

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
SAIPAN MARIANA ISLANDS

VOLUME 15 NUMBER 08



AUGUST 15, 1993

***COMMONWEALTH***

***REGISTER***

---

---

COMMONWEALTH REGISTER  
VOLUME 15 NUMBER 08  
AUGUST 15, 1993

TABLE OF CONTENTS

PUBLIC NOTICE:

Private Tax Ruling.  
Department of Finance/Div. of Revenue & Taxation.....10763

PROPOSED REVISION:

Individual Wastewater Disposal System Regulations.  
Public Health & Environmental Service/DEQ.....10769

PROPOSED AMENDMENTS:

Real Estate Appraisers.  
Board of Professional Licensing.....10780

Earth moving and Erosion Control Regulations.  
Public Health & Environmental Service/DEQ.....10785

ADOPTION:

Drinking Water Regulations.  
Public Health & Environmental Services.....10807



# Department of Finance

Office of the Director

Commonwealth of the Northern Mariana Islands

P.O. Box 5234 CHRB

Saipan, MP 96950

Cable Address

Gov. NMI Saipan

Phone: 664-1100

Facsimile: 664-1115

## PUBLIC NOTICE

Title 4, Division 1, Section 1707(f) requires that upon deletion of the name of the taxpayers and any other personal facts that are not essential to the understanding of the ruling, the Department of Finance shall make public any private letter ruling that it issues. The private letter ruling issued on July 14, 1993 by the Department of Finance regarding the applicability of the CNMI gross revenue tax to a transfer of property between subsidiaries is submitted for publication in the Commonwealth Register.

Issued by:

ELOY S. INOS  
Director of Finance

26 JUL 1993

Date

Received by:

  
DONNA CRUZ  
Office of the Governor

7/27/93  
Date

Filed and  
Recorded by:

  
SOLEDAD B. SASAMOTO  
Registrar of Corporations

7/27/93  
Date



# Department of Finance

Office of the Director

Commonwealth of the Northern Mariana Islands

P.O. Box 5234 CHRB

Saipan, MP 96950

Cable Address

Gov. NMJ Saipan

Phone: 664-1100

Facsimile: 664-1115

July 14, 1993

XXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXX

XXXXXXXXXXXX

Saipan, MP 96950

Re: Private Tax Ruling Requested by "A" Corporation, "B", Inc. and "C", Inc.

Dear XX. XXXXXXXX:

This letter is in response to your letter of March 19, 1993 and received by the Division of Revenue and Taxation on April 23, 1993 to the Chief of Revenue and Taxation, Juan Evangelista, requesting issuance of a private tax ruling under 4 CMC §1707.

### FACTS PROVIDED IN RULING REQUEST

"A" Corporation is a foreign corporation organized and incorporated under the laws of Japan. "A" owns 99.8% of the common stock and exercises complete management control over "B", Inc. "B", Inc. owns 100% of the common stock and exercises complete management control over "C", Inc. "B" and "C" are both domestic corporations in the CNMI. "B" was incorporated on XXXXXXXX XX, XXXX. "C" was incorporated on XXXXXXXX XX, XXXX. The officers and directors of "B" are also officers and directors of "C".

"B" on XXXXXXXX XX, XXXX, entered into a real estate lease with "D" for property to construct XXXXXXXXXXXXXXXX. Article XXX of the lease agreement between "B" and "D" states:

Notwithstanding any provision anywhere in this Article requiring the Lessor's approval or consent, it is expressly understood and agreed by the Parties hereto that the Lessee is currently in the process of forming, and will form subsidiary or affiliate corporations to undertake the XXXXXX XXXXXXXXXXXXXXXX Project and that the whole, or part, of this Lease Agreement and the management contract may be assigned or transferred at anytime to such subsidiary or affiliate corporations without the prior consent or approval of the Corporation

("D") or additional compensation to the Corporation ("D"). Provided, however, that the Lessee shall give written notice to the corporations ("D") within thirty (30) days of such assignment or transfer.

"B" made payments pursuant to the "D" lease and other development costs. The costs include the donation to "E" of \$XXXXXXXX, other "D" lease costs of \$XXXXXXXX and development costs of \$XXXXXXXXXX.

"B" wants to transfer the lease and all costs associated with the XXXXX XXXXXXXX project to "C". "C" will directly oversee the XXXXX XXXXXXXX development. "C" will refund all expenditures by "B" relating to the XXXXX XXXXXXXX project.

#### ISSUE

Whether the transfer of the "D" lease from "B" to "C" is subject to Business Gross Revenue Tax and if so in what amount.

#### RULING

"B" was not acting as a fiduciary or in a fiduciary capacity at the time the lease agreement was entered into by "B" and "D". Therefore, any subsequent transfer of the real estate lease by "B" to "C" or any other person is subject to taxation on the total gross revenue.

#### DISCUSSION

The business gross revenue tax provides that an annual tax is imposed on the gross revenue earned by every business. 4 CMC §1301.

Gross revenue is defined as:

"the total amount of money or the value of other consideration received from selling real or personal property in the Commonwealth, from leasing property employed in the Commonwealth, or from performing services in the Commonwealth.... Gross revenue shall not include

the following:

- (1) Refunds and cash discounts allowed and taken;
- (2) Money received and held in a fiduciary capacity; or
- (3) Wages and salaries which are taxed under Chapter 2 of this Act.

4 CMC §1103(k).

Sale is defined as "the transferring, giving or exchanging of personal or real property or services of any kind for an agreed sum of money or other valuable consideration...." 4 CMC §1103(t).

Generally the money received from the selling or leasing of property is gross revenue unless it is otherwise exempted. Here the transfer of the lease from "B" to "C" for the total sum of \$XXXXXXXXXXXX, by definition constitutes a sale. The receipt of \$XXXXXXXXXXXX by "B" for the sale of their leasehold interest to "C" is gross revenue. Therefore, unless the gross revenue received by "B" qualifies for one of the exemptions as defined under 4 CMC §1303(k), "B" on the sale of its lease in real property to "C" for any money or other valuable consideration is subject to gross revenue tax.

"B" asserts that the transfer of property to "C" and the receipt of money from "C" is nothing more than an act which complies and is pursuant to the "D" lease document which provide for the formation of an operating company to oversee the project. "B" also asserts that it was the intent of the parties to have final ownership of the lease and other project costs belong to "C". "B" further asserts that the lease document contains and solidifies the intent of the parties that "C" would eventually hold the lease and that no transaction occurred pursuant to 4 CMC 1103(k) since the lease was made in a fiduciary capacity by "B" for "C".

The issue that must be addressed is whether "B" was acting in a fiduciary capacity at the time the lease was entered into with "D". Income Tax Regulation §301.7701-6 defines a fiduciary:

'Fiduciary' is a term which applies to persons who occupy positions of peculiar confidence toward others, such as trustees, executors, and administrators. A fiduciary is a person who holds in trust an estate to which another has the beneficial title or in which another has a beneficial interest, or receives and controls income of another, as in the case of receivers....

To determine whether "B" was in fact a fiduciary, the only evidence

July 14, 1993  
XXXXXXXXXXXX  
Page 4

which can be examined is the lease agreement with "D", irrespective of any subsequent parol statement of intent by "B". "B" cites Article XXX of the lease agreement between "B" and "D" as evidence of the fact that it was acting as a fiduciary for "C". The relevant portion of this agreement states that the lease agreement in whole, or part, **may be** assigned or transferred at anytime to its subsidiary or affiliate. (emphasis added). This agreement does not require the ultimate transfer to the subsidiary or affiliate corporation that did not exist at the time the lease agreement was executed, but merely that such transfer may occur without the consent or approval of "D". This provision is simply a limiting provision on subsequent transfers. It specifically limits all transfers of the leased property without the prior consent of "D", except to an affiliate or subsidiary. It does not create nor solidify a fiduciary capacity between "B" and a subsidiary corporation that is not yet in existence. Such agreement merely solidifies the intent that should "B" eventually decide to transfer the property to its subsidiary that approval by "D" would not have to be obtained.

If the intent at the time the lease was entered into was to have "C" as the owner and "B" act merely as a fiduciary for "C", the "B" as a fiduciary could have stipulated such in the terms of the contract thereby clearly acting in a fiduciary capacity. Without such clear statement of fiduciary capacity, we cannot after almost four years following the agreement determine that the intent was for "B" to act as a fiduciary.

The exemption from gross revenue allowed for persons receiving or holding money in a fiduciary capacity is not applicable to these facts. No statutory exception exists as to transfers between related parties, therefore, "B" is subject to gross revenue tax on the total amount of money or other consideration received upon the transfer of the leasehold to "C" or any other person.

Sincerely,

/s/ ELOY S. INOS  
Director, Department of Finance

July 14, 1993  
XXXXXXXXXXXX  
Page 5

CONCUR:

/s/ CHERYL D. GEORGE  
Special Assistant Attorney General

cc: Juan L. Evangelista, Chief, Division of Revenue and Taxation  
Rufin S. Inos, Manager TRAB





# Commonwealth of the Northern Mariana Islands

Department of Public Health & Environmental Services  
Division of Environmental Quality  
P.O. Box 1304  
Saipan, Mariana Islands 96950



Tels: (670) 234-6114/6984  
Fax: (670) 234-1003

**PUBLIC NOTICE**  
**PROPOSED REVISIONS TO**  
**INDIVIDUAL WASTEWATER DISPOSAL SYSTEM REGULATIONS**  
**UNDER THE AUTHORITY OF**  
**2 CMC §§ 3101 to 3134 AND 1 CMC §§ 2601 to 2605**  
**by the**  
**DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENTAL SERVICES**  
**DIVISION OF ENVIRONMENTAL QUALITY**

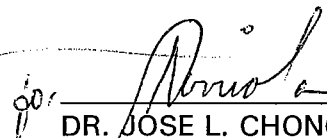
The Director of the Department of Public Health and Environmental Services and the Chief of the Division of Environmental Quality, of the Northern Mariana Islands (CNMI), in accordance with 2 CMC §§ 3101 to 3134 and 1 CMC §§ 2601 to 2605 propose to revise the CNMI's Individual Wastewater Disposal System (IWDS) Regulations.

The proposed revisions to the regulations will apply to all new and existing IWDS systems in the CNMI. A majority of the revisions are being done to clarify the existing regulations. It is also proposed to allow other materials for septic tank construction and the enforcement sections has been reworded for 1) clarity and 2) uniformity to other DEQ Regulations.

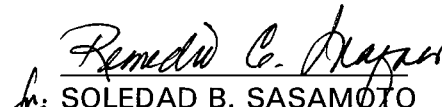
Comments, suggestions, and concerns about the proposed amendments are encouraged and welcomed. All comments must be submitted in writing to the Department of Public Health Environmental Services, Division of Environmental Quality, located on the third floor of the Morgen Building in San Jose, Saipan (P.O. Box 1304, Saipan, MP 96950), within thirty days of publication in the Commonwealth Register.

Copies of the proposed Regulations are available and may be obtained from the Department of Public Health Environmental Services, Division of Environmental Quality, located on the third floor of the Morgen Building in San Jose, P.O. Box 1304, Saipan, MP 96950.

Date: 7-29-93

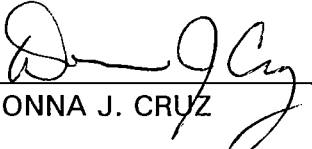
  
DR. JOSE L. CHONG, Director of  
Public Health and Environmental Services

Filed by:  
Date: 9.29.93

  
SOLEDAD B. SASAMOTO  
Registrar of Corporations

Received at Governor's Office:

Date: 7/29/93

  
DONNA J. CRUZ



# Commonwealth of the Northern Mariana Islands

Department of Public Health & Environmental Services  
Division of Environmental Quality  
P.O. Box 1304  
Saipan, Mariana Islands 96950



Tels: (670) 234-6114/6984  
Fax: (670) 234-1003

## ARONGORONGOL TOWLAP FFÉERUL LLIIWEL MELLÓL ÓWTOL ALLÉGHÚL WASTEWATER DISPOSAL SYSTEM

SANGI BWANGIL  
2 CMC § 3101 NGALI 3134, 1 CMC § 2601 NGALI 2605 ME 1CMC § 3311 NGALI 3333  
SANGI

### DIPATAMENTOOL PUBLIC HEALTH ME ENVIRONMENTAL SERVICES DIVISION OF ENVIRONMENTAL QUALITY

Direktoodul Dipatamentool Public Health me Environmental Services fengál me Chief-il Division of Environmental Quality mellól Commonwealth of the Northern Mariana Islands (CNMI), reel rebwe tabweey alléewal 2 CMC § 301 ngáli 3134, 1 CMC § 2601 ngáli 2605, me 2 CMC § 3311 ngáli 3333, nge rekke fféer lliiwel mellól ówtol Alléghúl Individual Wastewater Disposal System (IWDS) mellól CNMI.

Lliiwel kkaal nge e ghil ngáli atongal eweewe schagh fasúl me IWDS kka e fféetá mellól CNMI. Lliiwel kkaal nge e lap ngáli schagh igha rebwe ghi attafa allégh kka ighila. Re bwal ayoora lliiwel kkaal igha ebwe liwili ówtol láll ye e ghil ngáli fféerul septic tank me enforcement bwe ebwe 1) ffol me 2) weewe fengál me akkáaw Alléghúl DEQ.

Mángemáng me tiip reel fféerul lliiwel kkaal nge re bwal tingór sánglir towlap bwe rebwe atotoolong. Alopngal tiip me mángemáng kkaal nge rebwe ischittiw nge raa efanga ngáli Dipatamentool Public me Environmental Services, Division of Environmental Quality, aiyeluuwal bibenda mellól Morgen Building San Jose, Saipan (P.O. Box 1304, Saipan, MP 96950), ilól eliigh (30) rál sángi igha e loowow arongorong yeel mellól Commonwealth Register.

Kkopiyosal lliiwel kkaal nge emmwel schagh bwe aramosebweól bweibwogh sángi Dipatamentool Public Health me Environmental Services, Division of Environmental Quality aiyeluuwal bibenda mellól Morgen Building San Jose, Saipan, MP 96950.

Rál: 7-29-93  
*Jose L. Chong*  
DR. JOSE L. CHONG, Direktoodul  
Public Health me Environmental Services

File-Iligal:  
Sál: 9-29-93  
*Soledad B. Sasamoto*  
SOLEDAD B. SASAMOTO  
Registrar of Corporations

Re Risibi mellól Bwulastiyool Guberno:  
Rál: 7/29/93  
*Don J. Cruz*



# Commonwealth of the Northern Mariana Islands

Department of Public Health & Environmental Services  
Division of Environmental Quality  
P.O. Box 1304  
Saipan, Mariana Islands 96950



Tels: (670) 234-6114/6984  
Fax: (670) 234-1003

## NUTISIAN PUPBLIKU I MAPROPOPONI NA AMENDASION PARA REGULASION INDIVIDUAL WASTEWATER DISPOSAL SYSTEM SIGUN GI ATURIDAT

2CMC § 3101 asta 3134, 1CMC § 2601 asta 2605 yan 2CMC § 3311 asta 3333  
ginen

DIPATAMENTON PUBLIC HEALTH YAN ENVIRONMENTAL SERVICES,  
DIVISION OF ENVIRONMENTAL QUALITY

I Direktot Dipatamenton Public Health yan Environmental Services yan i Chief Division of Environmental Quality, gi halom Commonwealth of the Northern Mariana Islands (CNMI) sigun gi 2 CMC § 3101 asta 3134, 1 CMC § 2601 asta 2605, yan 2 CMC § 3311 asta 3333 ha propoponi para uma amenda yan ribisa i Regulasion Individual Wastewater Disposal System (IWDS) gi halom CNMI

I mapropopni siha amendasion yan ribision gi halom i Regulasion manaplikapble para todo parehu ha nuevo pat hagas na sisteman IWDS gi halom CNMI. Lokku'e mapropoponi para u olabe mas materi'at para konstraksion septic tanks yan i seksiona put para u manaepektibu matulaika para 1) mas klaridat 2) afakcha' yan otro siha na Regulasion DEQ.

Komentu, rekomendasion, yan interes manma sosohyo ginen pupbliku henerat yan hayi interesante na petsona. Todu i komentu siha debi di u fonmatuge' ya uma'submitti quatu gi Dipatamenton Public Health yan Environmental Services, Division of Environmental Quality, mina tres bibenda hulo' gi Morgen Building giya San Jose, Saipan (P.O. Box 1304, Saipan, MP 96950), gi halom trenta (30) dias despuesdi mapupblika hugong este na na nutisie gi Rehistran Commonwealth.

Kopian i mapropoponi na Regulasion, siha hayi interesao na petsona mafule gi Dipatamenton Public Health yan Environmental Services, Division of Environmental Quality, mina tres bibenda hulo' gi Morgen Building giya San Jose, Saipan, MP 96950.

Fecha: Julio 29, 1993

Para

DR. JOSE L. CHONG, Direktot  
Public Health yan Environmental Services

Ma file as:

Fecha: 9.29.93

fr.

SOLEDAD B. SASAMOTO  
Registrar of Corporations

Ma risibi gi Ofisinan Gobietno:

Fecha: 7/29/93

DONNA J. CRUZ

PROPOSED REVISIONS TO THE DIVISION OF ENVIRONMENTAL QUALITY,  
DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENTAL SERVICES,  
INDIVIDUAL WASTEWATER DISPOSAL SYSTEM REGULATIONS  
(CHANGES HIGHLIGHTED IN BOLD PRINT FACE)

The following are the proposed changes:

Section 2. Purpose

- 2.4 As with all of the Department of Public Health and Environmental Services, Division of Environmental Quality Regulations, the design standards and details described in these regulations and in the permitting processes are for minimum standards. The ultimate responsibility and success and failure of a project lies with the applicant. Although the Division sets these minimum standards that applicant's must follow, it takes no responsibility for possible failures of systems it reviews. Each system must be designed for the specific location and use of the system.

Section 3. Definitions

- 3.22 "Individual Wastewater Disposal System" means a system designed and installed to treat and dispose of sewage from a single structure or group of structures using: 1) a septic tank, together with a leaching field or seepage pit; or 2) Wastewater treatment systems not employing septic tanks together with leaching fields or seepage pits are defined "Other Wastewater Treatment Systems" (OWTS).
- 3.47 "Used Oil" means any oil that has been refined from crude oil, or synthetic oil, that has been used and as a result of such use may be contaminated by physical or chemical impurities.

SECTION 4. CONSTRUCTION AND OPERATION OF AN IWDS OR OWTS

- 4.1.3. In addition to the requirements outlined in 4.1.2. and 4.1.3. for the types of activities described in the respective sections, for all buildings, construction and operation of the IWDS must:

- 1) be done in a manner that will not contaminate or degrade the groundwater of the CNMI;
- 2) be done in a manner that will not contaminate or degrade the waters of any bathing beach, shellfish breeding ground, or stream used for public or domestic water supply purposes or for recreational purposes;
- 3) be done in a manner that will not be accessible to insects, rodents, or other possible carriers of disease which may come into contact with food or drinking water;

- 4) be done in a manner that will not pose a health hazard by being accessible to children;
- 5) be done in a manner that will not create a public nuisance due to odor or unsightly appearance;
- 6) be done in a manner that will not violate any other local or federal laws or regulations governing water pollution or sewage disposal; or
- 7) not be operated when an IWDS Failure has occurred;
- 8) be done in a manner to prohibit the disposal of used oil into the system.

4.2.1 For any new residential project serving 100 persons or more, provided: (1) There is no available public sewer; (2) The project owner(s) prove the technical and financial capability to meet the OWTS operational requirements specified in Section 18 of these regulations; (3) The siting and design parameters for an IWDS **using a septic tank as** outlined in these regulations cannot be met due to limitations of site soil, topography, and/or lot size; and (4) The siting and design parameters for an OWTS outlined in these regulations are met. Residential projects serving less than 100 persons shall not be permitted to construct and operate an OWTS unless otherwise provided for in Paragraph 4.3 below. The number of persons served by a project shall be determined in accordance with Section 8 of these regulations.

SECTION 6. IWDS AND OWTS PERMIT APPLICATION REQUIREMENTS

6.13.2 All proposed septic tanks and seepage pits subject to traffic loads (i.e., those located in parking areas, driveways) **MUST** submit complete structural design drawings and calculations, certified by a licensed professional engineer. **The plans must be in compliance with the Department of Public Works, Building Code requirements.**

SECTION 8. IDENTIFY AVERAGE DAILY WASTEWATER FLOW RATE

8.1 For the purposes of these regulations, the unit flow rates are found on TABLE 8.1 below.

TABLE 8.1

QUANTITIES OF SEWAGE FLOWS

<u>TYPE OF DEVELOPMENT</u>	<u>GALS PER UNIT PER DAY</u>	<u>NO. OF PERSONS<sup>1</sup></u>
SINGLE FAMILY OR DUPLEX	150/BR	2/BR
APARTMENT	120/BR	2/BR
CONDOMINIUM/MOTEL/BUSINESS HOTEL	150/BR	2/BR
RESORT HOTELS	225/BR	2/BR
BARRACKS/WORKER'S HOUSING	60/BED	1/BED
RESTAURANTS	40/SEAT	
LOUNGE	10/SEAT	
SCHOOLS	25/STU or FAC	
BOARDING SCHOOL	100/STU or FAC	1/STU or FAC
OFFICE SPACE	15/100 SF GROSS	
RETAIL COMMERCIAL SPACE/WAREHOUSE	10/100 SF GROSS	
FACTORY	15/WORKER SHIFT	
SELF-SERVICE LAUNDRY FACILITY	250/WASHER	
CAR WASH	40/VEHICLE SERVED	
SERVICE STATION	5/VEHICLE SERVED	
SWIMMING POOL/BATH HOUSE	10/PERSON	
THEATER/AUDITORIUM	5/SEAT	

NOTES: (1) Determination made solely for the purpose of assessing service population per the requirements of Section 4 of these regulations.

SECTION 9. SEPTIC TANK DESIGN AND CONSTRUCTION

All IWDS require a septic tank **unless the system is an approved OWTS.**

- 9.5 No tank or compartment thereof shall have an inside horizontal dimension of less than four (4) feet **for the initial compartment. A second compartment may be less if approved by the Chief. For all single compartment tanks the minimum dimensions of a septic tank shall not be less than six (6) feet depth including the air space by four (4) feet width by six (6) feet length.** Scum storage shall equal 15% of the total liquid depth and shall be measured from the top of the liquid level to the vertical top of the inlet tee and outlet tee excluding the one (1) inch air space at the top of the tank.

- 9.5.1 I.e., for 5-foot liquid depth tanks, the distance from the bottom of the inlet pipe to the inside surface of the top of the septic tank shall be 10 inches.
- 9.5.2 I.e., for 6-foot liquid depth tanks, the distance from the bottom of the inlet pipe to the inside surface of the top of the septic tank shall be 12 inches.
- 9.7 The vertical leg of the outlet tee shall extend upward to within one (1) inch of the underside of the cover and downward to a point which is **not less than 25% nor greater than 40%** of the liquid depth below the liquid surface (see FIGURE 9.1).
- 9.8. When multi-compartment tanks are used, the volume of the first compartment shall be equal to or greater than that of the second compartment (see FIGURE 9.1).
- 9.11 The wall of the septic tank shall not be less than 6 inches thick reinforced concrete poured in place; or not less than 6 inches thick load bearing concrete hollow block reinforced at every 16 inches on center, and laid on a solid foundation with mortar joints well filled, and plastered with 1/2 inch concrete mortar in the inside of the tank. The tank covers and floor slabs shall be not less than 4 inch thick reinforced concrete. Septic tank covers may either be poured-in-place or pre-cast. The minimum compressive strength of any concrete septic tank wall, top and covers, or floor shall not be less than 2500 psi (pound per square inch). **Other materials may be approved by the Chief on a case by case basis, provided the materials are is of comparable strength. The applicant must provide sufficient proof as the Chief deems necessary to prove that a material is of comparable strength.**
- 9.12 All septic tank covers shall be capable of supporting an earth load of not less than 300 pounds per square foot where the maximum coverage does not exceed three (3) feet. Where septic tanks may be subject to traffic loads (e.g., parking lot, driveway), the entire structure shall be designed to withstand H-20 loading (AASHTO standard). **Placing of any part of an IWDS under a parking lot or driveway must meet all Department of Public Works, Building Code requirements.**

SECTION 16. IWDS CERTIFICATION FOR USE

16.2 For OWTS in addition to the Certification for Use:

16.2.1 The applicant must have an operation and maintenance (O&M) manual approved by the Chief. The O&M manual must be revised on a bi-annual basis for the Chief's review and approval. In addition the OWTS will be issued a Permit with specific requirements of operation and monitoring. The permit will be valid for a period not to exceed 3 years. The permittee must apply for a renewal three (3) months prior to the permits expiration. Provided that the permittee applies for the renewal permit in the

time period specified, the existing permit shall be considered valid until revised or revoked in writing by the Chief. Other requirements as specified in Section 19 will also apply.

SECTION 19. OWTS DESIGN AND CONSTRUCTION, AND TREATED WASTEWATER EFFLUENT RE-USE

19.4.5 Disinfection, with the ability to maintain a monthly average of **not more than 23 colony forming units** (cfu)/100 ml of fecal coliform in the treated effluent stream, and to maintain and monitor a chlorine residual of 0.1 mg/l before discharge to the ponding basin.

19.5 All OWTS shall be under the direct supervision (**i.e. on-site**) of a licensed wastewater treatment plant operator, holding a valid license from any U.S. jurisdiction, and holding the appropriate operator certification level for the size and type of plant proposed. There shall be no exceptions to this standard.

Section 22 has been revised to read as follows:

SECTION 22. PENALTIES, FINES, SUSPENSION, REVOCATION, AND OTHER ORDERS

22.1 The Chief may institute civil actions through the Commonwealth Courts or by Administrative Orders issued by the Chief and the Director.

22.2 Civil actions initiated through the Commonwealth Courts shall be transmitted through and with the approval of the Director and the Attorney General as necessary to enforce these regulations in consonance with, and in accordance with the applicable laws of the CNMI. The Attorney General will institute legal actions to enjoin a violation, continuing violation or threatened violation of these regulations.

22.3 Any person who is subject to civil penalties, revocation, or suspension pursuant to Section 22 may be served with an Administrative Order and Notice of Violation and may upon written request seek an appeal hearing before the Chief or his/her designee. Request for appeal may be served upon the Division within seven (7) calendar days from receipt of the Administrative Order. Failure to request an appeal within seven (7) calendar days shall result in the person's waiving the right to any appeal or hearing.

22.4 Procedures for Administrative Orders shall be conducted as follows:

22.4.1 The Chief may issue and order any person to pay a civil fine of not more than \$1,000.00 for each violation of the Act, regulations adopted pursuant to the Act, or any permit or license issued pursuant to the Act and such regulations. Each day of continued violation after issuance



of written notice by the Chief or designee and the expiration of any reasonable period allowed for corrective action is a separate offense.

22.4.2 The written request for a hearing shall serve as the answer to the complaint. The request for hearing or "answer" shall clearly and directly admit, deny, or explain each of the factual allegations contained in the complaint with regard to which the alleged violator (respondent) has any knowledge. Where respondent has no knowledge of a particular factual allegation and so states, the allegation is deemed denied. The answer shall also state (1) the circumstances or arguments which are alleged to constitute the grounds of defense, (2) the facts which respondent intends to place at issue, and (3) whether a hearing is requested. Failure to admit, deny, or explain any material factual allegation contained in the complaint constitutes an admission of the allegations. An oral answer may also be given at the time of hearing should a hearing be requested.

22.4.6 The respondent may also request an informal Settlement Conference. An Informal Settlement Conference shall not affect the respondent's obligation to file a timely request for hearing. If a settlement is reached the parties shall forward a proposed consent order for the approval of both the Chief and the Director.

22.4.7 If a hearing is conducted the Chief or designee will reside over the hearing. The Chief shall control the taking of testimony and evidence and shall cause to be made an audio, audio-video, or stenographic record of the hearing. The type of record made shall be the discretion of the Chief. Evidence presented at such a hearing need not conform with the prescribed rules of evidence, but may be limited by the Chief in any manner she/he reasonably determines to be just and efficient and promote the ends of justice. The Chief shall issue a written decision within (15) working days of the close of the enforcement hearing. The decision shall include written findings of fact and conclusions of law. The standard of proof for such a hearing and decisions shall be the preponderance of the evidence.

22.4.8 Upon issuance of the written decision, the respondent may seek a discretionary review of the decision by the Director. The request for the discretionary review must be filed within ten (10) working days of the date of issuance of the decision. The request must concisely state the specific objections to the decision. There is no right to a hearing before the Director. A copy of the request of review must be filed with the Chief on the same day it is filed with the Director. The Director may elect to review the case and issue a written decision or affirm the Chief's decision. She/he will issue a written decision within thirty (30) calendar days.

22.4.9 The Director's decision shall be final. An appeal from the final enforcement decision shall be to the Commonwealth Superior Court within thirty (30) calendar days following service of the final agency decision.

22.4.10 For filing deadline purposes counting of the days shall start on the day after issuance or receipt (whichever is specified). If any filing date falls on a Saturday, Sunday, or Commonwealth Holiday, the filing date shall be extended to the next working day.

22.5 The Chief may revoke a Hauler's license for any material misstatement or misrepresentation made by the licensee made for the purposes of obtaining or retaining such license. The Chief may suspend or revoke a Hauler's license for violation of the Act, regulations, license, or permit.

22.5.1 No application for a Hauler's license may be made within one (1) year after revocation of such license by the Chief for the reasons identified above.

22.6 The Chief may suspend, revoke, or modify any permit or license issued by the Division for violation of the Act, any regulations adopted pursuant to the Act, any permit or license issued pursuant to the Act and such regulations.

22.7 A person shall be liable for an additional penalty for any amount expended by any agency of the Commonwealth in taking any action necessary to mitigate or reduce any significant adverse effect caused by the person's failure to comply with the Act, regulations, permit, license, or any order issued thereunder.

22.8 Any person who knowingly and willfully commits any act in violation of the Act, regulations, permit, or license, and who is found guilty by a court of competent jurisdiction may be punished by a fine of not more than \$50,000.00 or by imprisonment for not more than one (1) year, or both. Any other penalties or remedies provided by these regulations and ordered by the Chief shall also remain in effect.

22.9 If the Chief or Chief's designee has probable cause to believe there has been a violation of these regulations, upon receipt of an order or warrant from the Commonwealth Trial Court or the District Court, DEQ may enter upon and search any property, take necessary samples or readings therefrom, seize evidence found therein and examine or impound any book or record found therein or specified in such order or warrant.

22.10 The Chief or Chief's designee may enter property for purposes specified in subpart 22.9 if a violation has occurred or is imminent; the violation poses a serious, substantial and immediate threat to public health or welfare; or the process of obtaining a warrant or order would prolong or increase the threat, impair discovery of evidence of a violation or impair mitigation of the treat.



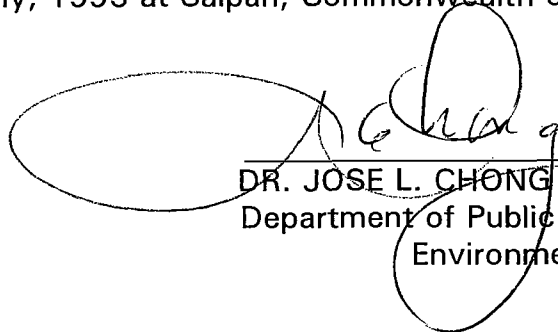
# COMMONWEALTH HEALTH CENTER

## OFFICE OF THE DIRECTOR

GOVERNMENT OF THE NORTHERN MARIANA ISLANDS  
DEPARTMENT OF PUBLIC HEALTH-ENVIRONMENTAL SERVICES

### CERTIFICATION

I, Dr. Jose L. Chong, the Director of the Department of Public Health and Environmental Services which is promulgating the revisions to the Drinking Water Regulations as hereinabove set forth, by signature below I hereby certify that such Revisions to the Regulations are a true, complete, and correct copy of the revisions of the Regulations regarding Drinking Water formally adopted by the Department of Public Health and Environmental Services. I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the \_\_\_ th day of July, 1993 at Saipan, Commonwealth of the Northern Mariana Islands.

  
DR. JOSE L. CHONG  
Department of Public Health and  
Environmental Services



**BOARD OF PROFESSIONAL LICENSING**  
**Commonwealth of the Northern Mariana Islands**

P.O. Box 2078  
Saipan, MP 96950  
Tel. No.: (670) 234-5897  
Fax No.: (670) 234-6040

NOTICE OF ADOPTION OF PROPOSED AMENDMENTS  
TO THE REGULATIONS FOR  
REAL ESTATE APPRAISERS  
OF THE  
BOARD OF PROFESSIONAL LICENSING

Having received no comments on the proposed amendments to the regulations for Real Estate Appraisers, the Board of Professional Licensing hereby adopts this Regulations as published in the Commonwealth Register on June 15, 1993.

This said regulations takes effect ten (10) days after this publication in the Commonwealth Register.

Dated this 4<sup>th</sup> day of August, 1993.

Juan Q. Inos,  
CHAIRMAN



**BOARD OF PROFESSIONAL LICENSING**  
**Commonwealth of the Northern Mariana Islands**

P.O. Box 2078  
Saipan, MP 96950  
Tel. No.: (670) 234-5897  
Fax No.: (670) 234-6040

**NUTISIA POT MA ADAPTAN I MAPROPONI**  
**NA AMENDASION PARA REGULASION**  
**I REAL ESTATE APPRAISERS**  
**PARA I**  
**BOARD OF PROFESSIONAL LICENSING**

Put i taya ma risibi komentu put i mapropoani na amendasion para regulasion i Real Estate Appraisers, i Board of Professional Licensing ginen este ha adapta esta i Regulasion ni mapupblika huyong gi Rehistran Commonwealth gi Junio 15, 1993.

Este na Regulasion u efektibu gi halom dies (10) dias despues di mapupblika huyong gi Rehistran Commonwealth.

Ma'fecha guine na dia 4<sup>th</sup> gu este na mes August, 1993.

Juan Q. Inos  
Chairman



**BOARD OF PROFESSIONAL LICENSING**  
**Commonwealth of the Northern Mariana Islands**

P.O. Box 2078  
Saipan, MP 96950  
Tel. No.: (670) 234-5897  
Fax No.: (670) 234-6040

ARONGORONGOL ADOPTION-UL LLIIWEL  
MELLÓL ÓWTOL ALLÉGHÚL  
REAL ESTATE APPRAISERS  
MELLÓL  
BOARD OF PROFESSIONAL LICENSING

Igha esóór mángemáng me tiip kka e atotoolong reel lliwlil ówtol Allégh ye e ghil ngaliir Real Estate Appraisers, nge schóól Board of Professional Licensing sáangi arongorong yeel nge raa adatááli Allégh yeel iwe aa takka! toowow mellól Commonwealth Register wóól Unniyo 15, 1993.

Allégh yeel nge ebwe aléghéléghéló llól seigh (10) rál sáangi igha e toowow arongorong yeel mellól Commonwealth Register.

E fféer llól ráalil ye 4<sup>th</sup> llól maram ye August, 1993.

Juan Q. Inos  
Chairman

The Board of Professional Licensing hereby adopts the amendment to the Regulations for Real Estate Appraisers as follows:

5.2 GENERAL REQUIREMENTS. All applicants for a license or certificate shall possess a reputation for honesty, trustworthiness, fairness, and financial integrity; meet educational and experience requirements; and shall pass an examination approved by the Appraiser Qualifications Board of the Appraisal Foundation and not have been convicted of a **crime related to real estate appraisal profession**. Except that the examination, if any, for the non-federally related real estate licensed appraiser shall be as approved by the Board.

No further amendment is proposed.



Juan Q. Inos  
Chairman  
Board of Prof. Licensing



**BOARD OF PROFESSIONAL LICENSING**  
**Commonwealth of the Northern Mariana Islands**

P.O. Box 2078  
Saipan, MP 96950  
Tel. No.: (670) 234-5897  
Fax No.: (670) 234-6040

**CERTIFICATION OF ADOPTION OF PROPOSED  
AMENDMENT TO THE  
REGULATIONS FOR  
REAL ESTATE APPRAISERS  
OF THE  
BOARD OF PROFESSIONAL LICENSING**

I, Juan Q. Inos, Chairman, of the Board of Professional Licensing which is promulgating the Regulations for Real Estate Appraisers hereinabove set forth, by signature below hereby certify that such proposed amendment to the Regulations are true, complete, and correct copy of the Regulations for Real Estate Appraisers formally adopted by the Board of Professional Licensing.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on 9<sup>th</sup> day August of, 1993, at Saipan, Commonwealth of the Northern Mariana Islands.

Juan Q. Inos  
CHAIRMAN  
Board of Professional Licensing

GOVERNOR'S OFFICE

Received By: Don J. Cruz  
Date : 8/4/93  
Time : 9:25 AM

ATTORNEY GENERAL'S OFFICE

Received By: Renee M. Hallman  
Date : 8.4.93  
Time : 8:27 am.





# Commonwealth of the Northern Mariana Islands

Department of Public Health & Environmental Services  
Division of Environmental Quality  
P.O. Box 1304

Saipan, Mariana Islands 96950  
PUBLIC NOTICE



Tels: (670) 234-6114/6984  
Fax: (670) 234-1003

## PROPOSED AMENDMENTS TO EARTHMOVING AND EROSION CONTROL REGULATIONS UNDER THE AUTHORITY OF

2 CMC §§ 3101 to 3134 and 1 CMC §§ 2601 to 2605

by the

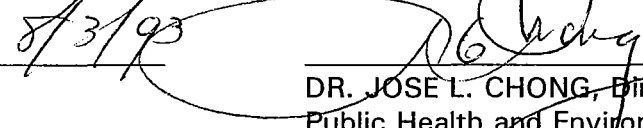
DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENTAL SERVICES  
DIVISION OF ENVIRONMENTAL QUALITY

The Director of the Department of Public Health and Environmental Services, of the Northern Mariana Islands (CNMI), in accordance with 2 CMC §§ 3101 to 3134 and 1 CMC §§ 2601 to 2605 proposes to amend and revise the Earthmoving and Erosion Control Regulations.

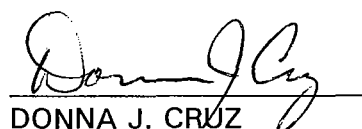
The proposed amendments and revisions to the regulations apply to all new earthmoving and erosion control activities in the CNMI. Major revisions have been made to the structure of the regulations. The proposed amendments and revisions are to: 1) update the administrative procedures portion of the regulations; 2) update the permitting sections distinguishing between commercial and residential; 3) update the fee schedule; and 4) clarify existing proper erosion control practices.

Comments, suggestions, and concerns about the proposed amendments are encouraged and welcomed. All comments must be submitted in writing to the Department of Public Health Environmental Services, Division of Environmental Quality, located on the third floor of the Morgen Building in San Jose, Saipan (P.O. Box 1304, Saipan, MP 96950), within thirty days of publication in the Commonwealth Register.

Copies of the proposed Regulations are available and may be obtained from the Department of Public Health Environmental Services, Division of Environmental Quality, located the third floor of the Morgen Building in San Jose, Saipan, MP 96950.

Date: 8/31/93  
  
DR. JOSE L. CHONG, Director of  
Public Health and Environmental Services

Filed by:  
Date: 8/4/93  
  
SOLEDAD B. SASAMOTO  
Registrar of Corporations

Received at Governor's Office:  
Date: 8/4/93  
  
DONNA J. CRUZ



# Commonwealth of the Northern Mariana Islands

Department of Public Health & Environmental Services  
Division of Environmental Quality  
P.O. Box 1304  
Saipan, Mariana Islands 96950



Tels: (670) 234-6114/6984  
Fax: (670) 234-1003

**NOTISIAN PUBLIKU  
I MAPROPOONI NA AMENDASION PARA  
REGULASION EARTHMOVING YAN EROSION CONTROL  
SIGUN GI ATURIDAT  
2 CMC § § 3101 asta 3134 yan 1 CMC § § 2601 asta 2605  
GINEN  
DIPATAMENTON PUBLIC HEALTH YAN ENVIRONMENTAL SERVICES  
DIVISION OF ENVIRONMENTAL QUALITY**

I Direktot Dipatamenton Public Health yan Environmental Services, gi halom i Commonwealth of the Northern Mariana Islands (CNMI) sigun gi 2 CMC § § 3101 asta 3134, 1 CMC § § 2601 asta 2605 na propoponi uma amenda yan ribisa i Regulasion Earthmoving yan Erosion Control.

I mapropoponi na amendasion yan ribision para i regulasion, aplikaple para todo paretu ha nuebu yan man presente siha na aktibidat earthmoving yan Erosion Control gi halom CNMI. Mayot na ribision macho'gue' para estrokturan i Regulasion. I mapropoponi na amendasion yan ribision siha para u: 1) na nuebo i palte gi regulasion put kinalamten administrative; 2) na nuebo i seksiona put i para umatungo' mas put diferensian commercial yan residential; 3) na nuebo i listan a'pas ; yan 4) klarifika huyong i propiu na erasion ni ma'praktitika gi presente.

Komentu, rekomendasion yan interes manma sasohyo i publiku para u fanna'halom. Todu i komentu debi di u fanmatuge' papa ya uma submiti guatu gi Dipatamenton Public Health yan Environmental Services, Division of Environmental Quality mina tres bibenda hulo' gi Morgen Building giya San Jose, Saipan (P.O. Box 1304, Saipan, MP 96950) gi halom trenta (30) dias despues di mapubliko huyong este na notisia gi halom Registran Commonwealth.

Kopian i mapropoponi na regulasion siha manna chule' gi Dipatamenton Public Health yan Environmental Services, Division of Environmental Quality mina tres bibenda hulo' gi Morgen Building giya San Jose, Saipan, MP 96950.

Fecha:

8/3/93

DR. JOSE L. CHONG, Direktot  
PUBLIC HEALTH YAN ENVIRONMENTAL SERVICES

Ha File si:

Fecha:

8/4/93

SOLEDAD B. SASAMOTO  
REGISTRAR OF CORPORATIONS

Ma risibi gi Ofisinan Gobietno as:

Fecha:

8/4/93

DONNA J. CRUZ



# Commonwealth of the Northern Mariana Islands

Department of Public Health & Environmental Services  
Division of Environmental Quality  
P.O. Box 1304  
Saipan, Mariana Islands 96950



Tels: (670) 234-6114/6984  
Fax: (670) 234-1003

## ARONGORONGOL TOWLAP, FFÉERUL LIIWEL MELLÓL OUTOL ALLÉGHUL EARTHMOVING ME, EROSION CONTROL SANGI BWANGIL

2 CMC § 3101 NGALI 3134 ME 1CMC § 2601 NGALI 2605  
SANGI

DIPATAMENTUOL PUBLIC HEALTH ME ENVIRONMENTAL SERVICES  
DIVISION OF ENVIRONMENTAL QUALITY

Direktoodul Dipatamentool Public Health me Environmental Services fengál me Chief-ii Division of Environmental Quality, mellól Commonwealth of the Northern Mariana Islands (CNMI), reel bwángil 2 CMC § 3101 ngáli 3134, me 1 CMC §§ 2601 ngáli 2605 nge rekke mângiy bwe rebwe liwiliid eghús ówtol Alléghúl Earthmoving me Erosion Control.

Fféerúl liiwel kka liól ówtol allégh kkaal nge e ghil ngáli alongal mwóghutughutul earthmoving me erosion control mellól CNMI. Re féerú liiwel kkaal bweigha ebwe ghi lapeló me ffat ówtol me kkapasal allégh yeel. Liiwelii allégh kkaal nge ebwe atotoolong milikka: 1) Féerú sefáliiy ówtol Alléghúl administrative procedures; 2) update-ii permitting sections igha rebwe atafa weweel commercial me residential; 3) update-ii táll Abwós; me 4) atafeawow mwóghutughut kka ighila iye rekke féerú reel erosion control practices.

Mángemáng me liip sângiir towap nge rebwal ghi tipálli. Alongea liip me mángemáng nge rebwe ischiitiw nge raa ofona ngáli Dipatamentool Public Health me Environmental Services, Division of Environmental Quality aiyeluwal bibenda mellól Morgen Building me San Jose, Saipan (P.O. Box 1304, Saipan, MP 96950) liól elligh (30) rál sângi igha e toowow arongorong yeel mellól Commonwealth Register

Kkopiyaal allégh kkal nge emmwel schagh bwe aramas rebweló bweibwogh sângi Dipatamentool Public Health me Environmental Services, Division of Environmental Quality aiyeluwal bibenda mellól Morgen Building me San Jose, Saipan, MP 96950.

Rál: 8/3/93  
DR. JOSE L. CHONG, Direktoodul  
Public Health me Environmental Services

Fiel-liigal:  
Rál: 8/4/93  
SOLEDAD B. SASAMOTO  
Registrar of Corporations

Rál: 8/4/93  
DONNA J. CRUZ

# **EARTHMOVING AND EROSION CONTROL REGULATIONS**

## **§ 1 AUTHORITY**

These rules and regulations have been promulgated by the Department of Public Health and Environmental Services in accordance with the Commonwealth Environmental Protection Act 2 CMC §§ 3101 to 3134 (Public Law 3-23) of the Commonwealth of the Northern Mariana Islands. These rules, regulations, technical provisions, and specifications, to be adopted by the Department of Public Health and Environmental Services as necessary, shall have the force and effect of law and shall be binding on all persons and other legal entities subject to the jurisdiction of the Commonwealth of the Northern Mariana Islands.

## **§ 2 PURPOSE**

The purpose of these regulations and technical provisions is to establish certain minimum standards and requirements as determined by the Department to be necessary for control of nonpoint source runoff from human-related activities. Specifically, these regulations are designed to:

1. Protect marine and fresh water quality;
2. Maintain and enhance beneficial uses of marine and fresh waters;
3. Promote public awareness of the importance of protecting the CNMI's marine and fresh water resources from siltation, and bacteriologic, and chemical contamination;
4. Protect public health by protecting and enhancing the quality of marine and fresh water recreational and traditional fishing sites; and
5. As with all of the Department of Public Health and Environmental Services, Division of Environmental Quality Regulations, the design standards and details described in these regulations and in the permitting processes are for minimum standards necessary to protect public health and the environment. The ultimate responsibility of the project lies with the applicant, the Division assumes no responsibility for design failures of systems reviewed by the Division. Each design must be designed for the specific site location.

## **§3 DEFINITIONS**

1. "Abutter" means a person that owns or leases land adjacent to or directly across a public right-of-way from a parcel of land in question.

2. "Abutting Property" means any property which shares a common boundary, or one which lies directly across a public right of way, from the subject property.
3. "Act" means the Commonwealth Environmental Protection Act 2 CMC §§ 3101 to 3134 (Public Law 3-23) of the Commonwealth of the Northern Mariana Islands.
4. "Aquifer" means a geologic formation, group of formations, or part of a formation that is water bearing and which transmits water in sufficient quantity to supply springs and pumping wells.
5. "Area of Instability" means an area where there is a risk of rock movement.
6. "Beneficial Use" shall include the use of water reasonably required for domestic, agriculture, commercial, industrial, recreational, and other purposes, on both public and private lands.
7. "Building" means a structure having a roof and intended to shelter people, animals, property, or business activity, or any structure used or intended to be used for supporting or sheltering any use or occupancy.
8. "Chief" means the Chief of the Division of Environmental Quality or his duly authorized representative unless otherwise specified.
9. "Clearing of Vegetation" means total or partial removal of naturally occurring vegetation on an area of land.
10. "CNMI" means the Commonwealth of the Northern Mariana Islands.
11. "Contamination" means the introduction of any physical, chemical, biological, or radiological substance into surface water which has the potential to pose a threat to human health or the environment, or to impede the most beneficial use of water.
12. "CUC" means the Commonwealth Utilities Corporation, a public authority providing currently providing treatment for domestic and industrial wastewater.
13. "Department" means the Department of Public Health and Environmental Services unless otherwise specified.
14. "Director" means the Director of the Department of Public Health and Environmental Services or his duly authorized representative unless otherwise specified.

15. "Division" or "DEQ" means the Division of Environmental Quality unless otherwise specified.
16. "DPW" means the Department of Public Works.
17. "Duplex" means a building which is designed exclusively for the occupancy of one family in each of two units which are attached to each other and which are detached for any other dwelling or commercial building.
18. "EPA" means the United States Environmental Protection Agency.
19. "Earthmoving Activity" means any construction or other activity which disturbs or alters the surface of the land, a coral reef, or bottom of a lagoon, or ocean floor, including but not limited to excavations, dredging, embankments, land reclamation in a lagoon, land development, subdivision development, mineral extraction, ocean disposal and the moving, depositing or storing of soil, rock, coral or earth; sand mining.
20. "Fill" means any rock, soil, gravel, sand or other material deposited by man
21. "Geological Terms" means any term used in these regulations which pertains to the science of geology as defined and set forth in the latest edition of the "Glossary of Geology" published by the American Geological Institute, unless such term is otherwise defined herein.
22. "Grading" means cutting through or otherwise disturbing the layers of the soil mantle so as to change the existing landform.
23. "Groundwater" is that part of the subsurface water which is in the zone of saturation.
24. "IWDS" means Individual Wastewater Disposal System. See the CNMI's IWDS regulations.
25. "MPLC" means the Marianas Public lands Corporation.
26. "MVB" means the Marianas Visitor's Bureau.
27. "NPDES" means National Pollutant Discharge Elimination System. An NPDES permit is required for all municipal and industrial waste and waste treatment plant discharges to the waters of the Commonwealth and certain industrial facilities and construction projects depending on type and size.

28. "Permit" as used in these regulations shall mean an Earthmoving and Erosion Control permit.
29. "Person" means any individual; firm; partnership; association; corporation, both public and private; and any entity or agency of the Commonwealth Government or the United States of America.
30. "Potable Water" means water that is of a quality that meets the requirements of the CNMI's Drinking Water Regulations, latest revision.
31. "Sand Mining" mean the taking of any rock, sand, gravel or other material from any site, including all areas from the landward vegetation line to the seaward outer slope of the barrier or fringing reef.
32. "Single Family Dwelling" means a building designed exclusively for the occupancy of one family which is detached from any other dwelling or commercial building.
33. "Water of the Commonwealth" means all waters, either fresh, brackish, or marine, including: (1) Shore waters surrounding the CNMI; (2) Intermittent and perennial streams; (3) Lakes, springs, and wetlands; and (4) Surface storm water drainage systems, whether publicly or privately owned.
34. "Water Supply" means the water withdrawn from a water source, or that might feasibly be withdrawn from an undeveloped or partially developed water source.
35. "Wellhead Protection Area" means an area within close hydrogeologic proximity of an existing well or spring, configured as an oval with equal down-gradient and side dimensions from an individual wellhead/spring, and with an up-gradient dimension from the wellhead/spring equal to twice the down-gradient dimension.
36. "Zone of Contribution" is the land area which contributes recharge, and therefore potential contaminants, to an existing or proposed water well or well field.

#### **§ 4 GENERAL PROVISIONS**

##### **1. Compliance**

Construction and maintenance of any landfills; excavations, cuts, grading, clearing of vegetations, and revegetation of cleared areas; and all other earthmoving activities or activities that may cause erosion of soils shall be in

compliance with the terms of these regulations. Permits shall be required as provided in these regulations and such permits shall be granted or denied in conformity with the provisions of these regulations. Regardless of the requirement for a permit, all activities shall be conducted in a manner that minimizes erosion.

## **§ 5 PERMIT SYSTEM**

### **1. Permits Required**

No earthmoving or landclearing activity shall take place unless clearance has been obtained from the CNMI Historic Preservation Office in accordance with P.L. 3-29. Until this clearance has been obtained no person shall commence or continue any earthmoving activity including grading, excavating, filling or clearing of vegetation without having first obtained a permit in accordance with these regulations.

### **2. Permit Procedure**

#### **A. General Requirements**

- i. No person shall commence or continue any of the following grading, filling or clearing of vegetation without first obtaining permit from DEQ.
  - (1) For ongoing activities/operations of a continuous nature, such as dredging, quarrying, etc., the activities/operations shall be in compliance with these regulations within six (6) months from the effective date.
  - (2) Development and/or construction operations shall comply immediately with these regulations to the maximum extent possible.
  - (3) Permits are not required for landscaping or gardening on projects of less than one hundred (100) square meters and a grade less than three (3) percent slope. DEQ may require persons to submit erosion control plans for review and approval on a case by case basis depending on the specific project's potential environmental impacts.
  - (4) Permits are not required for projects for the construction of individual wastewater disposal systems, were the project has been permitted by the Chief of DEQ. This applies only to the construction of the individual wastewater disposal systems portion of the project.



- (5) Projects previously permitted by DEQ or with erosion control plans approved by DEQ are considered permitted for the purposes of these regulations, provided the approved plans or permit conditions are strictly adhered to.

**B. Application Form and Erosion and Sediment Control Plan for Permits for Non-Commercial Use**

- i. Applicants for a permit shall submit an application to DEQ upon a form prescribed by DEQ. Applicants for a permit shall furnish to DEQ an informational report prepared by individuals qualified by training and experience to have knowledge of the subject. DEQ shall determine the adequacy of the report and may require the submission of additional information where necessary. The report shall provide the following information except to the extent that DEQ determines that such information is not applicable to the project:

- (1) An erosion and sediment control plan in conformity with the following, additionally information may be requested by DEQ:

- (a) The plan shall be prepared and certified by a qualified professional engineer;
- (b) A map clearly depicting the land capabilities of the property on which the grading is to be performed, including the applicable soil name, soil group, hydrologic group, slope, runoff potential, soil depth, erosion potential, and natural drainage;
- (c) A map clearly depicting accurate contours at two (2) foot intervals showing the topography of the ground to be cleared, graded or filled. The map shall extend beyond the site to be developed far enough so that any impact of erosion from the site and its deposition on adjacent properties may be assessed;
- (d) A subsurface soil and geological report including subsurface investigations, if such report is required by the Chief, the report shall be done pursuant to Part 5 of these regulations;
- (e) An accurate plot plan showing the exterior boundaries of the property on which the grading is to be performed, which plot plan shall include a grading plan prepared in accordance with engineering and planning practices, applicable codes and

restrictions imposed by the recommendations of the subsurface soil and geological report;

- (f) Elevations and dimensions, including quantity, location and extent of proposed grading;
- (g) Location, construction and maintenance of sediment retention structures and equipment.
- (h) A site plan that shall specify the type, dimensions and location of all sediment retention or stormwater management structures and equipment.

The site plan shall indicate the construction sequence of erosion control structures coordinated with the increment development schedule.

The site plan shall include a maintenance program for the control facilities during the construction phase. The plan shall include plans for the removal and disposal of materials from the control facilities on the project area.

- (i) A map and report showing existing tree locations, size, species, and the proposed extent and manner of tree cutting and vegetation clearing, including a plan for disposing of cut trees and vegetation and protection of vegetation remaining on site;
- (j) A description of equipment and methods to be employed in disposing of soil and other material that is removed from the grading site;
- (k) A schedule showing when each stage of the project will be completed, and all clearing, grading and stabilization operations shall be completed on a specified increment before moving on to the next specified increment. The schedule must detail the plan for eliminating erosion during the Commonwealth's rainy season (June through December).
- (l) A slope Stabilization and Re-vegetation Plan
  - i) The applicant shall submit a slope stabilization and re-vegetation plan which shall include a complete description of the existing vegetation, the vegetation to be removed and its disposal, the vegetation to be

planted, erosion control and slope stabilization measures to be installed.

- ii) The plan shall include an analysis of the environmental effects of such operations, including the effects on slope stability, soil erosion, water quality, and fish and wildlife.
- (m) A copy of the approved erosion control plan must be kept at the project site.
- (n) Inspection and maintenance plan for all erosion control measures. The plan shall include at a minimum:
  - i) Weekly visual inspections of all physical erosion control measures.
  - ii) Inspection of all physical erosion control measures after each and every major rainfall event.
  - iii) Maintenance records for the physical erosion control measures.
  - iv) Copies of all inspections and maintenance reports shall be kept on file at the project site.

(2) A storm water control plan for the project after the construction is complete. The plan must be in conformity with section 5 B(1).

(3) Application Fee

A non-refundable application fee must accompany all applications prior to DEQ reviewing the application.

The Application Fee Shall be as follows:

<u>Project Area</u>	<u>Fee</u>
Up to 1 hectare	\$ 100.00
> 1 hectare ≥ 5 hectare	\$ 400.00
> 5 hectare ≥ 15 hectare	\$ 800.00
> 15 hectare ≥ 50 hectare	\$ 2,000.00
> 50 hectare ≥ 100 hectare	\$ 5,000.00
> 100 hectare ≥ 200 hectare	\$ 10,000.00
> 200 hectare	\$ 15,000.00

- (4) Proof of title or lease to the land and authorization to conduct such activities.
- (5) Applicant's signature on the application or a representative's signature. A representative's signature will only be accepted with a legal instrument granting the representative power to act for the applicant in such matters. The legal instrument will not preclude DEQ from taking action against either the representative or the applicant in the event of violations.
- (6) Other assurances necessary to ensure that the applicant abides by the plans may be required on a case by case basis, were applicant has a prior history of noncompliance.
- (7) Applicants for projects of five (5) acres ( $\approx$  2.02 hectares) or greater may be required to obtain an NPDES Permit.

ii. Non-Commercial, Agricultural, and Exploratory Permits

Projects of a non-commercial nature require a permit but do not require a permit fee and require less information submitted as part of the application. All earthmoving activities not defined under this section shall be considered to be commercial earthmoving unless the Chief determines otherwise based on information submitted by the applicant.

iii. Definition

- (1) The work is an exploratory excavation under the direction of a soils engineer or geologist not to exceed an aggregate area of four hundred (100) square meters;
- (2) The work is for field plowing or agricultural purposes;
- (3) The work is for the purpose of erecting a one (1) or two (2) family residence;
- (4) The work is the clearing of vegetation for landscape purposes or site inspection which does not exceed two (2) hectares in area and there is sufficient prevention of erosion, and the applicant can demonstrate to DEQ that there will be no adverse environmental impact to any surface water as a result of the earthmoving activity; or
- (5) The work is by a public agency.

iv. Application Form and Erosion and Sediment Control Plan for Permits for Non-Commercial Use

(1) Applicants for a permit shall submit an application to DEQ upon a form prescribed by DEQ. Applicants for a permit shall furnish to DEQ the following information:

(a) A completed earthmoving and erosion control application;

(b) Proof of title or lease to the land and authorization to conduct such activities;

(c) An Erosion and Sediment Control Plan shall include the following, additionally information may be requested by DEQ.

i) A map clearly depicting:

a) the land capabilities of the property on which the grading is to be performed,

b) An accurate plot plan showing the exterior boundaries of the property on which the grading is to be performed;

c) Elevations and dimensions, including quantity, location and extent of proposed grading;

d) Existing tree locations, size, species, and the proposed extent and manner of tree cutting and vegetation clearing;

e) A description of equipment and methods to be employed.

3. DEQ may take administrative action to relieve an applicant of undue procedural requirements by utilizing such devices as permit surrender and consolidated permit applications, upon a finding that such actions will be in the best interest of the Commonwealth, and will meet or cause to be met by any applicable law, standards or regulation in force.

**§ 6 REQUIRED INVESTIGATIONS, REPORTS AND PLANS**

1. General Requirements of Subsurface Investigations

Subsurface soil and geological report shall be performed throughout the area to sufficiently describe the existing conditions.

## 2. Specific Requirements of Subsurface Investigations

Subsurface investigation shall be conducted, and a subsurface soil and geological report prepared, where stability may be lessened by the proposed grading or filling or when such grading or filling will be performed at any of the following locations:

- A. Zones of trapped water or high water table;
- B. Where a fill slope is to be placed above a cut slope;
- C. Where pile driving is to be conducted;
- D. Proposed or existing fills exceeding twenty (20) feet in height;
- E. Proposed or existing cuts exceeding twenty (20) feet in height, unless in extremely competent rock; or
- F. Where side hill fills are to be placed on existing slopes steeper than sixteen percent (16%).

Where any of the particular problem areas listed above or other significant problems are found, the subsurface investigation shall be of sufficient scope and detailed to describe the problem thoroughly. The person making the report shall submit a written report of findings and recommendations.

## 3. Additional Investigations and Reports

When requested by DEQ, the applicant shall procure and furnish at his own expense additional engineering, geologic and ownership reports, plans or surveys and other material necessary to determine and evaluate site conditions and the effect of the proposed work on abutting properties, public ways and public welfare and safety within the purposes of these regulations.

## **§ 7 STANDARDS OF GRADING, FILLING AND CLEARING**

### 1. Criteria for Grading, Filling, and Clearing Operations

All grading, filling and clearing operations, whether or not requiring a permit under these regulations, shall be designed:

- A. To preserve, match or blend with the natural contours and undulations of the land;

- B. To retain trees and other native vegetation, to stabilize hillsides, retain moisture, reduce erosion, siltation and nutrient runoff and preserve the natural scenic beauty;
- C. To minimize scars from cuts and fills;
- D. To reduce the amount of cuts and fills and to round off sharp angles at the top, toe and sides of all necessary cut and fill slopes;
- E. To limit development on steep terrain;
- F. To take into consideration geologic fragileness and adverse soil conditions and their effect on the future stability of the development;
- G. To assure that all cleared slopes, cuts and fills and other areas vulnerable to erosion shall be stabilized;
- H. To assure that construction, clearing of vegetation or disturbance of the soil will be limited to those areas of proven stability;
- I. To assure that the natural geological erosion of hillsides, slopes, graded areas, cleared areas, filled areas, will not be exceeded; and
- J. To assure that sediment or other material deposited in the marine waters or coastline, or any other public or private lands will not exceed that which would have been deposited if the land had been left in its natural state.

## 2. Discharge Prohibitions

### A. Direct Discharge

No person shall discharge solid or liquid wasted materials including soil, silt, clay, sand, and other organic or earthen materials into the lagoon, ocean, or coastline, surface waters such as lakes, wetlands, streams or springs, or other people's property.

### B. Indirect Discharge

No material shall be placed near the coastline or ocean water, wetlands, streams, springs or lakes in such a manner, that it would be susceptible to erosion and/or deposition into said waters.

### C. Discharge Control Devices

In order to prevent such discharges from occurring, approved erosion and siltation control devices and measures shall be required for all grading and filling. Control devices and measures which may be required include, but are not limited, the following:

- i. Energy absorbing devices to reduce the velocity of runoff waters;
- ii. Sedimentation controls such as desilting basins and catch basin. Any trapped sediment shall be removed to a site approved by DEQ;
- iii. Dissipation of water runoff from developed areas into drainage fields to dissipate the runoff into the subsoil;
- iv. Discharge of water runoff from developed areas into drainage fields to dissipate the runoff into the subsoil;
- v. Multiple discharge points to reduce the volume of runoff over the localized discharge areas; and
- vi. Physical erosion control device.

#### D. Temporary Control

Approved temporary erosion and sedimentation control devices, facilities and measures shall be required during construction.

### 3. Dust Control

Whenever the native ground cover is removed or disturbed or whenever fill material is placed on the site, the exposed surface shall be treated to the extent necessary to eliminate dust arising from the exposed material.

### 4. Prohibition of Grading During Inclement Weather

Grading, filling, clearing of vegetation or other disturbance of the soil are prohibited during inclement weather and for resulting period of time when the site is in a saturated, muddy or unstable condition. Major earthmoving should whenever practicable be scheduled to coincide with the dry season.

### 5. Schedule of Operations

All grading and filling operations shall proceed according to a work schedule included in the grading plan. The schedule shall be prepared to limit to the shortest possible period of time that exposed soil is unprotected.

### 6. Disposal of Cleared Vegetation



Vegetation removed during clearing operations shall be disposed of by stockpiling it on the site for use as mulch or compost, or shall be disposed of in a manner and at a location approved by the DEQ.

## 7. Disposal of Removed Earthen Materials

Earthen materials removed during operations hereunder shall be disposed of as follow:

- A. By stockpiling all or some of the top soil on the site for use or on areas to be re-vegetated; or
- B. By disposal of the material at a location approved by the DEQ.

## 8. Cuts

### A. Maximum Slope

The maximum cut slope shall be determined on the basis of the risk of soil instability or soil erodibility as shown by the information report, the subsurface soil and geological report or other available information.

### B. Slope Materials

If the material of the slope is of such composition and character as to be unstable under the maximum moisture content anticipated, DEQ shall require such measures as necessary in insure the stability of the slope.

### C. Mechanical Stabilization

Where mechanical stabilization or containment of the slope by other than the use of native material is employed, the stabilization devices shall be at least partially screened by vegetation.

## 9. Fill

### A. Maximum Slope

The maximum fill slope shall be determined on the basis of the risk of instability or soil erodibility as shown by the information report, the subsurface soil and geological report or other available information.

### B. Fill Material

No organic material, such as vegetation or rubbish, or any other material not subject to proper compaction, or otherwise not conducive to stability, shall be permitted in fills.

### C. Compaction

Each layer of material for fill shall be compacted to relative compaction of not less than ninety percent (90%) ASTM - D1557 - 70 as certified by the applicant to DEQ.

## **§ 8 Restriction of Vehicles to Graded Areas**

For the protection of plant material construction equipment shall be limited to the actual areas to be graded according to the approved plans. No vehicles of any kind shall pass over areas to be left in their natural state according to the approved plans.

The permittee, contractor and subcontractor shall be fully responsible for compliance with the requirements of these regulations, including any damage caused to existing trees or other vegetation.

### **ACTION ON APPLICATIONS**

The Chief may require the applicant to furnish additional information, plans, or specifications before acting on an application for any permit.

Each application permit shall be reviewed for completeness. The Division shall review and act on any application for a permit within thirty (30) calendar days or receipt of the initial application.

For all applications found to be incomplete, the Division will notify the Applicant via a short written statement, describing the deficiencies found. Corrective and/or follow-up action, design, field tests, etc., is the responsibility of the Applicant. The Division is not responsible, nor will Division personnel undertake, completion or correction of an incomplete or incorrect permit application.

The Chief shall notify the Applicant in writing of his or her decision regarding any application for permit. The Chief shall inform the Applicant of sufficient facts and reasons upon which a disapproval or conditional approval of a complete application was based. The Applicant shall be afforded the opportunity to file a written appeal of the Chief's decision. Request for appeal shall be served upon the Division within seven (7) calendar days from receipt of the disapproval or conditional approval. Failure to file this appeal within seven (7) calendar days shall constitute a waiver of the Applicant's rights to any future appeal of the Chief's decision.

5. A permit issued pursuant to these regulations shall not be transferred from one location to another, or from one person to another, without the written approval of the Chief.

§ 10 **INSPECTIONS AND RIGHT OF ENTRY**

1. As a condition for the issuance and continuation of any permit granted under these regulations, the holder of a permit shall allow prompt access to the premises covered by the permit to the Chief or his authorized representative for the purpose of inspecting the premises for compliance with the terms of the permit. The inspection may be made with or without advance notice to the permit holder, with good purpose, at the discretion of the Chief, but shall be made at reasonable times unless an emergency dictates otherwise.
2. If the Chief has probable cause to believe a violation of these regulations or any order issued under these regulations, or any term of a permit granted that these regulations has occurred or is imminent, or if it is necessary to permit the Chief to perform his duties under this Act, the Chief shall apply to the Commonwealth Trial Court or the District Court for the Northern Mariana Islands for an order or warrant to enter upon and search any property, take necessary samples or readings therefrom, seize evidence found therein and examine or impound any book or record found therein or specified in such order or warrant.
3. The Chief or his authorized representative may enter upon any property for the purpose set forth in Paragraph 12.1 of this section without an order or warrant if he/she has probable cause to believe ALL of the following:
  - A. That a violation described in the subsection has occurred or is imminent.
  - B. That the violation poses a serious, substantial, and immediate threat to the public health or welfare.
  - C. That the delay in obtaining a court order or warrant would prolong or increase the threat, or would prevent, hinder, or delay the discovery of evidence of the violation or the taking of any necessary mitigating or remedial measures.

4. Inspections at Reasonable Times

All construction or work for which a permit is required shall be subject to DEQ inspection at reasonable times by authorized employees of the DEQ.

5. General Inspections

DEQ may make any inspections of any construction work deemed necessary to ascertain compliance with the provision of these regulations or other regulations of the DEQ.

6. Notification

The permittee or his agent shall notify the DEQ at least two (2) working days in advance of the start of the grading, filling or clearing operation.

7. Inconsistent Conditions

If the inspector finds the soil or other conditions are other than as stated in the application for permit he may revoke the permit and refuse to approve work until approval is obtained for a revised permit which will conform to the existing conditions. In such event, all work shall cease until a revised permit is obtained.

8. Inspection of Concealed Work

Whenever any work on which inspections are required by these regulations is covered or concealed by additional work without first having been inspected, DEQ may require, by written notice, that such work be exposed for examination. The work of exposing and recovering shall not entail expense to DEQ.

**§ 11 PENALTIES, FINES, SUSPENSION, REVOCATION, AND OTHER ORDERS**

1. The Chief may institute civil actions through the Commonwealth Courts or by Administrative Orders issued by the Chief and the Director.
2. Civil actions initiated through the Commonwealth Courts shall be transmitted through and with the approval of the Director and the Attorney General as necessary to enforce these regulations in consonance with, and in accordance with the applicable laws of the CNMI. The Attorney General will institute legal actions to enjoin a violation, continuing violation or threatened violation of these regulations.
3. Any person who is subject to civil penalties, revocation, or suspension pursuant this Section may be served with an Administrative Order and Notice of Violation and may upon written request seek an appeal hearing before the Chief or his/her designee. Request for appeal may be served upon the Division within seven (7) calendar days from receipt of the Administrative Order. Failure to request an appeal within seven (7) calendar days shall result in the person's waiving the right to any appeal or hearing.

4. Procedures for Administrative Orders shall be conducted as follows:
- A. The Chief may issue and order any person to pay a civil fine of not more than \$1,000.00 for each violation of the Act, regulations adopted pursuant to the Act, or any permit or license issued pursuant to the Act and such regulations. Each day of continued violation after issuance of written notice by the Chief or designee and the expiration of any reasonable period allowed for corrective action is a separate offense.
  - B. The written request for a hearing shall serve as the answer to the complaint. The request for hearing or "answer" shall clearly and directly admit, deny, or explain each of the factual allegations contained in the complaint with regard to which the alleged violator (respondent) has any knowledge. Where respondent has no knowledge of a particular factual allegation and so states, the allegation is deemed denied. The answer shall also state (1) the circumstances or arguments which are alleged to constitute the grounds of defense, (2) the facts which respondent intends to place at issue, and (3) whether a hearing is requested. Failure to admit, deny, or explain any material factual allegation contained in the complaint constitutes an admission of the allegations. An oral answer may also be given at the time of hearing should a hearing be requested.
  - C. The respondent may also request an informal Settlement Conference. An Informal Settlement Conference shall not affect the respondent's obligation to file a timely request for hearing. If a settlement is reached the parties shall forward a proposed consent order for the approval of both the Chief and the Director.
  - D. If a hearing is conducted the Chief or designee will preside over the hearing. The Chief shall control the taking of testimony and evidence and shall cause to be made an audio, audio-video, or stenographic record of the hearing. The type of record made shall be the discretion of the Chief. Evidence presented at such a hearing need not conform with the prescribed rules of evidence, but may be limited by the Chief in any manner she/he reasonably determines to be just and efficient and promote the ends of justice. The Chief shall issue a written decision within (15) working days of the close of the enforcement hearing. The decision shall include written findings of fact and conclusions of law. The standard of proof for such a hearing and decisions shall be the preponderance of the evidence.
  - E. Upon issuance of the written decision, the respondent may seek a discretionary review of the decision by the Director. The request for the discretionary review must be filed within ten (10) working days of the date of issuance of the decision. The request must concisely state the specific objections to the decision. There is no right to a hearing before

the Director. A copy of the request of review must be filed with the Chief on the same day it is filed with the Director. The Director may elect to review the case and issue a written decision or affirm the Chief's decision. She/he will issue a written decision within thirty (30) calendar days.

F. The Director's decision shall be final. An appeal from the final enforcement decision shall be to the Commonwealth Superior Court within thirty (30) calendar days following service of the final agency decision.

G. For filing deadline purposes counting of the days shall start on the day after issuance or receipt (whichever is specified). If any filing date falls on a Saturday, Sunday, or Commonwealth Holiday, the filing date shall be extended to the next working day.

5. The Chief may suspend, revoke, or modify any permit or license issued by the Division for violation of the Act, any regulations adopted pursuant to the Act, any permit or license issued pursuant to the Act and such regulations.

6. A person shall be liable for an additional penalty for any amount expended by any agency of the Commonwealth in taking any action necessary to mitigate or reduce any significant adverse effect caused by the person's failure to comply with the Act, regulations, permit, license, or any order issued thereunder.

7. Any person who knowingly and willfully commits any act in violation of the Act, regulations, permit, or license, and who is found guilty by a court of competent jurisdiction may be punished by a fine of not more than \$50,000.00 or by imprisonment for not more than one (1) year, or both. Any other penalties or remedies provided by these regulations and ordered by the Chief shall also remain in effect.

## § 12 **SEVERABILITY**

If any rule, section, sentence, clause, or phrase of these regulations or its application to any person or circumstance or property is held to be unconstitutional or invalid, the remaining portions of these regulations or the application of these regulations to other persons or circumstances or property shall not be affected.



# Commonwealth of the Northern Mariana Islands

Department of Public Health & Environmental Services  
Division of Environmental Quality  
P.O. Box 1304  
Saipan, Mariana Islands 96950

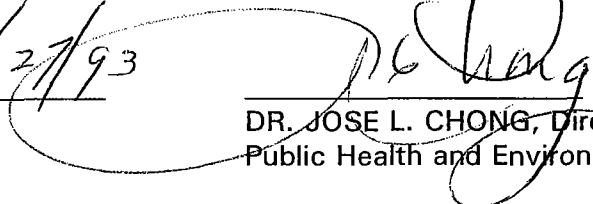


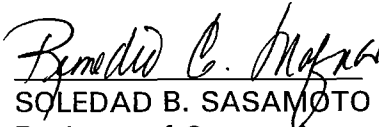
Tels: (670) 234-6114/6984  
Fax: (670) 234-1003

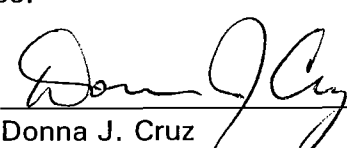
## PUBLIC NOTICE ADOPTED AMENDMENT TO DRINKING WATER REGULATIONS PROMULGATED UNDER THE AUTHORITY OF 2 CMC §§ 3101 to 3134 and 1 CMC §§ 2601 to 2605 by the DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENTAL SERVICES

The Director of the Department of Public Health and Environmental Services, of the Commonwealth of the Northern Mariana Islands (CNMI), in accordance with 2 CMC §§ 3101 to 3134 and 1 CMC §§ 2601 to 2605, adopts the following amendments to the existing CNMI Drinking Water Regulations. These changes conform with the requirements imposed on the Commonwealth in the Federal Safe Drinking Water Act. The adopted amendments revise the current wording regarding monitoring frequency requirements for total trihalomethanes sampling. The adopted amendments also clarify requirements on notifying and obtaining DEQ approval for treatment systems. Minor revisions have also been made in the wording of the Enforcement and Permitting sections.

Copies of the adopted amendments to the Drinking Water Regulations and the Regulations are available and may be obtained from the Department of Public Health Environmental Services, Division of Environmental Quality, located on the third floor of the Morgen Building in San Jose, Saipan (P.O. Box 1304, Saipan, MP 96950).

Date: 7/27/93  
  
DR. JOSE L. CHONG, Director of  
Public Health and Environmental Services

Filed by:  
Date: 9.29.93  
for:   
SOLEDAD B. SASAMOTO  
Registrar of Corporations

Received at Governor's Office:  
Date: 7/29/93  
  
Donna J. Cruz



# Commonwealth of the Northern Mariana Islands

Department of Public Health & Environmental Services  
Division of Environmental Quality  
P.O. Box 1304  
Saipan, Mariana Islands 96950



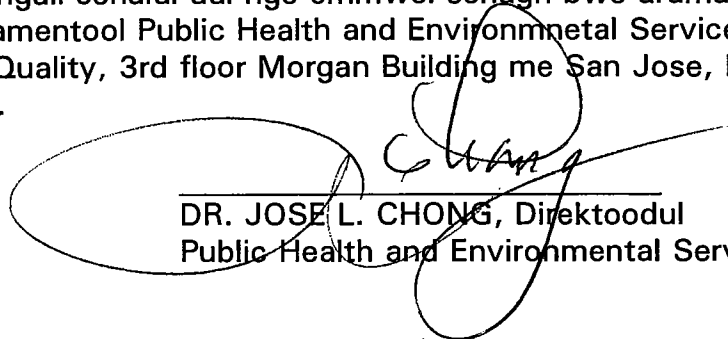
Tels: (670) 234-6114/6984  
Fax: (670) 234-1003

## ARONGORONGOL TOWLAP ARONGORONG REEL ADAPTAL LLIWEL MELLÓL ALLÉGHÚL, SCHALÚL ÚÚL (DRINKING WATER) IYE RE FEERU SANGI BWANGIL ME AILEEWAL 2 CMC §§ 3101 NGÁLI 3134 ME 1 CMC §§ 2601 NGÁLI 2605 REEL AMMWELEL DIPATAMENTOOL PUBLIC HEALTH ME ENVIRONMENTAL SERVICES

Direktoodul Dipatamentool Public Health me Environmental Services, mellól Commonwealth of the Northern Mariana Islands (CNMI), reel bwangil me aileewal 2 CMC §§ 3101 ngáli 3134 me 1 CMC §§ 2601 ngáli 2605, nge ekke ffeer lliiwel mellól mille Alleghul CNMI Drinking Water. Lliiwel kkaal nge ebwe ghol fengal me milkka ebwe lo lol Commonwealth sangi lemelemil Federal Safe Drinking Water Act. Lliiwel kkaal nge ebwe liwilil tapalal kkepas kka ighila ikka e ghil ngali monitoring frequency reel lupal trihalomethanes sampling. Lliiwel kkaal nge e bwal affataawow requirements reel rebwe arongaar me ngare bweibwogh sangiir school DEQ bwe rebwe aprebaay yaar treatment systems. E bwal yoor lliiwel kka ese bwal ghi lap mellól sections kka reel Enforcement me Permitting.

Kopiyaal Allegh kka e ghil ngali schalul uul nge emmwel schagh bwe aramas rebwe lo bweibwogh mello Dipatamentool Public Health and Environmental Services, Division of Environmental Quality, 3rd floor Morgan Building me San Jose, P.O. Box 1304, Saipan MP, 96950.

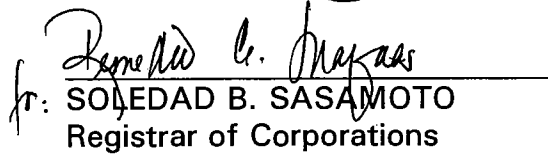
Ral: 7/27/93



DR. JOSE L. CHONG, Direktoodul  
Public Health and Environmental Services

File-liiyal:

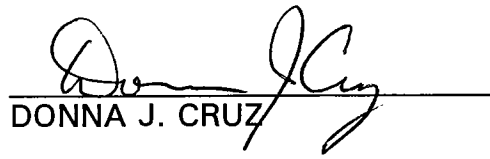
Ral: 9.29.93



fr: SOLEDAD B. SASAMOTO  
Registrar of Corporations

Re risibi mellól Bwulasiyool Gubenko:

Ral: 7/29/93



DONNA J. CRUZ





# Commonwealth of the Northern Mariana Islands

Department of Public Health & Environmental Services  
Division of Environmental Quality  
P.O. Box 1304  
Saipan, Mariana Islands 96950



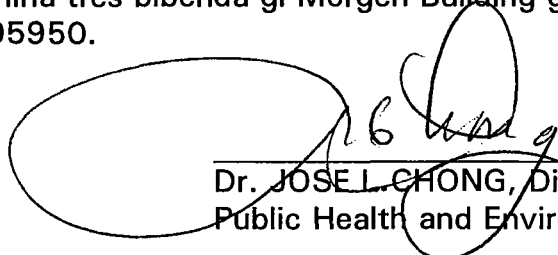
Tels: (670) 234-6114/6984  
Fax: (670) 234-1003

## NUTISIAN PUPBLIKU NA ESTA MA ADAPTA I AMENDASION PARA REGULASION HANOM MA GIMEN NI MA ESTABLISA SIGUN GI ATURIDAT 2 CMC §§ 3101 ASTA 3134 YAN 1 CMC §§ 2601 ASTA 2605 DIPATAMENTON PUBLIC HEALTH YAN ENVIRONMENTAL SERVICES

I Direktot Dipatamenton Public Health yan Environmental Services gi halom Commonwealth of the Northern Mariana Islands (CNMI), sigun gi i fuetsan i 2 CMC §§ 3101 asta 3134 yan 1 CMC §§ 2601 asta 2605, na easta adapta i amendasion para i presente na Regulasion Hanom Ma Gimem gi halom CNMI (CNMI Drinking Water Regulations). Este na amendasion siha u makonfotma yan hafa marekomenda yan imposta para i Commonwealth i Federal Safe Drinking Water Act. I ma adapta na amendasion na tinulaika para u ribisa i palabram gi presente put frequency requirements para i totat na trihalomehtanes sampling. Lokkue i amendasion para u klarifika huyong put man nutisia pat mamaisen apruebasion ginen DEQ para treatment systems. Guaha Lokkue didide na tinulaika gi palabra siha gi seksiona put Enforcement yan Permitting.

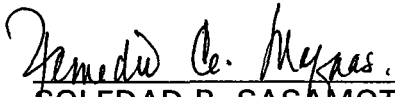
Kopian I ma Adapta na amendasion put Regulations, Hanom má gimem siha manma chulé gi Dipatamenton Hinemlo Pupiliku yan Setbisiun Environmental, Division of Environmental Quality, mina tres bibenda gi Morgen Building giya San Jose, P. O. Box 1304, Saipan, MP 95950.

Fecha: 7/27/93

  
Dr. JOSE L. CHONG, Direktot  
Public Health and Environmental Services


Ma file as:

Fecha: 7/29/93

  
SOLEDAD B. SASAMOTO  
Registat of Corporations

Ma Resibi gi Ofisinan Gobietno:

Fecha: 7/29/93

  
DONNA J. CRUZ

## Revisions to the Drinking Water Regulations

### PART 4 SITING AND DESIGN REVIEW REQUIREMENTS

#### 4.1 Siting Requirements and Notification of Intent

Before a person may enter into a financial commitment for or initiate construction of a new public water system or increase the capacity of or modify an existing public water system, she/he shall notify the Division in writing and submit with such notification a conceptual descriptive plan with appropriate sketches detailing proposed location, water source capacity, budget estimates and other data as described in paragraph 4.2. She/he shall, to the extent practicable, avoid locating part or all of the new or expanded facility at a site which:

- (a) Is subject to a significant risk from earthquakes, floods, fires, or other disasters which could cause a breakdown of the public water system or a portion thereof; or
- (b) Except for intake structures, is within the floodplain of a 100-year flood or is lower than any recorded high tide where appropriate records exist; or
- (c) In the case of a roof catchment, where reasonable consideration has not been given to effective typhoonization of buildings, roofs, guttering and other catchment appurtenances.

#### 4.2 Design and Construction Review Requirements

No person shall cause or allow the construction of or change of any public water supply, without approval of final drawings and specifications by the Chief of the Division. Final drawings and specifications shall be reviewed on the basis that the completed facility will produce water, the quality of which meets the standards prescribed by these regulations. Public water supply installation, change, or addition, shall not include routine maintenance, service pipe connections, hydrants and valves, or replacement of equipment, pipe, and appurtenances with equivalent equipment, pipe, and appurtenances. All work performed on a public water supply shall be in accordance with accepted engineering practices.

##### (a) Notification of Intent

The notification of intent to construct a new public water supply system or to increase the capacity of an existing public water supply system as required in paragraph 4.1, shall include the following data and/or information:

- (1) Name and address of person who intends to construct or modify public water supply system;
- (2) Name and address of person who will be the supplier of water to the public;
- (3) Location of proposed water source or sources on a 8 1/2 X 11" portion of topographic map section;
- (4) Type of source (spring, stream, well, roof catchment, ground catchment, or other);
- (5) Estimated capacity of source in gallons or cubic meters per day during normal rainfall conditions;
- (6) Horizontal area of proposed catchment in square meters or square feet;
- (7) (i) Type of roof materials, if roof catchment; or  
(ii) Description of topography and nature of vegetation; if ground catchment,
- (8) Planned raw water storage capacity or proposed increase in raw water storage capacity;
- (9) Description of water treatment proposed;
- (10) Number of persons to be supplied now;
- (11) Anticipated population of service area ten (10) years from now;
- (12) Existing method of sewage disposal and methods expected in the future;
- (13) Proposed storage capacity of treated water, if known;
- (14) If source is to be a well or wells:
  - (i) Estimated depth(s)
  - (ii) Measures to be taken to exclude surface water from well; and
  - (iii) Kind of pump(s) to be used, i.e., hand, electric, engine, windmill, etc.

- (15) Budget estimate for construction;
- (16) Expected source of funds; and
- (17) Other data as may be required by the Division.

(b) Review and Action Upon Notice of Intent

The Division shall review a notice of intent to construct or modify a public water supply system for completeness within thirty (30) calendar days from receipt by the Division and either:

- (1) Fully or conditionally approve the notice for the preparation of final plans and specifications for the proposed facility;
- (2) Notify the proposed constructor that additional information is required;
- (3) Deny the proposal to construct giving written appropriate environmental reasons for the denial; or
- (4) After any notification is deemed complete by the Division and forty-five (45) days have passed without action, the proposed notification is automatically approved and the constructor may proceed with preparation of final drawings and specifications.

(c) Preparation of Final Drawings and Specifications

Preparation of final drawings and specifications for a public water supply system shall be based upon accepted engineering practice and shall be directed toward construction of a facility which will produce drinking water the quality of which shall meet the standards prescribed in these regulations. The final plans and specifications shall generally follow the intent expressed in the approved notification. Preparation of final drawings and specifications will be supervised by a person experienced in the construction and operation and maintenance of water supply systems.

(d) Review and Approval of Final Drawings and Specifications.

- (1) Final drawings and specifications shall be submitted to the Division for review.
- (2) The Division shall either:
  - (i) Approve the drawings and specifications; or

(ii) Request changes in the drawings and specifications by the constructor.

(3) The action prescribed in paragraph (2) shall be completed within ten (10) working days from the time the drawings and specifications are received by the Division. After any requested changes as requested under paragraph (2)(ii) have been made, the Division shall approve or disapprove within five (5) working days of receipt of the documents.

#### 4.3 Emergency Permits

Whenever emergencies affecting the safety or adequacy of a public water supply requires modifications or additions, the Chief of the Division shall be notified. The Division may delegate its responsibility under this paragraph to the Mayor of each municipality. Delegation must be in writing. The Mayor may issue emergency construction permits by telephone or other message with whatever special conditions she/he deems necessary for the proper safeguarding of the health of the water consumers. Plans and specifications covering the work as constructed under the emergency permit must be submitted to the Chief of the Division as soon as reasonably possible. Modifications required by the Division after review of the submission shall be made promptly. The Chief of the Division shall confirm in writing within ten (10) days of issuance, the Mayor's granting of an emergency permit.

##### (a) Emergency Permit Revocations

Violation of any permit conditions or these regulations, as amended, shall be cause for revocation of any permit previously issued.

#### 4.4 Certification for Operation

**Prior to any operation of any plant that is newly constructed, modified to change treatment or storage capacity, change in distribution system, or major change in treatment system equipment (i.e. change in system configuration, reverse osmosis equipment, disinfection unit, or storage tank), the plant must be inspected by DEQ and receive a Certification of Operation.**

#### 5.7 Total Trihalomethanes (TTHMs)

##### 5.7.1 Maximum Contaminant Levels for Total Trihalomethanes

The maximum contaminant level for total trihalomethanes applies only to community water systems which serve a population of 10,000 or more individuals and which add disinfectant (oxidant) to the water in any part of the drinking water treatment process.

<u>Contaminant</u>	<u>Level</u> <u>Milligrams per Liter</u>
Total trihalomethanes (the sum of the concentrations of bromodichloromethane, dibromo-chloromethane, tribromomethane (bromoform) and trichloromethane(chloroform) . . . . .	0.10

**5.7.2 Total Trihalomethanes Sampling and Analytical Requirements**

Initial sampling to determine compliance with paragraph 5.7.1 shall commence immediately upon the effective date of these regulations and analyses shall be completed within one year from the effective date of the regulations. Analyses for the purpose of complying with paragraph 5.7.1 above, are required as follows:

5.7.2(a) The minimum number of samples required to be taken by the system shall be based on the number of treatment plants used by the system, except that multiple wells drawing raw water from a single aquifer may, with Division's approval be considered one treatment plant for determining the minimum number of samples. All samples taken within an established frequency shall be collected within a 24-hour period. For all community water systems utilizing surface water sources in whole or in part, and for all community water system utilizing only groundwater sources that have not been determined by the Division to qualify for the monitoring requirements of paragraph 5.7.2 (c), analyses for total trihalomethanes shall be performed at quarterly intervals on at least four water samples for each treatment plant used by the system. At least 25 percent of the samples shall be taken at locations within the distribution system reflecting the maximum residence time of the water in the system. The remaining 75 percent shall be taken at representative locations in the distribution system, taking into account number of persons served, different sources of water and different treatment methods employed. The results of all analyses per quarter shall be arithmetically averaged and reported to the Division within 30 days of the system's receipt of such results.

All samples collected shall be used in the computation of the average, unless the analytical results are invalidated for technical reasons. Sampling and analyses shall be conducted in accordance with the methods listed in paragraph 5.7.2. (e) of this section.

5.7.2 (b) Upon the written request of a community water system, the monitoring frequency required by paragraph 5.7.2. (a) may be reduced by the Division to a minimum of one sample analyzed for TTHM per quarter taken at a point in the distribution system reflecting the maximum residence time of the water in the system, upon a written determination by the Division that the data from at least 1 year of monitoring in accordance with paragraph 5.7.2. (a) and local conditions demonstrate that total trihalomethane concentrations will be consistently below the maximum contaminant level. If at any time during which the reduced monitoring frequency prescribed under this paragraph applies, the results from any analysis exceed 0.10 mg/1 of TTHM and such results are confirmed by at least one check sample taken promptly after such results are received or if the system makes any significant change to its source of water or treatment program, the system shall immediately begin monitoring in accordance with the requirements of paragraph 5.7.2. (a) which monitoring shall continue for at least 1 year before the frequency may be reduced again. At the option of the Division, a system's monitoring frequency may and should be increased above the minimum in those cases where it is necessary to detect variations of TTHM levels within the distribution system.

5.7.2 (c) Upon written request to the Division, a community water system utilizing only ground water sources may seek to have the monitoring frequency required by paragraph 5.7.2 (a) reduced to a minimum of one sample for maximum TTHM potential per year for each treatment plant used by the system taken at a point in the distribution system reflecting maximum residence time of the water in the system. The system shall submit to the Division the results of at least one sample analyzed for maximum TTHM potential for each treatment plant used by the system taken at a point in the distribution system reflecting the maximum residence time of the water.

**The system's monitoring frequency may only be reduced upon a written determination by the Division that, based upon the data submitted by the system, the system is a maximum TTHM potential of less than 0.10 mg/1 and that, based upon an assessment of the local conditions of the system, the system is not likely to approach or exceed for total TTHMs. The results of all analyses shall be reported to the Division within 30 days of the system's receipt of such results. All samples collected shall be used for determining whether the system must comply with the monitoring requirements of paragraph 5.7.2. (a) unless the analytical results are invalidated for technical reasons. Sampling and analyses shall be conducted in accordance with**

**the methods listed in paragraph 5.7.2. (e). If at any time during which the reduced monitoring frequency prescribed under this paragraph applies, the results from any analysis taken by the system for maximum TTHM potential are equal to or greater than 0.10 mg/1, and such results are confirmed by at least one check sample taken promptly after such results are received, the system shall immediately begin monitoring in accordance with the requirements of paragraph 5.7.2. (a) and such monitoring shall continue for at least one year before the frequency may be reduced again. In the event of any significant change to the system's raw water or treatment program, the system shall immediately analyze an additional sample for maximum TTHM potential taken at a point in the distribution system reflecting maximum residence time of the water in the system for the purpose of determining whether the system must comply with the monitoring requirements of paragraph 5.7.2. (a). At the option of the Division, the monitoring frequencies may and should be increased above the minimum in those cases where this necessary to detect variation of TTHM levels within the distribution system.**

5.7.2 (d) Compliance with paragraph 5.7.1 shall be determined based on a running annual average of quarterly samples collected by the system as prescribed in paragraphs 5.7.2 (a) and 5.7.2 (b). If the average of samples covering any 12 month period exceeds the Maximum Contaminant Level, the supplier of water shall report to the Division in writing and notify the public pursuant to paragraphs 6.1. and 6.2. monitoring after public notification shall be at a frequency designated by the Division and shall continue until a monitoring schedule as a condition to a variance, exemption or enforcement action shall become effective.

5.7.2 (e) Sampling and analyses made pursuant to 5.7.1 and 5.7.2 shall be conducted by one of the following approved methods:

"The Analysis of Trihalomethanes in Drinking Waters by the Purge and Trap Method", Method 501.1, EMSL, EPA Cincinnati, Ohio.

"The Analysis of Trihalomethanes in Drinking Water by Liquid/Liquid Extraction," Method 502.1, EMSL, EPA Cincinnati, Ohio.

Samples for TTHM shall be dechlorinated upon collection to prevent further production of Trihalomethanes, according to the



procedures described in the two methods. Samples for maximum TTHM potential should not be dechlorinated, and should be held for seven days at 25 degrees C (or above) prior to analysis, according to the procedures described in the above two methods.

5.7.2 (f) Before a community water system makes any significant modification to its existing treatment process for the purpose of achieving compliance with paragraph 5.7.2 (c), such system must submit and obtain Division approval of a detailed plan setting forth its proposed modification and those safeguards that it will implement to ensure that the bacteriological quality of the drinking water served by such system will not be adversely affected by such modification. Each system shall comply with the provisions set forth in the Division approved plan. At a minimum, a Division approved plan shall require the system modifying its disinfection practice to:

(1) Evaluate the water system for sanitary defects and evaluate the source water for biological quality;

(2) Evaluate its existing treatment practices and consider improvements that will minimize disinfectant demand and optimize finished water quality throughout the distribution system;

(3) Provide baseline water quality survey data of the distribution system. Such data should include the results from monitoring for coliform and fecal coliform bacteria, fecal streptococci, standard plate counts at 35 degrees C and 20 degrees C, phosphate, ammonia nitrogen and total organic carbon. Virus studies should be required where source waters are heavily contaminated with sewage effluent;

(4) Conduct additional monitoring to assure continued maintenance of optimal biological quality in finished water, for example, when chloramines are introduced as disinfectants or when pre-chlorination is being discontinued. Additional monitoring should also be required by the Commonwealth for chlorate, chlorite and chlorine dioxide when chlorine dioxide is used. Standard plate count analyses should also be required by the Commonwealth as appropriate before and after any modifications; **and**

(5) Consider inclusion in the plan of provisions to maintain an active disinfectant residual throughout the distribution system at all times during and after the modification.

## PART 11 ENFORCEMENT

11.1 The Chief may institute civil actions through the Commonwealth Courts and/or by Administrative Orders issued by the Chief and the Director.

11.2 Procedures for Administrative Orders shall be conducted as follows:

11.2.1 The Chief may issue an order to enforce compliance with the Act; any regulations adopted pursuant to the Act; any permit or license issued pursuant to the Act or regulations; any order issued pursuant to the Act, permits, or regulations. Such orders may include but are not limited to a payment of a civil fine, take corrective action, or to cease and desist. Prior to any order for a civil fine the Chief shall issue a notice to the alleged violator and allow the violator a reasonable time, as determined by the Chief, to correct such violation. The administrative order shall serve as a complaint.

11.2.2 The Chief may order any person to pay a civil fine of not more than \$1,000.00 for each violation of the Act, any regulations adopted pursuant to the Act, any permit or license issued pursuant to the Act and such regulations. Each day of continued violation is a separate offense.

11.2.3 The Chief may suspend, revoke, or modify any permit or license issued by the Division for violation of the Act, any regulations adopted pursuant to the Act, any permit or license issued pursuant to the Act and such regulations.

11.2.4 Any person who is subject to civil penalties, revocation, or suspension pursuant to §§ 15 and 16 shall be served an Administrative Order and Notice of Violation and may upon written request seek a hearing before the Chief or his designed. Request for a hearing must be served upon the Division within seven (7) calendar days from the receipt of the notice of violation or the right to a hearing is waived.

11.2.5 The written request for a hearing shall serve as the answer to the complaint. The request for hearing or "answer" shall clearly and directly admit, deny, or explain each of the factual allegations contained in the complaint with regard to which the alleged violator (respondent) has any knowledge. Where respondent has no knowledge of a particular factual allegation and so states, the allegation is deemed denied. The answer shall also state (1) the circumstances or arguments which are alleged to constitute the grounds of defense, (2) the facts which respondent intends to place at issue, and (3) whether a hearing is requested. Failure to admit, deny, or explain any material factual allegation contained in the complaint

constitutes an admission of the allegations. **An oral "answer" may also be given at the time of hearing should a hearing be requested.**

11.2.6 The respondent may also request an informal Settlement Conference. An Informal Settlement Conference shall not affect the respondent's obligation to file a timely request for hearing. If a settlement is reached the parties shall forward a proposed consent order for the approval of both the Chief and the Director.

11.2.7 If a hearing is conducted the Chief or his designated will reside over the hearing. The Chief shall control the taking of testimony and evidence and shall cause to be made an audio, audio-video, or stenographic record of the hearing. The type of record made shall be the discretion of the Chief. Evidence presented at such a hearing need not conform with the prescribed rules of evidence, but may be limited by the Chief in any manner she/he reasonably determines to be just and efficient and promote the ends of justice. The Chief shall issue a written decision within (15) working days of the close of the enforcement hearing. The decision shall include written findings of fact and conclusions of law. The standard of proof for such a hearing and decisions shall be the preponderance of the evidence.

11.2.8 Upon issuance of the written decision, the respondent may seek a discretionary review of the decision by the Director. The request for the discretionary review must be filed within ten (10) working days of the date of issuance of the decision. The request must concisely state the specific objections to the decision. There is no right to a hearing before the Director. A copy of the request of review must be filed with the Chief on the same day it is filed with the Director. The Director may elect to review the case and issue a written decision or affirm the Chief's decision. She/he will issue a written decision within thirty (30) calendar days.

11.2.9 The Director's decision shall be final. An appeal from the final enforcement decision shall be to the Commonwealth Superior Court within thirty (30) calendar days following service of the final agency decision.

11.2.10 For filing deadline purposes counting of the days shall start on the day after issuance or receipt (whichever is specified). If any filing date falls on a Saturday, Sunday, or Commonwealth Holiday, the filing date shall be extended to the next working day.