

§ 55-10-240 Advisory Committees

The Board may, from time to time and in consultation with local governments and the HPO, recognize local advisory committees to assist it in its work. It may also recognize advisory committees made up of specialists in technical areas of concern such as history, local traditions, archeology, engineering, and planning, and it may request the assistance of other Commonwealth agencies in carrying out its responsibilities.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

§ 55-10-245 Delegation of Responsibilities

The Board may delegate its responsibilities to the HPO, subject to oversight by the Board.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

§ 55-10-250 Types of Meetings

Formal actions of the Board may be taken only at meetings of the full Board or a quorum thereof. Meetings may be held in regular session, in special session, or unassembled.

- (a) Regular sessions shall be held quarterly, preceded by appropriate notice to the public.
- (b) Special sessions may be held when the Chairman determines that circumstances so warrant. Adequate notice shall be provided to ensure the public's opportunity to

attend the session.

(c) When the Chairman determines that the full Board should act on a single or limited number of issues, and a regular or special session is not warranted, (s)he may convene an unassembled meeting. Business may be conducted by mail, telephone, radio, or other medium. General rules relating to notice, quorum voting, and record-keeping shall apply. No business shall be transacted at unassembled meetings that violate principles of public participation. The public shall be afforded access to all materials transmitted among members in unassembled meetings.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

§ 55-10-255 Location of Meetings

All Board meetings shall be held in places generally accessible to the public, and shall be open to the public with the following exceptions:

- (a) Unassembled meetings, and
- (b) Meetings dealing with subjects properly withheld from public disclosure in accordance with law.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

§ 55-10-260 Public Notice of Meetings

Adequate notice of all Board meetings shall be provided to the public generally and to interested persons. The extent of public notification shall reflect a good faith effort to provide actual notice to persons interested in the subject matter of the meeting balanced against considerations of cost and burden on staff time.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

§ 55-10-265 Meeting Procedures

Meetings shall be presided over by the Chairman, or in the Chairman's absence, by the Vice-Chairman. Roberts's Rules of Order shall govern meeting procedures, except where they may conflict with these regulations, in which event these regulations shall govern. Full and accurate minutes shall be kept by the HPO, acting as staff to the Board; minutes may be kept in written form or electronically.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

§ 55-10-270 Votes

(a) Only Board members may vote at Board meetings except in cases where federal law or regulation requires that Technical Advisors be allowed to vote, in which event both Board members and Technical Advisors may vote. No member or Technical Advisor shall be permitted

to vote on a matter in which (s)he has a direct personal or organizational interest not common to other members and Technical Advisors. Matters voted on shall require a simple majority of those present and voting for passage, except where law may require a larger majority.

(b) A member may give a proxy to another voting member and a Technical Advisor may give a proxy to another Technical Advisor or to a voting member, to be cast on one or more specific items on the meeting agenda. No member may hold more than one proxy. Valid proxies shall be counted as members present and qualified to vote whenever a point of order is raised about the presence of a quorum. Proxies must be in writing or recorded electronically prior to the vote on the issue for which the proxy is given.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: The Commission corrected the capitalization of "federal" pursuant to 1 CMC § 3806(f). The Commission created subsections (a) and (b) pursuant to 1 CMC § 3806(a). The Commission struck the figure "1" pursuant to 1 CMC § 3806(e).

§ 55-10-275 Duties of Board

The Board, with the participation of the Technical Advisors as needed, shall:

- (a) Carry out the responsibilities of the State Historic Preservation Review Board under U.S. government regulations;
- (b) Provide general oversight to the HPO;
- (c) Review requests for permits and proposed land uses when HPO finds that a cultural and historic property will be directly or indirectly impacted by the proposed activity;
- (d) Promulgate rules and regulations as necessary to carry out the purposes of the Act;
- (e) Determine whether particular properties, groups of properties, or classes of properties should be designated as not cultural and historic, pursuant to section 10.6.5;
- (f) Review and approve the Commonwealth Cultural and Historic Preservation Plan and revisions thereof, pursuant to section 55-10-505;
- (g) Monitor exempt activities pursuant to section 55-10-601;
- (h) Review the findings of the HPO pursuant to section 55-10-615;
- (i) Review and approve programmatic agreements pursuant to section 55-10-645;
- (j) Review and approve Section 11 permit terms pursuant to section 55-10-715(a) and section 55-10-720(a);
- (k) Review and approve loans and leases pursuant to section 55-10-735;

- (l) Participate in the development of curation facilities pursuant to section 55-10-740, and
- (m) Prepare a written annual report summarizing its activities and reporting on the status of cultural and historic preservation in the Commonwealth, and furnish copies to the Governor, the President of the Senate, and the Speaker of the House.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: The Commission corrected the capitalization of “government” pursuant to 1 CMC § 3806(f). The Commission changed the cite “§ 10.6.5” in subsection (e) to “section 55-10-415,” changed the cite “§ 10.8.3” in subsection (f) to “section 55-10-505,” changed the cite “§ 10.9.3” in subsection (g) to “section 55-10-601(c),” changed the cite “§ 10.9.10” in subsection (h) to “section 55-10-615,” changed the cite “§ 10.9.18” in subsection (i) to “section 55-10-645,” changed the cite “§ 10.10.5” in subsection (j) to “section 55-10-715(a),” changed the cite “§ 10.10.7” in subsection (j) to “section 55-10-720(a),” changed the cite “§ 10.10.11” in subsection (k) to “section 55-10-735,” and changed the cite “§ 10.10.12” in subsection (l) to “section 55-10-740” pursuant to 1 CMC § 3806(d).

Part 300 - Inventory of Cultural and Historic Properties

§ 55-10-301 Survey

- (a) The HPO, in consultation with local governments and other appropriate agencies, shall conduct a systematic, phased survey to inventory cultural and historic properties throughout the Commonwealth.
- (b) All citizens of the Commonwealth are requested to cooperate in the HPO’s survey by providing access to private lands, by reporting the discovery of cultural and historic properties and artifacts, and by participating in survey activities organized by the HPO.
- (c) The HPO shall establish survey priorities based on research and planning needs and the availability of funds.
- (d) The HPO shall document survey methods, results, properties identified, and areas surveyed in a manner consistent with contemporary professional standards in history, architectural history, architecture, archeology, and cultural anthropology.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: This was originally designated as Sections 10.5.1 through 10.5.4. The Commission consolidated those sections into one pursuant to 1 CMC § 3806(a).

§ 55-10-305 Predictive Model

- (a) Based on the survey results, including field inspections and background research, the HPO shall develop and periodically refine a predictive model identifying areas known or likely to contain cultural and historic properties as well as areas known or likely not to contain such properties. This model shall be developed and refined in accordance with contemporary professional standards.

- (b) The HPO shall make the predictive model and its periodic refinements available to other agencies, including but not limited to:
- (1) Mayors and other local government officials;
 - (2) The Coastal Resources Management Office, for purposes of the administration of its regulatory programs in a manner consistent with 2 CMC § 1511(a)(11) and (14);
 - (3) The Division of Environmental Quality for purposes of the administration of its regulatory programs in a manner consistent with 2 CMC § 3111(a)(4);
 - (4) The Department of Public Lands, for purposes of carrying out its responsibilities under Sections 5(s) and 5(f) of Article XI of the Constitution in a manner consistent with Section 3 of Article XIV of the Constitution;
 - (5) Agencies of the United States Government, for purposes of their compliance with Sections 106, 110, and 111 of the National Historic Preservation Act; and
 - (6) Other agencies, at the discretion of the HPO, for purposes of compliance with these regulations.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: This was originally designated as Sections 10.5.5 through 10.5.6. The Commission consolidated those sections into one pursuant to 1 CMC § 3806(a). The Commission corrected the comma at the end of subsection (b)(5) to a semicolon pursuant to 1 CMC § 3806(g).

§ 55-10-310 Promulgation of Survey Standards

The HPO shall promulgate standards for survey and identification of cultural and historic properties, taking into account relevant United States Government standards and guidelines, international conventions and recommendations, the standards and guidelines in use by other Pacific jurisdictions, and contemporary professional standards in archeology, cultural and physical anthropology, history, architecture, and other relevant fields.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Part 400 - Recording Cultural and Historic Properties

§ 55-10-401 Inventory and Classification

- (a) The HPO shall maintain a comprehensive inventory of identified cultural and historic properties, and shall promulgate standards and guidelines for the evaluation, classification, and recordation of such properties, taking into account United States Government standards and guidelines, international conventions and recommendations, the standards and guidelines in use by other Pacific jurisdictions, and contemporary professional practice.
- (b) Identified cultural and historic properties shall be classified with reference to Appendix I.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: This was originally designated as Sections 10.6.1 through 10.6.2. The Commission

consolidated those sections into one pursuant to 1 CMC § 3806(a).

§ 55-10-405 Nomination to National Register of Historic Places

Properties shall be nominated to the National Register of Historic Places when:

- (a) The owner of a cultural and historic property so requests;
- (b) Public or private investment in preservation of the cultural and historic property has occurred or is likely to occur;
- (c) The cultural and historic property has been or is likely to be legally dedicated in whole or partial title to preservation purposes; or
- (d) Such nomination will advance purposes set forth in the Commonwealth Cultural and Historic Preservation Plan or a local cultural and historic preservation plan.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

§ 55-10-410 Assumption of Eligibility

Properties appearing to meet any of the criteria set forth in Appendix I shall be assumed to be cultural and historic properties eligible for inclusion in the National Register of Historic Places, for purposes of compliance with Parts 600 and 700 of these regulations, Sections 9 and 11 of the Act, and Sections 106, 110, and 111 of the National Historic Preservation Act where applicable, and shall be considered to be potential elements of the world cultural heritage for purposes of Articles 4, 5, and 6 of the “Convention concerning the protection of the world cultural and natural heritage” adopted by the General Conference of UNESCO at Paris, November 16, 1972.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: The Commission changed the reference to “Parts IX and X” to “Parts 600 and 700” pursuant to 1 CMC § 3806(d).

§ 55-10-415 Determination That a Property is Not Historic

On the recommendation of the HPO, and after affording the public a reasonable opportunity to comment and taking such comments into account, the Board may determine that a given property, group of properties, or class of properties is not cultural and historic. Such a determination shall be in writing, and shall be accompanied by a written explanation as to why such property, group, or class does not meet any of the criteria set forth in Appendix I. A property, group, or class so determined shall not be treated as cultural and historic under these regulations unless new evidence is brought forward showing the Board’s determination was in error, whereupon the Board shall rescind or revise the determination accordingly, or unless the Keeper of the National Register of Historic Places determines that such a property, group, or class is eligible for inclusion in the National Register.

Part 500 - Development and Preservation Plans

§ 55-10-501 Survey and Identification in Advance of Development

- (a) Pursuant to Section 9 of the Act, public lands shall not be disposed of, nor activities permitted on public or private lands, that might damage cultural and historic properties without first complying with Part 600 of these regulations.
- (b) Identification of cultural and historic properties in advance of development shall be conducted in a manner consistent with the standards promulgated by the HPO under section 55-10-310 and section 55-10-401(a) of these regulations.
- (c) The results of all surveys to identify cultural and historic properties shall be provided to the HPO for review and approval.
- (d) All surveys to identify cultural and historic properties in advance of development shall take into account the urban and regional social, cultural, historical and environmental contexts of such properties and the economic, social, demographic, and land use effects that the subject development may have, if any, beyond the boundaries of the development site.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: This was originally designated as Sections 10.7.1 through 10.7.4. The Commission consolidated those sections into one pursuant to 1 CMC § 3806(a). The Commission change the cite to “Part IX” to “Part 600” pursuant to 1 CMC § 3806(d). The Commission changed the cite to “§ 10.5.7” to “section 55-10-310” and changed the cite to “§ 10.6.1” to “section 55-10-401(a)” pursuant to 1 CMC § 3806(d).

§ 55-10-505 Commonwealth Cultural and Historic Preservation Plan

- (a) The HPO shall prepare and periodically update a Commonwealth Cultural and Historic Preservation Plan fulfilling the requirements of Section 101(b)(3)(C) of the National Historic Preservation Act and pertinent United States Government standards. In preparing and refining this plan, the HPO shall consult with and take into account the views of agencies including, but not limited to, local governments, the Coastal Resources Management Office, the Department of Public Lands, and the Division of Environmental Quality. The Plan shall take into account, and to the extent feasible, be consistent with local cultural and historic preservation plans. The Plan shall take into account the equivalent plans, if any, of other Pacific jurisdictions.
- (b) The Commonwealth Cultural and Historic Preservation Plan shall incorporate the predictive model developed pursuant to section 55-10-305(a) of these regulations and shall be designed to assist the HPO and other agencies in decision making about the need for survey, the identification and evaluation of cultural and historic properties, the integration of such properties into development and land use, and the treatment of such properties when threatened by development.
- (c) The Commonwealth Cultural and Historic Preservation Plan and any modification thereof shall become effective upon its approval by the Board.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: This was originally designated as Sections 10.8.1 through 10.8.3. The Commission consolidated those sections into one pursuant to 1 CMC § 3806(a). The Commission changed the cite to “§ 10.5.5” to “section 55-10-305(a)” pursuant to 1 CMC § 3806(d).

§ 55-10-510 Local Cultural and Historic Preservation Plans

(a) At the request of a local government, the HFO in consultation with such local government and other appropriate parties may draft a local cultural and historic preservation plan and submit this plan to the local government for review and approval. Any such plan shall take into account the Commonwealth Cultural and Historic Preservation Plan, relevant United States Government guidelines, and the “Recommendation concerning the safeguarding and contemporary role of historic areas” adopted by the General Conference of UNESCO at Nairobi, November 26, 1976.

(b) In planning their actions, agencies shall take into account the Commonwealth Cultural and Historic Preservation Plan and any pertinent approved local cultural and historic preservation plans.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: This was originally designated as Sections 10.8.4 through 10.8.5. The Commission consolidated those sections into one pursuant to 1 CMC § 3806(a). The Commission corrected the capitalization of “historic” in subsection (a) pursuant to 1 CMC § 3806(f).

Part 600 - Use of Cultural and Historic Properties

§ 55-10-601 Implementation and Exemptions

(a) This Section implements Section 9 of the Act.

(b) The following activities are exempt from the requirements of this Section, except as provided in subsection (c) below:

- (1) Clearing of vegetation using hand tools;
- (2) Agricultural activities on lands that have been historically used for such activities, providing such activities do not involve grading or excavation;
- (3) Hunting, fishing, and trapping involving no development;
- (4) Preservation of scenic, historic, and scientific areas, including wildlife preserves, involving no development;
- (5) Expansion or improvement of an existing structure, unless the structure has been identified by the HPO as a cultural and historic property, as a contributing element of a cultural and historic property, or as lying within a cultural and historic property that could be damaged by the action;
- (6) Re-grading and/or paving of already graded land surfaces; and
- (7) Replacement, acquisition, or improvement of non-structural capital equipment involving no development.

(c) The Board may determine that an activity that would ordinarily be exempt from the requirements of subsection (b) must be reviewed in accordance with the provisions of this Part, where it finds, after consideration of the activity and of public comments thereon (if any), that the activity may do damage to a cultural and historic property.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: This was originally designated as Sections 10.9.1 through 10.9.3. The Commission consolidated those sections into one pursuant to 1 CMC § 3806(a). The Commission changed the cite to “§ 10.9.3” to “subsection (c)” and changed the cite to “§ 10.9.2” to “subsection (b)” pursuant to 1 CMC § 3806(d). The Commission corrected the comma in subsection (b)(6) to a semicolon pursuant to 1 CMC § 3806(g).

§ 55-10-605 Permits for Nonexempt Activities

(a) Any agency that may dispose of public lands, use or permit use of public lands for a nonexempt activity, or issue a permit for the conduct of a nonexempt activity on private lands, shall comply with the following procedures at the earliest possible stage in planning. Failure to comply until it is too late to reasonably consider alternatives to the action as planned shall constitute noncompliance with these regulations.

(b) The agency responsible for undertaking, assisting, permitting, or reviewing a nonexempt activity, hereinafter “the agency,” shall:

(1) Review the Commonwealth Cultural and Historic Preservation Plan and any applicable local cultural and historic preservation plan.

(2) Review the predictive model maintained by the HPO, in consultation with the HPO, to determine the need for and/or the scope of any survey.

(i) Where the HPO has completed a survey of all lands subject to direct and indirect impact, no further survey shall be required except as may be needed to define relationships between any identified cultural and historic properties and the proposed activity.

(ii) Where the predictive model indicates that cultural and historic properties will not be found on any lands subject to direct or indirect impact, no survey shall be required.

(iii) Where the predictive model indicates that cultural and historic properties may be found on lands subject to direct or indirect impact, but a survey has not yet been conducted, a survey shall be required.

(iv) Where there is insufficient information to serve as a reliable basis for predicting whether cultural and historic properties may be found, a survey shall be required.

(v) If a survey is not required and no cultural and historic properties are known, the HPO shall so advise the agency in writing. The agency may then proceed, complying with section 55-10-620 of these regulations where applicable.

(vi) If a survey is not required and cultural and historic properties are known on the lands subject to direct or indirect impact, the HPO shall so advise the agency in writing. The agency shall then comply with section 55-10-615 or section 55-10-620, whichever is applicable.

(vii) If a survey is required, the agency shall:

(A) afford the HPO a reasonable opportunity to conduct a survey in accordance with the schedule set forth in Appendix II, or

(B) transfer funds, or where applicable, require a permittee to transfer funds to the HPO to

conduct the survey in a shorter time period than allowed by Appendix II, or

(C) conduct the survey itself, or where applicable, require a permittee to conduct a survey using supervisory personnel approved by the HPO and in a manner consistent with the standards promulgated by the HPO pursuant to section 55-10-310 of these regulations, and provide the report of the survey to the HPO for review and approval.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: This was originally designated as Sections 10.9.4 through 10.9.5. The Commission consolidated those sections into one pursuant to 1 CMC § 3806(a). The Commission changed the cite to “§ 10.9.11” to “section 55-10-620,” changed the cite to “§ 10.9.10” to “section 55-10-615,” changed the cite to “§ 10.9.11” to “section 55-10-620,” and changed the cite to “§ 10.5.7” to “section 55-10-310” pursuant to 1 CMC § 3806(d).

55-10-610 Survey Reports

(a) All surveys shall take into account pertinent United States Government standards and relevant international recommendations.

(b) If a survey results in the identification of a cultural and historic property subject to direct or indirect impact, the survey report shall contain recommendations for the avoidance or mitigation of such impact and, where feasible, recommendations for enhancement of beneficial effects on the property.

(c) If a survey results in the finding that no cultural and historic properties are subject to direct or indirect impact, the HPO upon approving the report shall so advise the agency in writing.

(d) If a survey results in the finding that cultural and historic properties are subject to direct or indirect impact, the HPO upon approving the report shall so advise the agency in writing. The agency shall then comply with section 55-10-615 or section 55-10-620, whichever is applicable.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: This was originally designated as Sections 10.9.6 through 10.9.9. The Commission consolidated those sections into one pursuant to 1 CMC § 3806(a). The Commission changed the cite to “§ 10.9.10” to “section 55-10-615” and changed the cite to “§ 10.9.11” to “section 55-10-620” pursuant to 1 CMC § 3806(d).

§ 55-10-615 Public Lands Use or Disposal That Affects Cultural and Historic Property

Where the HPO finds that a cultural and historic property will be directly or indirectly impacted by the disposal or use of public lands:

(a) The HPO shall report the finding, together with recommendations as to how the anticipated impacts can be avoided or mitigated, to the agency and the Board.

(b) The Board shall review the findings and recommendations of the HPO to determine their consistency with the policies set forth in Part 100 of these regulations.

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- (c) The Board shall request, receive, and review the comments of the agency involved in the action, of any potential recipient or user of the lands, and of the public.
- (d) The Board may modify the findings and recommendations, or direct the HPO to do so, in order to make them consistent with the policies set forth in Section III*.
- (e) Upon determining that the findings and recommendations are consistent with the policies in Part 100, the Board shall approve them and so advise the agency.
- (f) Upon receipt of the findings and recommendations approved by the Board, the agency shall modify the proposed action to accommodate the recommendations, and shall include the findings, recommendations, and a description of the modifications in any planning and environmental document required for the action, or shall desist from the proposed action.
- (g) Should the agency be unable or unwilling to comply with the recommendations, it may consult with the WO to modify the recommendations and request their re-submittal to the Board. Such consultation shall be guided by the policies set forth in Part 100, and shall afford the public a reasonable opportunity to participate.

* So in original.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: The Commission changed cites to “Part III” to “Part 100” pursuant to 1 CMC § 3806(d). “Section III,” referenced in subsection (d), does not exist in the regulations, although there is a Part III, codified at Part 100 of this chapter.

§ 55-10-620 Reports for Nonexempt Regulated Activity on Private Land

Where an agency proposes to issue a permit for, or assist, a nonexempt regulated activity on private land, upon receipt of the findings and recommendations of the HPO pursuant to section 55-10-605(b)(2)(v), section 55-10-605(b)(2)(vi), section 55-10-610(c), or section 55-10-610(d), the agency shall:

- (a) Include the report, or a synopsis thereof approved by the HPO, in any planning and environmental document required for the activity;
- (b) Make the full report, if any, available to the public at a convenient location; and
- (c) Publish notice of the availability of the report.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: The Commission changed cites to “§ 10.9.5(b)(5)” to “section 55-10-605(b)(2)(v),” cites to “§ 10.9.5(b)(6)” to “section 55-10-605(b)(2)(vi),” cites to “§ 10.9.8” to “section 55-10-610(c),” and cites to “§ 10.9.9” to “section 55-10-610(d)” pursuant to 1 CMC § 3806(d). The Commission corrected the capitalization of “make” in subsection (b) and of “publish” in subsection (c) pursuant to 1 CMC § 3806(f). The Commission corrected the comma at the end of subsection (b) to a semicolon pursuant to 1 CMC § 3806(g).

§ 55-10-625 Appeal

Within thirty days after promulgation of a report or synopsis in an environmental document pursuant to § 10.9.10(j)* or section 55-10-620(a), or after publication of notice pursuant to section 55-10-620(c), whichever is later, any person may appeal the HPO's findings and recommendations to the Governor. An appeal shall be made in writing, in English, Chamorro, or Carolinian, and a copy should be provided to the HPO. Upon receipt of an appeal, the HPO shall consult with the appellant, the agency, and any other appropriate party (if any) to seek agreement on a course of action that will remove the objection.

* So in original.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: The Commission struck the figure "30" pursuant to 1 CMC § 3806(e). The Commission changed the cite to "§ 10.9.11(a)" to "section 55-10-620(a)" and changed the cite to "§ 10.9.11(c)" to "section 55-10-620(c)" pursuant to 1 CMC § 3806(d). Subsection 10.9.10(j) does not exist in the original regulation.

§ 55-10-630 Frivolous Appeal

(a) Notwithstanding section 55-10-625, the HPO may without consultation recommend to the Governor that an appeal be rejected as frivolous, and the Governor may reject the appeal as such, if the HPO finds and documents that the standards set forth in subsection (b) are not met by the appeal.

(b) Where an appeal is filed pursuant to section 55-10-625 of the regulations, the HPO may recommend to the Governor, pursuant to subsection (a), that the appeal be rejected as frivolous if it does not meet the following criteria:

(1) The appeal must present an allegation of fact that contradicts the finding, recommendation, or decision being appealed. For example, if the appeal is against a decision that a given property is not cultural and historic, the appeal must allege that the property is in fact cultural and historic.

(2) The appeal must present supporting evidence which would tend to establish the validity of the allegation of fact; for example, in the case of an allegation that a given property is cultural and historic, the appeal must present evidence for the property's cultural or historic value, preferably but not necessarily with reference to the criteria set forth in Appendix I.

(3) The allegation presented in the appeal must be one that has not previously been received and addressed by the Governor.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: This was originally designated as Sections 10.9.13 and Appendix C. The Commission consolidated those sections into one pursuant to 1 CMC § 3806(a). The Commission changed the cite to "§ 10.9.12" to "section 55-10-625" and changed the cite to "§ 10.9.11" to "section 55-10-620" pursuant to 1 CMC § 3806(d).

§ 55-10-635 Impact Reduction Plan

(a) Where the HPO has determined that a cultural and historic property or properties will be directly or indirectly impacted by the proposed action, or if as the result of an appeal it is

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determined that such a property or properties will be impacted, the parties involved, including but not limited to the HPO, the agency responsible for the action, permit, or assistance, and other persons with financial, professional, or cultural interests in the lands or properties involved, shall consult to determine feasible and prudent means, if any, to avoid, mitigate, or satisfactorily reduce the level of impact to the property or properties. Unless the parties mutually agree to a longer time, the consultation shall be completed within thirty (30) days after the close of the comment period provided for in section 55-10-625. Consultation shall be carried out as follows:

(1) The agency responsible for permitting or assisting the activity shall publish notice of the beginning of consultation, advising the public of the location and time of the first consultation meeting and inviting public participation.

(2) The agency or the applicant for a permit or assistance shall provide the HPO with a plan for treating the cultural and historic property or properties subject to impact. This plan shall take into account the property's significance, with reference to Appendix I, and pertinent Commonwealth, federal, and international standards and guidelines, and shall be consistent with the policies set forth in Part 100 and the standards set forth in sections 55-10-610(d) through 55-10-625 of these regulations as applicable. It may include:

(i) Provision for preservation of a property in place and unchanged;

(ii) Provision for the adaptive use of a property;

(iii) Provision for data recovery, including analysis, dissemination of results, and curation of artifacts and records;

(iv) Provision for project design to ensure sympathetic treatment of a property's significant elements;

(v) Such other provisions as may be appropriate to the property and the activity; and/or

(vi) A rationale, based on the public interest and taking into account the policies set forth in Part 100, for destroying or damaging the property without avoiding, mitigating, or satisfactorily reducing the level of damage.

(3) The parties shall review the plan and consult to determine what changes may be needed, if any, in order to ensure its prudence, feasibility, and consistency with the policies in Part 100 and other provisions of law. Consultation shall be directed toward determining feasible and prudent means to avoid, mitigate, or satisfactorily reduce the level of damage to the property, pursuant to 2 CMC § 4831(b). Should it be proposed, pursuant to section 55-10-635(a)(2)(vi), not to pursue such means, the burden of proof shall be on those so proposing to demonstrate why such a proposal is in the public interest.

(4) Once the parties have agreed on a plan, they shall indicate their agreement in writing. The plan shall become a binding part of the permitted or assisted activity, and shall be enforced by the agency responsible for issuing the permit or providing the assistance.

(5) The agency responsible for issuing the permit or providing the assistance shall publish the results of the consultation in the Commonwealth Register.

(b) Should the parties be unable to agree on a plan, they shall submit a report to the Governor. This report, which may contain separate sections prepared by parties holding different opinions, shall outline the consultation undertaken, identify the issues that separate the parties, and offer recommendations including options for the Governor's action.

(c) The Governor, upon receipt of a report, shall review it, make a decision within 30 days, and publish this decision and its supporting rationale in the Commonwealth Register, providing

the same report to the Legislature. Should the Legislature not override the Governor's decision pursuant to 2 CMC § 4832(c) within 30 days after it is submitted, the Governor's decision shall be final and binding upon all parties. If the Legislature overrides the Governor's decision, the findings and recommendations of the HPO, as contained in the report submitted pursuant to section 55-10-635(b) of these regulations, shall be binding on all parties.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: This was originally designated as Sections 10.9.14 through 10.9.16. The Commission consolidated those sections into one pursuant to 1 CMC § 3806(a). The Commission changed the cite to "§ 10.9.12" to "section 55-10-625," changed the cite to "Part III" to "Part 100," changed the cite to "§ 10.10.9 through 10.10.12" to "sections 55-10-610(d) through 55-10-625," changed the cite to "§ 10.9.14(b)(6)" to "section 55-10-635(a)(2)(vi)," and changed the cite to "§ 10.9.15" to "section 55-10-635(b)" pursuant to 1 CMC § 3806(d). The Commission corrected the comma in subsection (a)(2)(v) to a semicolon pursuant to 1 CMC § 3806(g). The Commission corrected the capitalization of "federal" in subsection (a)(2) pursuant to 1 CMC § 3806(f).

§ 55-10-640 Previously Undiscovered Property

During the course of construction or land use, should a cultural and historic property be discovered that was not previously identified and considered in accordance with these regulations:

- (a) Work shall be halted by those responsible for the activity in the immediate vicinity of the property. Work may continue on elements of the activity that do not threaten the property.
- (b) Having halted work, the party responsible for the activity shall contact the HPO and cooperate with the HPO in an on-site inspection.
- (c) The HPO shall consult with the party responsible for the activity to establish interim measures to protect the property as needed with minimum impediment to the construction or land use activity.
- (d) The party responsible for the activity shall contact known persons having financial, professional, or cultural interests in the property, if any, and arrange for prompt consultation with these persons and the HPO.
- (e) If, as a result of this consultation, agreement is reached concerning the proper treatment of the property, the agreement shall become a binding part of the activity, which may then proceed in compliance with the agreement.
- (f) Should agreement not be reached, the consulting parties shall submit a report to the Governor pursuant to section 55-10-635(b), and the matter shall be resolved pursuant to section 55-10-635(c).
- (g) Should the HPO determine during the on-site inspection that the property falls into a class determined by the Board not to be cultural and historic, or that immediate data recovery or other preservation actions can and should be undertaken and will be effective in preserving the property's significant elements, the HPO may waive the collective requirements of subsections

(d) through (f), contingent upon conduct of the preservation actions (if any) determined by the HPO to be appropriate.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: The Commission changed the cite to “§ 10.9.15” to “section 55-10-635(b),” changed the cite to “§ 10.9.16” to “section 55-10-635(c),” and changed the cite to “§ 10.9.17(d) through (f)” to “subsections (d) through (f)” pursuant to 1 CMC § 3806(d).

§ 55-10-645 Programmatic Consultation

The HPO may, at its discretion or at the request of an agency, elect to exercise its authorities and responsibilities on a programmatic basis rather than with reference to individual projects. Programmatic consultation shall be carried out in the manner prescribed in sections 55-10-615 through 55-10-635(a) above, but with reference to an entire program rather than to individual actions and projects. Programmatic agreements between the HPO and other persons or agencies shall be submitted to the Board for review and approval, and shall become effective upon approval by the Board. Should agreement not be reached, individual actions under the subject program shall be reviewed on an individual basis in accordance with these regulations.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: The Commission changed the cite to “§ 10.9.10 through § 10.9.14” to “sections 55-10-615 through 55-10-635(a)” pursuant to 1 CMC § 3806(d).

§ 55-10-650 Interaction with National Historic Preservation Act

Where both these regulations and Sections 106 and/or 110 of the National Historic Preservation Act apply to an action, compliance with both authorities shall be coordinated to the extent feasible.

(a) Cultural and historic properties as defined in section 55-10-010(i) shall be assumed to be eligible for the National Register of Historic Places unless the Keeper of the National Register determines otherwise.

(b) Where the Board, pursuant to section 55-10-415 of these regulations, determines that a property, group of properties, or class of properties is not cultural and historic, or the HPO determines that a property subject to impact is not cultural and historic, if a party objects to this determination and the objection is not rejected as frivolous pursuant to 55-10-630, a question shall be determined to exist and the Keeper of the National Register shall be asked to make a final determination of the property’s eligibility for the National Register.

(c) Reports, plans, recommendations and decisions developed under these regulations shall be provided to responsible federal agencies for submission to the Advisory Council on Historic Preservation for review under Section 106 and/or 110(f) of the National Historic Preservation Act, whichever is applicable, in a manner consistent with the regulations of the Advisory Council.

(d) To the extent feasible, parties consulting under these regulations on an activity or program in which a federal agency is involved shall coordinate their consultation with the involved federal agency and the Advisory Council on Historic Preservation and shall encourage the federal agency to obtain the Council's comments pursuant to Section 106 and/or 110(f) during consultation and review under sections 55-10-615, 55-10-635(a), or 55-10-645 of these regulations. Where the comments of the Council are not obtained in such a case before agreement is reached or a matter is referred to the Governor, any agreement or decision of the Governor or Legislature with respect to an activity in which a federal agency is involved shall be understood to be conditioned upon approval by the responsible federal agency.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: The Commission changed the cite to "§ 10.2.9" to "sections 55.10.010(i)," changed the cite to "§ 10.6.5" to "section 55-10-415," changed the cite to "§ 10.9.13" to "section 55-10-630," and changed the cite to "§ 10.9.10, § 10.9.14, or § 10.9.18" to "sections 55-10-615, 55-10-635(a), or 55-10-645" pursuant to 1 CMC § 3806(d). The Commission corrected the capitalization of "federal" and "federal agency" pursuant to 1 CMC § 3806(f).

Part 700 - Section 11 Permits

§ 55-10-701 Eligibility for Designation

Cultural and historic properties as defined in section 55-10-010(i) shall be understood to be eligible for designation as such by the HPO, if they have not been so designated.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: This section was marked as the second of two sections designated § 10.10.2 in the original regulation. The Commission relocated it pursuant to 1 CMC § 3806(a). The Commission changed the cite to "§ 10.2.9" to "section 55-10-010(i)" pursuant to 1 CMC § 3806(d).

§ 55-10-705 Permit Required to Modify Property

(a) Section 11 of the Act prohibits the willful removal of any artifact that is of historic or cultural significance to the people of the Commonwealth without a permit issued by HPO.

(b) Section 11 of the Act prohibits the knowing destruction, removal, disturbance, displacement, or disfigurement of any cultural and historic property on public or private lands or in the waters of the Commonwealth without a permit issued by HPO, provided the cultural and historic property has been designated as such, or is eligible for designation as such by the HPO.

(c) Any person proposing to take an artifact or artifacts from the Commonwealth, or to destroy, remove, disturb, displace, or disfigure any cultural or historic property on the land or under the waters of the Commonwealth, and has not complied with Part 600 of these regulations, shall consult with the HPO well in advance of taking the proposed action, to negotiate the terms of a permit.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

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Commission Comment: This section was designated as Sections 10.10.1, the first of two marked 10.10.2, and 10.10.4 in the original regulation. The Commission consolidated them and relocated the section pursuant to 1 CMC § 3806(a). The Commission changed the cite to “Part IX” to “Part 600” pursuant to 1 CMC § 3806(d).

§ 55-10-710 Exception to Permit Requirement

An action taken by any person in compliance with Part 600 of these regulations shall be understood to be permitted by the HPO, and no separate permit shall be required pursuant to this Part.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: The Commission changed the cite to “Part IX” to “Part 600” pursuant to 1 CMC § 3806(d).

§ 55-10-715 Permit Review

(a) Upon agreeing on the terms of a permit, the HPO shall submit the terms to the Board for review. The Board shall review the terms in consultation with the HPO, the applicant, and other interested parties, if any, and may modify the terms as it sees fit to ensure consistency with the requirements of the Act and the policies set forth in Part 100 of these regulations.

(b) Upon approval by the Board, the HPO shall issue the permit, and the activity may proceed, subject to such other requirements of law that may be required.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: This section was designated as sections 10.10.5 and 10.10.6 of the original regulation. The Commission consolidated them pursuant to 1 CMC § 3806(a). The Commission changed the cite to “Part III” to “Part 100” pursuant to 1 CMC § 3806(d).

§ 55-10-720 Permit Declined

(a) Should the HPO propose not to issue a permit, the applicant may appeal to the Board, which shall review the appeal in consultation with the applicant, the HPO, and other interested persons, if any, guided by the requirements of the Act and the policies set forth in Part 100 of these regulations. The decision of the Board shall be final.

(b) Should the Board decline to approve the terms of a permit, the applicant may negotiate with the HPO to modify the terms and resubmit them to the Board for review and approval.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: This section was designated as sections 10.10.7 and 10.10.6 of the original regulation. The Commission consolidated them pursuant to 1 CMC § 3806(a). The Commission changed the cite to “Part III” to “Part 100” pursuant to 1 CMC § 3806(d).

§ 55-10-725 Standards for Excavation Permits

Permits for archaeological excavation shall be issued only if the following minimum standards

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are met:

- (a) The excavation will be supervised by an archaeologist, as defined at section 55-10-010(d) of these regulations, who has demonstrated pertinent experience supervising archaeological field research;
- (b) The excavation will be undertaken in a manner consistent with the Standards of Research Performance of the Register of Professional Archaeologists, and shall take into account the “Recommendation on international principles applicable to archaeological excavations,” adopted by the General Conference of UNESCO at New Delhi, December 5, 1956.
- (c) The permission of the person owning or controlling the land involved, and any required land-use or environmental permits, have been obtained, or have been applied for and are pending issuance of the Section 11 permit.
- (d) The applicant’s excavation plan is sensitive to any non-archaeological cultural or historic values the property may possess.
- (e) Analysis and curation of specimens will occur at an institution or other entity meeting the Institutional Standards of the Register of Professional Archaeologists, unless the excavation is of such limited scope that a full range of curation facilities is not required.
- (f) The excavation is designed to address significant research topics in the natural or social sciences or the humanities, or to provide data that will advance the purpose of the Commonwealth Cultural and Historic Preservation Plan or a local cultural and historic preservation plan.
- (g) An appropriate schedule is provided for the submission of a final report and copies of primary field data, and for the disposition of recovered specimens.
- (h) The property or properties to be excavated either is (are) threatened with destruction or damage through natural or human forces or is (are) demonstrated to be more appropriate for the study proposed than are any known available properties that are so threatened.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: The Commission changed the cite to “§ 10.2.4” to “section 55-10-010(d)” pursuant to 1 CMC § 3806(d). The Commission moved the quotation mark after the word “excavations” in subsection (b) outside the comma pursuant to 1 CMC § 3806(g).

§ 55-10-730 Standards for Cultural Anthropology Permits

Permits for work involving field research in cultural anthropology shall be issued only if the research will be conducted under the supervision of a cultural anthropologist and if the applicant certifies that (s)he will be guided by the Code of Conduct and Standards of Research Performance of the Register of Professional Archeologists and provides an appropriate schedule for submission of a final report.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

§ 55-10-735 Standards for Permits to Remove Artifacts

(a) Permits for the removal of artifacts from the Commonwealth shall be issued only for purposes of cultural exchange, scientific identification, or donation to non-profit organization whose activities have cultural significance to the Commonwealth. Such organizations include scientific and educational institutions and museums that undertake research or teaching in the Commonwealth. Permittees must guarantee that artifacts removed, whether temporarily or permanently, will be properly curated in accordance with accepted museum and laboratory practice, except to the extent that scientific identification may require their modification.

(b) With the approval of the HPO and the Board, artifacts may be temporarily loaned or leased outside the Commonwealth to persons that are not non-profit organizations, for purpose other than cultural exchange or scientific identification, provided the recipient guarantees their proper curation in accordance with accepted museum and laboratory practice, and submits a firm schedule for their return.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: The Commission divided the regulation into subsections (a) and (b) pursuant to 1 CMC § 3806(a).

§ 55-10-740 Curation of Artifacts

The HPO and the Board shall work with other interested parties to develop appropriate curation facilities for artifacts and other material, records, photographs, and documents relating to cultural and historic properties in the Commonwealth. As a rule, artifacts shall be curated as close as their proper care allows to the community of their origin. Where it is not feasible to curate artifacts within the Commonwealth, the HPO with the approval of the Board may enter into agreements with external organizations to provide curation services.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: The Commission inserted a comma after the word “photographs” pursuant to 1 CMC § 3806(g).

§ 55-10-745 Artifacts on Private Lands

(a) Nothing in these regulations shall be construed to confer upon the Commonwealth Government ownership of artifacts occurring on private lands, or to forbid the maintenance of private artifact collections by residents of the Commonwealth, provided that:

(1) The acquisition of such collection does not involve the willful destruction, removal, disturbance, displacement, or disfigurement of any cultural or historic property on public or private land or in the waters of the Commonwealth, and

(2) Artifacts in the collection are not removed from the Commonwealth without a permit issued pursuant to this Part.

(b) Artifacts recovered from an archaeological excavation on private land pursuant to this Part or Parts 300 or 600 shall, at the request of the landowner, be returned to the landowner after their scientific identification is complete. The information resulting from the excavation and scientific identification of such artifacts shall remain in the public domain. Such information, including all records of the excavation and artifacts, shall be curated in accordance with accepted museum and laboratory practice, and published as appropriate.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: This section was issued as sections 10.10.13 and 10.10.14 of the original regulation. The Commission consolidated them pursuant to 1 CMC § 3806(a). The Commission changed the cite to “Parts V or IX” to “Parts 300 or 600” pursuant to 1 CMC § 3806(d).

Part 800 - Additional Provisions

§ 55-10-801 Severability

Should any provision of these regulations, or the application of any provision of these regulations to any person or to any other instrumentality or circumstances, be held invalid by a court of competent jurisdiction, or should any such provision or application be modified or disapproved by the Legislature or the Governor pursuant to Article III, Section 15 of the Constitution, the remainder of these regulations, and the application of any such provision to any person, or to any other instrumentality or circumstances, other than those held invalid, modified or disapproved, shall not be affected thereby.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Appendix I
Criteria for Recognition as a Cultural and Historic Property

In the absence of a formal determination by the HPO or the Keeper of the National of Historic Places, a property shall be recognized as cultural and historic if it appears to meet one or more of the following criteria:

Possession of cultural value: The property is viewed by a group of people as important in maintaining the group's cultural identity (e.g., a shrine).

Possession of social value: The Property plays an ongoing important role in the social life of a group (e.g., a traditional fishing location).

Possession of interpretive value: the property has current or potential use as an exhibit for educational purposes.

Possession of research archaeological value: The property contains important information pertinent to a significant archaeological research question or questions.

Possession of archival archaeological value: The property represents a class of properties identified in the Commonwealth Cultural and Historic Preservation Plan, or in a local cultural and historic preservation plan, as containing information that should be presented for archival purposes.

Possession of architectural excellence: The property is expressive of the work of a master designer or builder, or otherwise is a fine example of the architect's craft.

Possession of architectural representatives: The property is representative of an important style or period in the Commonwealth's architectural history.

Possession of historical ambience: The property conveys a "sense of place," a character that is perceived by local residents or others as being both "out of the past" and worth retaining.

Possession of esthetic value: The property is perceived by local residents or others as both "out of the past" and pleasing to the eye.

Possession of social historic value: The property is associated with a particular historical period, process, or trend in the social history of the Commonwealth.

Possession of particularistic historical value: The property is associated with a particular person or event important in the Commonwealth's history (e.g., a place importantly associated with the 1944 invasion of Saipan).

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: The Commission moved the comma inside the quotation marks in the phrase "sense of place" pursuant to 1 CMC § 3806(g).

Appendix II
Schedule for the Conduct of Surveys by the Historic Preservation Office Under Section 55-10-605(b)(2)(vii)(A) of the Regulations

Where an agency or other person requests that the HPO conduct a survey under section 55-10-605(b)(2)(vii)(A) of the regulations, the HPO will use the following schedule to determine the time needed to conduct the survey.

On Saipan:	One month per acre or fraction thereof subject to direct or indirect impact.
On Tinian:	Two months per acre or fraction thereof subject to direct or indirect impact.
On Rota and Pagan:	Three months per acre or fraction thereof subject to direct or indirect impact.
On other islands:	Four months per acre or fraction thereof subject to direct or indirect impact, with additional time allowance in the event of severe weather conditions or unavailable transportation.
Underwater:	Negotiable depending on weather conditions, turbidity, depth, location, danger of sharks, etc.

All time limits are subject to extension in the event of typhoon, tsunami, volcanic eruption, earthquake, or refusal of a landowner or tenant to grant access.

History: Adopted 29 Com. Reg. 27942 (Dec. 18, 2007); Proposed 29 Com. Reg. 27100 (Oct. 17, 2007).

Commission Comment: The Commission changed the cite to “§ 10.9.5(b)(7)(A)” to “section 55-10-605(b)(2)(vii)(A)” pursuant to 1 CMC § 3806(d). The Commission struck the figures “1,” “2,” “3,” and “4” pursuant to 1 CMC § 3806(e). The Commission corrected the capitalization of “islands” pursuant to 1 CMC § 3806(f).