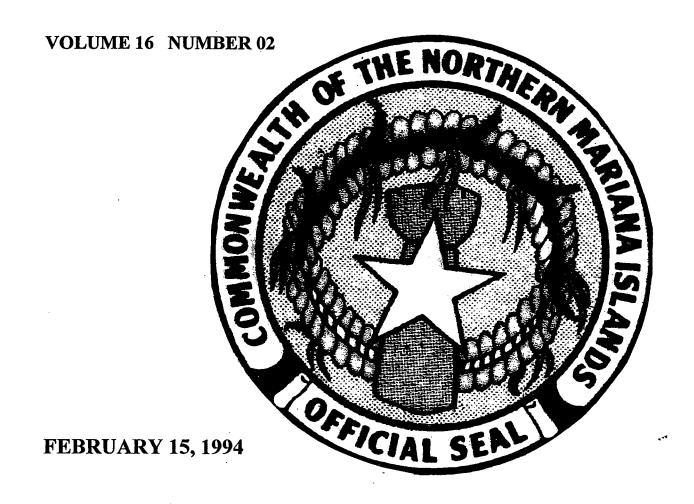
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS SAIPAN, MARIANA ISLANDS 96950



COMMONWEALTH

REGISTER

COMMONWEALTH REGISTER VOLUME 16 NUMBER 02 FEBRUARY 15, 1994

TABLE OF CONTENTS

Notice: 1004 Pagular Schadulad Maetings

1994 Regular Scheduled Meetings. Commonwealth Zoning Board11664
New & Amended Policies/Board of Education11669
Proposed and Amendments:
Schedule for Termination of Off-Site Signs. Commonwealth Zoning Board11665
Amendment to the Airport Authority Regulations. Commonwelath Ports Authority
Adoption:
Developer Tax Regulation No. 1600. Department of Finance
Administrative Rules and Regulations. Northern Mariana Islands Retirement Fund
Well Drilling and Well Operations. PH & ES/Division of Environmental Quality11704
Revision of Pesticides Regulations. PH & ES/Division of Environmental Quality11716

COMMONWEALTH ZONING BOARD (CZB) 1994 REGULAR SCHEDULED MEETINGS

DATE	TIME	PLACE
JANUARY 20 - THURSDAY	1:00 P.M.	CZB OFFICE CONF. RM., 2ND FL., CABRERA CENTER BLDG., BEACH ROAD, GARAPAN, SAIPAN
FEBRUARY 17 - THURSDAY	1:00 P.M.	CZB OFFICE CONF. RM., 2ND FL., CABRERA CENTER BLDG., BEACH ROAD, GARAPAN, SAIPAN
MARCH 17 - THURSDAY	1:00 P.M.	CZB OFFICE CONF. RM., 2ND FL., CABRERA CENTER BLDG., BEACH ROAD, GARAPAN, SAIPAN
APRIL 21 - THURSDAY	1:00 P.M.	CZB OFFICE CONF. RM., 2ND FL., CABRERA CENTER BLDG., BEACH ROAD, GARAPAN, SAIPAN
MAY 19 - THURSDAY	1:00 P.M.	CZB OFFICE CONF. RM., 2ND FL., CABRERA CENTER BLDG., BEACH ROAD, GARAPAN, SAIPAN
JUNE 16 - THURSDAY	1:00 P.M.	CZB OFFICE CONF. RM., 2ND FL., CABRERA CENTER BLDG., BEACH ROAD, GARAPAN, SAIPAN
JULY 21 - THURSDAY	1:00 P.M.	CZB OFFICE CONF. RM., 2ND FL., CABRERA CENTER BLDG., BEACH ROAD, GARAPAN, SAIPAN
AUGUST 18 - THURSDAY	1:00 P.M.	CZB OFFICE CONF. RM., 2ND FL., CABRERA CENTER BLDG., BEACH ROAD, GARAPAN, SAIPAN
SEPTEMBER 15 - THURSDAY	1:00 P.M.	CZB OFFICE CONF. RM., 2ND FL., CABRERA CENTER BLDG., BEACH ROAD, GARAPAN, SAIPAN
OCTOBER 20 - THURSDAY	1:00 P.M.	CZB OFFICE CONF. RM., 2ND FL., CABRERA CENTER BLDG., BEACH ROAD, GARAPAN, SAIPAN
NOVEMBER 17 - THURSDAY	1:00 P.M.	CZB OFFICE CONF. RM., 2ND FL., CABRERA CENTER BLDG., BEACH ROAD, GARAPAN, SAIPAN
DECEMBER 15 - THURSDAY	1:00 P.M.	CZB OFFICE CONF. RM., 2ND FL., CABRERA CENTER BLDG., BEACH ROAD, GARAPAN, SAIPAN

NOTE: ANY CHANGES MADE ON THE ABOVE-SCHEDULED MEETINGS DUE TO LACK OF QUORUM WILL BE RESCHEDULED & ADVERTISED IN MARIANAS VARIETY.



COMMONWEALTH ZONING BOARD

P.O. Box 2109, Saipan, MP 96950 Tel. Nos. (670) 235-5018/5019 • Fax No. (670) 235-5020

February 15, 1994

PUBLIC NOTICE

COMMONWEALTH ZONING BOARD PROPOSED REGULATIONS TO THE SAIPAN ZONING LAW

The Commonwealth Zoning Board ("CZB") hereby provides public notice of the proposed Saipan Zoning Schedule for the Termination of Off-Site Signs. The CZB finds that the regulation is necessary to effectively implement Section 13902 of the Saipan Zoning Law ("SZL") by providing a time period for a person or business entity that either erected an off-site sign after the effective date of the SZL or erected an illegal sign prior to the effective date of the SZL, to comply with a "stop and cease-and-desist order" by removing such sign pursuant to SZL Section 13902. This regulation is promulgated under the authority vested in the CZB by virtue of 2 CMC §7221(d).

These proposed regulations are published in the Commonwealth Register copies of which may be obtained from the Attorney General's Office.

Anyone interested in commenting on these proposed regulations may do so in writing to the Zoning Administrator, P.O. Box 2109, Saipan, MP 96950, not later than thirty (30) days from the date of its publication in the Commonwealth Register.

Issued by:

| Supposition | BENIGNO R. FITIAL | Chairman | Chairma

3/9/94 Date

Received by:

DONNA CRUZ Governor's Office Date.

Filed and Recorded by:

SOLEDAD B. SASAMOTO Registrar of Corporation 09 FEB 1994

Date

SAIPAN ZONING SCHEDULE FOR THE TERMINATION OF OFF-SITE SIGNS

Section 1. Off-site signs that were not lawfully erected prior to April 30, 1993 and that are located on either public or private land, shall be removed within thirty (30) days of receipt of notice from the Zoning Administrator.

Febreru 15, 1994

NUTISIAN PUPBLIKU

COMMONWEALTH ZONING BOARD

I MAPROPOPONI NA REGULASION PARA LAI SAIPAN ZONING

I Commonwealth Zoning Board ("CZB") ha prubeni i pupbliku nutisia put i mapropoponi na Listan Saipan Zoning para tetminasion i Off-Site na Tapbleru siha. I CZB ha sodda' na i regulasion nisisariu u efektibu para u implementa i Seksiona 13902 gi Lai Saipan Zoning ("SZL") put i para u managuaha tiempo para taotao ni manmamo'lo' off-site na tapbleru despues di efektibu na fechan SZL, osino manatacho' illegat na tapbleru antes di u efektibu i SZL, para u tatiyi "stop and cease-and-desist na otden" komu manasuha i tapbleru sigun gi SZL Seksiona 1302. Este na regulasion madeklara sigun gi aturidat ni mana'e' i CZB ginen i 2 CMC \$7221 (d).

I mapropoponi siha na regulasion manmapupblika huyong gi Rehistran Commonwealth ya hayi interesao na petsona siña mañule kopia gi Ofisinan Attorney General.

Hayi interesao na petsona mamatinas komentu put i mapropoponi siha na regulasion siña ha tuge' papa ya hana hanao guatu gi Zoning Administrator, P.O. Box 2109, Saipan MP 96950, ti u mas di trenta (30) dias despues di mapupblika huyong gi Rehistran Commonwealth.

Linaknos:	Thingh Coline	2/9/94
igcup	BENIGNO R. FITIAL Chairman	' Fecha
Rinisibi as:	Don J Cay	2/9/94
	DONNA CRUZ / Ofisinan Gobietno	Fecha
Ha file yan rinikot as:	Jump	0 9 FEB 1994
	SOLEDAD B. SASAMOTO	Fecha
	Registrar of Corporations	

Febreero 15, 1994

ARONGORONGOL TOWLAP COMMONWEALTH ZONING BOARD FFÉÉRUL ALLEGH NGALI ALLEGHUL SAIPAN ZONING

Commonwealth Zoning Board ("CZB") e mwuschál arongaar towlap reel fféérúl Alléghúl Saipan Zoning Reel Mwóghutughutul ebwe Akkayúúló Tableero kka Off-Site. CZB e schuungi bwe e fil ebwe yoor allégh yeel me ebwe kkáyil aléghéléghéló amwóghútú Tálil ye 13902 mellól Alléghúl Saipan Zoning ("SZL") bwe rebwe tapalégh aramas me ngáre schóól bisnis kka re akkayú Tableero kka Off-Site mwiril ráálil ye e aléghéléghéló SZL me ngáre akkayútá schagh tableero mwirilóól igha e aléghéléghéló SZL, bwe rebwe attabweey mille "stop and cease-and desist order" ngáre re aúúwló tableero kkaal reel rebwe tabweeey ailééwal SZL Tálil ye 13902. E fféér allégh yeel sángi bwáng ye re ngalleey CZB iye e téé sángi mille 2 CMC § 7221 (d).

Fféérúl allégh kkaal nge aa takkal toowow llól Commonwealth Register nge eyoor kopiyaal iye ngáre arasmas re tipáli nge emmwel schagh bwe rebwe ló bweibwogh mellól Bwulasiyool Attorney General.

Aramas ye e tipáli bwe ebwe atotoolong meta mángemángil me tipal reel fféérúl allegh kkaal nge emmwel schagh bwe ebwe ischiitiw nge aa afanga ngáli Zoning Administrator, P.O. Box 2109, Saipan, MP 96950, nge essóbw luu sángi eliigh (30) rál sángi igha e toowow arongorong yeel mellól Commonwealth Register.

Férúúyal:	Benjactul	2/9/94
	BENIGNO R. FITIAL Chairman	Rál
Aramas ye e risibi:	DONNA CRUZ Bwulasiyool Gubenno	2/9/94 Rái
File-liiyal m		0 9 FEB 1994
	SOLEDAD B. SASAMOTO Registrar of Corporations	Rál

BOARD OF EDUCATION

NOTICE OF NEW & AMENDED POLICIES

The Board of Education, Commonwealth of the Northern Mariana Islands, hereby notifies the general public of its intention to adopt certain new and amended policies. The policies, which would have the force and effect of law, are promulgated pursuant to the authority provided by the Education Act of 1988 and the Administrative Procedures Act.

The policy involve the following subject area:

1.	New PSSPRR	7-102	Imprest Fund Procedures
2.	Amended Policy	101.5	General Philosophy
3.	Amended PSSPR	3-103	Small Purchases
4.	Amended PSPSRR	4204	Establishing Salary Upon Appointment
5.	Amended PSPSRR	4215 2	Compensatory Time

The text of the proposed policies are published following this notice. Anyone interested in commenting on the amended policy may do so by submitting comments in writing to the Chairperson, Board of Education, P.O. Box 1370 CK, Saipan, MP 96950 within thirty days of the date of publication of this issue of the Commonwealth Register.

January 31, 1994

Chairman, Board of Education

Received By: 4

Filed BV:

Soledad B. Sasamoto

Registrar of Corporations

Donna Cruz, Governors Office

BOARD OF EDUCATION

NUTISIA POT I NUEBU YAN MANMA'AMENDA NA POLICIES SIHA

I <u>Board of Education</u>, <u>Commonwealth of the Northern Mariana Islands</u>, ha emfofotma i pupbliku pot i entension-ña na para u fanadapta nuebu yan manma' amenda na <u>policies</u>. I manmapropoponi na <u>policies</u> u gai fuetsa taiguihi ha' i lai ni macho'gue sigun gi aotoridat i <u>Education Act of 1988</u> yan i <u>Administrative Procedures Act</u>.

1.	New PSSPRR	7-102	Imprest Fund Procedures
2.	Amended Policy	101.5	General Philosophy
3.	Amended PSSPR	3-103	Small Purchases
4.	Amended PSPSRR	4204	Establishing Salary Upon Appointment
5	Amended PSPSRR	4215 2	Compensatory Time

I entension i ma' amenda na amendasion yan i nuebu na <u>policy</u> siempre u fan mapupblika huyong despues di malaknos-ña este na nutisia. Hayi na petsona malago' mama'tinas rekomendasion pot este siha na <u>policy</u>, siña ha tuge' papa' ya u submiti halom gi <u>Chairperson</u>. Board of Education, P.O. Box 1370 CK. Saipan. MP 96950 sabmiti gi halom trenta (30) dias despues di mapupblika huyong este na nutisia gi <u>Commonwealth</u> <u>Register</u>.

Enemu 31, 1994

Chairman, Board of Education

Received By:

Filed By:

onina oraz, aoranyara c

Soledad B. Sasamoto

Registrar of Corporations

ARONGORONGOL ADAPTAAL

ALLEGHUL BOARD OF EDUCATION

Schóól <u>Board of Education</u> mellol <u>Northern Marianas Islands</u> sánigi arongorong yeel ekke arongaar towlap igha aa adapta allégh kka e ffééta me liwelil akkááw alléghúl gakko sángi bwángil me aileewal <u>Education Act of 1988</u> me <u>Administrative Act</u>.

Allégh kka re adatáálil nge aa takkal toowow llól <u>Commonwealth Register</u> Vol. 15, No. 10 (Okdubre 15, 1993) igha re féérú reel <u>proposed form</u> bwe towlap rebwe iraalong meeta tipeer me mángemángiir.

Allégh kka re adaptáálil nge ikka faal:

	New PSPSRR PA	RT 3800	SEXUAL HARASSMENT
1.	New PSPSRR	3801	Sexual Harassment Prohibited
2.	New PSPSRR	3802	Definition of Sexual Harassment
3.	New PSPSRR	3803	Sexual Harassment Complaints
4.	New PSPSRR	3804	Procedure of Filing Sexual Harassment
			Complaints with the Commissioner
5.	New PSPSRR	3805	Right to Appeal

Kkopiyaal allégh kkaal nge emmwel aramas ebwe ló bweibwogh sángi Office of the Commissioner of Education, Public School System, Lower Base, Saipan, MP 96950.

Reel bwángil me aileewal 1 CMC Sec. 9105 (b), nge allégh kka re adaptaalil ebwe aléghéléghéló llól seigh (10) rál sángi igha e toowow arongorong yeel mellól Commonwealth Register.

Eneero 31), 1994

Chairman, Board of Education

Received By:

Filed By:

Soledad B. Sasamoto

Registrar of Corperations

CERTIFICATION OF RULES REGARDING THE PUBLIC SCHOOL SYSTEM ADOPTED POLICIES

BOARD OF EDUCATION

I, Daniel O. Quitugua, Chairman, Board of Education, which is promulgating the rules regarding the Public School System to be published in the Commonwealth Register Adopted Board of Education policy numbers as follows: New PSPSRR PART SEXUAL HARASSMENT #3801, #3802, #3803, #3804 & #3805 & Amended PSSPR 3-105 Emergency Procurement, by signing below hereby certify that such Rules are a true, complete, and correct copy of the policies regarding the Public School System formally Adopted by the Board of Education. I further request and direct that this certification be published in the Commonwealth Register and then be attached by both the Office of the Registrar of Corporations and Office of the Governor to the Policies regarding the Public School System referenced above.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration will be executed on the 15th day of February 1994 at Saipan, Commonwealth of the Northern Mariana Islands.

Daniel O. Quitugua

Chairman, Board of Education

Received By:

Donna Cruz, Goyernor Office

Registrar of Corperations

PAGE

BOARD OF EDUCATION

ARONGORONG REEL FFEERUL ALLEGH

Schóól <u>Board of Education</u>, mellól <u>Commonwealth of the Northern Mariana Islands</u>, rekke arongaar aramas towlap reel mángemángiir igha rebwe ááyáá me fféér lliiwel me allégh mil ffe. Allégh rebwe féérúl, nge e pwal yoor bwángil me allégh nge re bwal féérú sángi bwángil me ailééwal <u>Education Act of 1988</u> me <u>Administrative Procedures Act</u>.

1.	New PSSPRR	7-102	Imprest Fund Procedures
2.	Amended Policy	101.5	General Philosophy
3.	Amended PSSPR	3-103	Small Purchases
4.	Amended PSPSRR	4204	Establishing Salary Upon Appointment
5.	Amended PSPSRR	4215.2	Compensatory Time

Owtol allégh yeel nge toowow mwiril arongorong yeel. Iyo e mwuschál bwe ebwe atotoolong meeta tipal me mángemángil nge ebwe ischiitiw nge aa afangá ngáli Chairperson. Board of Education, P.O. Box 1370 CK, Saipan, MP 96950. Llól eliigh rál sángi-igha e toowow arongorong yeel llól Commonwealth Register.

Enegro 31, 1994.

Chairman, Board of Education

liyo E Risibiiy:

Donna Cruz, Governor's Office

with:

2/3/94

liyo E Risibiiy.

Soledad B. Sasamoto

Registrar of Corporations

PSSPRR 7-102 IMPREST FUND PROCEDURES

IMPREST FUND TRUSTEE

- 1. To maintain accountability of imprest funds one person (trustee) will be assigned the responsibility for each imprest fund that is established. The trustee is the designated and authorized disbursing officer and is the custodian of the fund.
- 2. In addition to the trusties duties and responsibilities as the disbursing officer, the imprest fund trustee is personally liable for all money in the fund and will be required to replace the funds if they are lost, stolen, or misappropriated. Imprest funds are public funds and should not be commingled with personal funds.

IMPREST FUND TRANSACTIONS

- 1. The only transactions or expenditures authorized to be paid from the imprest funds are those which meet the following general criteria:
 - a. Funds are certified and available to pay for the expenditure.
 - b. The expenditure must be legal, proper, and responsible, and does not constitute waste or abuse of public funds.
 - c. The expenditure must be approved by the trustee.
 - d. The expenditure must be properly supported by pertinent documents.
 - e. The maximum disbursement level for PSS imprest funds is \$1,000. disbursements shall not be artificially divided so as to meet this requirement.

RESPONSIBILITIES OF THE TRUSTEE

The trustee shall be held accountable for:

- a. the existence or correctness of the computations appearing in and of the facts stated in the check voucher and its supporting records;
- the propriety and legality of the proposed payment under the account or fund involved;
- the repayment of any illegal, improper, or incorrect disbursement resulting from any false, inaccurate, or misleading certificate made by the trustee;

DISBURSEMENT

- Expenditures authorized for payment under imprest fund are disbursed from the imprest fund checking account by the trustee. The trustee shall
 - a. disburse funds only by checks and only as provided by a check voucher certified by the trustee;
 - b. be accountable for ensuring that a check voucher is in proper form and is certified and approved;
 - c. maintain a reasonable accounting of the balance of the funds remaining or existing in the imprest fund account;
 - d. ensure that no funds are disbursed in excess of available funds:
 - e. be personally liable for charges resulting for not sufficient funds charges (NSF) for over drawn accounts;
 - f. be responsible for establishing necessary controls to safeguard the supply of blank checks and to ensure that checks written are delivered in the most appropriate and efficient manner.

IMPREST FUND REPORTING & REPLENISHMENT

- All disbursements processed through the imprest fund must be posted on the replenishment voucher sheet as soon as completed. The effect of the transaction on the imprest fund checking account must also be posted in the checkbook register.
- 2. Disbursements from the imprest fund are replenished through the submission of a completed Imprest Fund Replenishment Voucher. Imprest fund replenishment vouchers shall be submitted every month prior to the 10th of the month. Imprest fund replenishment vouchers submitted must be complete and accurate replenishment voucher could result in exceptions or delayed replenishment.
- The amount of money to be put in each imprest fund shall be based on school enrollment, dollars per student. When quarterly appropriation is expended no more purchases can be made until the next quarters allotment is available.
- 4. Each school should be required to match the amount of funds, from the central office, in the imprest account on a one to one basis from their fund raising activity.

PUBLIC SCHOOL SYSTEM IMPREST FUND REPLENISHMENT VOUCHER

Bank Name	Account N	umber
Date of Request		٠.
Period Cover	to	
=======================================		=======================================
Approved Cash Level	\$.	
Check # Date	Description	Amount
1 1		1
11	·	1
1 1 1 1		
		1
1 1		1
111		1 1 1
1 1 1 1 1 1		1 1 1 1 1
1 1 1		1 1 1 1 1
1 1 1		1 1

Requested By:				
, ,	Imprest Fund	Trustee		Date
	TRUSTEE	ACCEPTAN	ICE	
Ι,	here	by accept an	nd understand	d the duties and
responsibilities o	f a trustee of a	Public Schoo	ol System In	nprest Fund, as
well as the san	ctions imposed fo	or failure to	perform or	performance in
contravention of	the required dutie	s and respo	nsibilities of	a trustee.
	Signature	· · · · · · · · · · · · · · · · · · ·		Date .
	J. G. Carana			- 410

New Policy 104 Sexual Harassment Policy 101 GENERAL PHILOSOPHY

The Board of Education affirms the right of all students and staff, regardless of race, color, religion, sex, national origin, or disability, to be treated with respect and to be protected from intimidation, discrimination, physical harm and harassment.

PSSPR 3-103 Small Purchases

- (1) Any procurement not exceeding the amounts established herein may be made in accordance with small purchase procedures. However, procurement requirements shall not be artificially divided so as to constitute a small purchase.
- (2) Purchases not exceeding \$2,500 may be made without securing bids or price quotations if the Chief of Procurement and Supply considers the price to be reasonable.
- (3) Bidding is not required but is encouraged for procurement over \$2,500 and under \$10,000. Price quotations from at least three vendors must be obtained and the selection based on competitive price and quality for procurement valued at \$2,500 to \$10,000. Any price quotations obtained must be written, documented and submitted to the Chief for approval.
- (4) Purchase orders may be utilized for small purchases in subparagraph (2) and (3) only. <u>Purchase orders may also be utilized instead of contracts for purchasing instructional materials, books, and publications.</u>
- (5) This section shall not apply to lease or purchase of vehicles, machinery and equipment or to the purchase of professional services.

PSPSRR 4204 Establishing Salary Upon Appointment

A. Salary shall be fixed at the first step of the appropriate pay level upon initial appointment. Should a higher rate be deemed necessary to recruit, and is appropriate to the qualifications of the applicant, the salary may be fixed at any succeeding step but not beyond Step 6 the fifth step. Payment of salary above Step 1 of a pay level must be approved by Commissioner of Education.

PSPSRR 4215.2 Compensatory Time

C. Certified Classroom Tteachers and teachers who are required to work only 190 days under their contracts may not accumulate or use comp time. Overtime hours worked by such teachers and teacher aides shall be recognized by their supervisors in the evaluations of the teachers and teacher aides.

NOTICE OF ADOPTION

BOARD OF EDUCATION POLICIES

The Board of Education of the Northern Mariana Islands hereby notifies the general public that it has adopted an amended school policy pursuant to the Education Act of 1988 and the Administrative Procedures Act.

The policy adopted were published in Commonwealth Register Vol.15, No.10 (October 15, 1993) in proposed form for public comment. The policy adopted is:

	New PSPSRR PA	ART 3800	SEXUAL HARASSMENT
1.	New PSPSRR	3801	Sexual Harassment Prohibited
2.	New PSPSRR	3802	Definition of Sexual Harassment
3.	New PSPSRR	3803	Sexual Harassment Complaints
4.	New PSPSRR	3804	Procedure of Filing Sexual Harassment
			Complaints with the Commissioner
5.	New PSPSRR	3805	Right to Appeal

Copy of the policy may be obtained from the Office of the Comissioner of Education, Public School System, Lower Base, Saipan, MP 96950.

In accordance with 1 CMC Sec. 9105(b), the adopted policy shall take effect ten (10) days after the date of publication of this Commonwealth Register issue.

anuary 31, 1994

Chairman, Board of Education

Fited By:

Soledad B. Sasamoto

Registrar of Corperations

NUTISIA PUT MA ADAPTAN

BOARD OF EDUCATION POLICIES

I Board of Education gi halom i Northern Mariana Islands ginen este ha nutitisia i pupbliku na esta manadapta nuebu yan amendasion para policies i eskuela sigun i ginaga'gao i Education Act of 1988 yan i Administrative Procedures Act.

I policies ni manma'adapta manmapupblika huyong gi Commonwealth Register Vol. 15, No. 10 (Octobre 15, 1993) gi fotman i mapropoponi para i pupbliku. I Estague' siha i sigieme na manma'adapta na policies siha:

	New PSPSRR P	ART 3800	SEXUAL HARASSMENT
1.	New PSPSRR	3801	Sexual Harassment Prohibited
2.	New PSPSRR	3802	Definition of Sexual Harassment
3.	New PSPSRR	3803	Sexual Harassment Complaints
4.	New PSPSRR	3804	Procedure of Filing Sexual Harassment
			Complaints with the Commissioner
5.	New PSPSRR	3805	Right to Appeal

Hayi malago' siña' ha' mañule' kopian este siha na policies gi Ufusinan Commissioner of Education, Public School System, Lower Base, Saipan, MP 96950.

Sigun i fuetsan 1 CMC Sec. 9105 (b), i manma'adapta siha na policies u fanefektibu gi halom dies (10) dias despues di mapupblika huyong este na nutisia gi Commonwealth Register.

1994

Chairman, Board of Education

Received By:

Filed By:

Donna Cruz, Governor Office

Soledad B. Sasamoto

Registrar of Corperations



Main Office: SAIPAN INTERNATIONAL AIRPORT P.O. BOX 1055 • SAIPAN • MP 96950

Phone: (670) 234-8315/6/7 FAX: (670) 234-5962

PUBLIC NOTICE OF AMENDMENTS TO COMMONWEALTH PORTS AUTHORITY AIRPORT RULES AND REGULATIONS

The Commonwealth Ports Authority, pursuant to the authority of 2 CMC § 2122 (j), and in accordance with the provisions of 1 CMC 9104(a), hereby gives notice to the public of its intention to adopt Amendments to Airport Rules and Regulations for the Commonwealth Ports Authority. The Revised Airport rules and regulations are published herewith.

All interested persons are requested to submit data, views, or arguments, in writing, concerning the Amendments to Commonwealth Ports Authority Airport Rules and Regulations. Written comments must be submitted to the Executive Director, Commonwealth Ports Authority, not later than the close of business thirty (30) calendar days following the date of publication of this Notice.

DATED this 13th day of January, 1994.

ROMAN T. TUDELA

Executive Director

Commonwealth Ports Authority

Filed by: SOLEDAD B. SASAMOTO

Date: $\frac{1}{25}/94$

Registrar of Corporations

Filed by: DONNA I. CRUZ

Date: 1/25/94

Governor's Office

Main Office: SAIPAN INTERNATIONAL AIRPORT
P.O. BOX 1055 • SAIPAN • MP 96950

Phone: (670) 234-8315/6/7 FAX: (670) 234-5962

NOTICIAN PUBLIKU PUT I AMENDASIONS I COMMONWEALTH PORTS AUTHORITY PLASAN BATKON AIRI AREKLAMENTU YAN REGULASIONS

I Commonwealth Ports Authority, sigun i aturidad 2 CMC § 2122 (j), yan probension 1 CMC 9104(a), ginen este ha noticia i publiku ni intension na para u adopta Amendasion i Areklamentu yan Regulasion Plasan Batkon Airi para i Commonwealth Ports Authority. I ma-renuebe na areklamentu yan regulasion siha ma publika huyong.

Todu interesao u mana'halom infotmasion, opinion pat atgumentu, ni matugi, put i Amendasions I Commonwealth Ports Authority Plasan Batkon Airi Areklamentu yan Regulasion. I manma'tuge' na notas u fanma'submiti halom gi Direktot Eksekatibu, Commonwealth Ports Authority, gi halom trenta (30) dias despues di ma publika huyong este na noticia.

Ma'fecha' guine na dia 13 Enero, 1994.

ROMAN T. TUDELA

Executive Director

Commonwealth Ports Authority

Filed by:

SOLEDAD B. SASAMOTO

Date:

1/25/94

Filed by:

DONNA J. CRUZ Governor's Office

Date:

1/25/94

Main Office: SAIPAN INTERNATIONAL AIRPORT P.O. BOX 1055 • SAIPAN • MP 96950 Phone: (670) 234-8315/6/7 FAX: (670) 234-5962

ARONGORONGOL TOWLAP REEL LLIWEL MEREEL COMMONWEALTH PORTS AUTHORITY REEL ALLÉGH ME ALLÉGHÉLÉGHUL

Ofisil Commonwealth Ports Authority, sángi allégh ye 2 CMC § 2122 (j), me bwal ailééwal 1 CMC 9104 (a), ekke arongaar towlap igha ebwe adóptéli lliwel kkewe llól Commonwealth Ports Authority reel Allégh me Alléghéléghúl mereel Commonwealth Ports Authority. Lliiwelil allégh me alléghéléghúl nge ikka aa toowow.

Alonger aramas kka re tipáli nge rekke tingór ngálir bwe rebwe atootolong meta mángemángiir me tipeer reel lliwel kkaal ngáli Commonwealth Ports Authority Allégh me Alléghéléghúl. Alongal tiptip me mángemáng kkal nge rebwe afanga ngáli Executive Director, Commonwealth Ports Authority, llól eliigh (30) rál sángi igha e toowów arongorong yeel.

E fféér llól ráálil ye 13 Abrid, 1994.

ROMAN 'K TUDELA Mwaghasal

Commonwealth Ports Authority

Filed by:

SOLEDAD B. SASAMOTO

Registrar of Corporation

Date:

1/25/94

Filed by:

DONNA J. CRUZ

Date:

1/25/94



Main Office: SAIPAN INTERNATIONAL AIRPORT P.O. BOX 1055 • SAIPAN • MP 96950 Phone: (670) 234-8315/6/7 FAX: (670) 234-5962

CERTIFICATION OF AMENDMENTS TO COMMONWEALTH PORTS AUTHORITY AIRPORT RULES AND REGULATIONS

I, ROMAN T. TUDELA, Executive Director of the Commonwealth Ports Authority, which is promulgating amendments to the Airport Rules and Regulations by signature below, hereby certifies that the Amendments to Commonwealth Ports Authority Procurement Rules and Regulations regarding airports are a true, complete and correct copy of the Amendments to Commonwealth Ports Authority Procurements Rules and Regulations adopted by the Board of Directors of the Commonwealth Ports Authority.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 13th day of January, 1994, at Saipan, Commonwealth of the Northern Mariana Islands.

Executive Director

Commonwealth Ports Authority

Received in Donemars office 425/93, 1PM. Cy

11684



Main Office: SAIPAN INTERNATIONAL AIRPORT P.O. BOX 1055 • SAIPAN • MP 96950

Phone: (670) 234-8315/6/7 FAX: (670) 234-5962

AMENDMENTS TO COMMONWEALTH PORTS AUTHORITY AIRPORT RULES AND REGULATIONS

AMENDMENTS NO. 1

Section 7.10 of Part 7 of the Commonwealth Ports Authority Airport Rules and Regulations is deleted in its entirety and replaced with the following:

"7.10 Insurance

- (a) Every person who operates in Aircraft on regularly scheduled or charter service, or who is not a signatory to an Airline Use Agreement, shall carry third-party liability insurance in amounts not less than \$5 million for personal injury or death and \$1 million for property damage.
- (b) Every person who operates an Aircraft to or from any airport and is not required to have insurance in the amounts set forth in Parts 6.7 and 7.10(a) of these Rules and Regulations shall carry third-party liability insurance in amounts not less than \$1 million for personal injury or death and \$500,000.00 for property damage."

AMENDMENTS NO. 2

Section 6.7 of Part 6 of the Commonwealth Ports Authority Airport Rules and Regulations is deleted in its entirety and replaced with the following:

"6.7 Running of engines during operations

No propeller-driven aircraft engine shall be operated while such aircraft is parked

on the ramp, or during the loading or unloading of passengers or cargo, unless (1) a duty authorized agent of operator of the aircraft is present during such loading or unloading, and such agent shall take all necessary steps to assure the safety of passengers and other persons upon the ramp; and (2) the operator of such aircraft shall have deposited with the Authority a certificate or other evidence of insurance, in a form and upon a company satisfactory to the Authority, insuring the operator, the Authority, and their respective agents, employees, and officers, against the risks of personal injury, loss of life, and property damage in an amount of not less than \$1,000,000.00 per person, \$3,000,000.00 for each accident, and \$500,000.00 for property damage, provided that this insurance requirement shall not apply to any airline which has executed an Airline Use/Operating Agreement with the Authority pursuant to Part 7.9 of these Rules and Regulations, while such agreement remains in force and in effect."

AMENDMENT NO. 3

Section 7.9 of Part 7 of the Commonwealth Ports Authority Airport Rules and Regulations is deleted in its entirety and replaced with the following:

"7.9 Airline Use/Operating Agreement

No air carrier providing scheduled service or scheduled charter service to or from any airport in the Commonwealth of the Northern Mariana Islands shall utilize any terminal facility owned or operated by the Authority unless such air carrier shall have entered into a written Airline Use/Operating Agreement with the Authority. Such agreement shall provide, among other things, that the failure to pay any fees

and charges for the use of airport facilities in the Commonwealth shall be grounds for eviction from terminal facilities and the denial of the right of use of airport facilities."

AMENDMENT NO. 4

Section 7.12 is added to Part 7 of the Commonwealth Ports Authority Airport Rules and Regulations to read as follows:

"7.12 Notice of Airline Schedule Changes

Every air carrier operating regularly scheduled service, or scheduled charter service, to or from any Airport of the Commonwealth shall, as soon as practicable, notify the Authority of any and every change in the scheduled arrival and departure of its flights. The Authority deems such notification necessary in order that the Authority may assure that airports are adequately staffed to handle such flights. If notification of a proposed scheduled change is not provided to the Authority at least forty-five (45) days prior to the effective date of such schedule change, the Authority cannot guarantee that sufficient staff will be available at the Airport affected."

AMENDMENT NO. 5

Section 2.9 of Part 2 of the Commonwealth Ports Authority Airport Rules and Regulations is deleted in its entirety and replaced with the following:

"2.9 Permit Required for Vehicle Rental Service

No vehicle rental business or solicitation for such business may be conducted upon or within the Airport unless:

- (a) <u>On-Premises Vehicle Rental Concessionaires</u>. The vehicle rental business is operating under the terms of a valid lease or concession agreement with the Authority; or,
- (b) Off-Premises Vehicle Rental Permittees. The vehicle rental business shall obtain and have in full force and effect a written permit issued by the Executive Director, upon such terms and conditions as he shall deem to be in the best interests of the Authority. Such permit shall authorize the permittee to pick up pre-confirmed and prearranged customers only and only at such areas as the Executive Director shall designate for customer pick-up. In no event shall permittee be allowed to solicit customers at the Airport, nor shall permittees be allowed to pick up any disembarking passengers or their baggage at the customs/passenger arrival area of the airport nor at the commuter terminal of the Saipan International Airport.

Any vehicle rental busness operating under the terms and conditions of a permit issued under this section shall provide transportation for its customers by unmarked vehicles, so as not to encourage the solicitation of customers at the Airport. The term "solicitation" as used in this Part shall be specifically defined to mean the asking of a passenter or other person if he or she desires to rent a vehicle. Use of the public vehicular parking area by vehicle rental business operating under the terms of this subsection (b) is strictly prohibited. vehicle rental businesses shall not suffer or permit its customers to use such areas to pick up or drop off any rental vehicle, or for the storage of any rental vehicle. Permits issued under this part 2.9(b) shall not be exclusive. The fee for any permit issued under this subpart (b) shall be ONE THUSAND DOLLARS (\$1,000.00) per month and shall be payable monthly, in advance. Failure to pay such permit fee within seven (7) days of its due date shall serve to invalidate any permit outstanding. Any vehicle rental business operating at or upon the airport without a valid permit, or in violation of the terms and conditions of its permit, or these regulations, shall be subject to such penalties as set forth under Section 2.11 (f) and may have its privelege to conduct such business at the Airport terminated pursuant to Part 1, Section 1.5.

Liability for bodily injury, including death (limits \$100,000.00 for each person, \$300,000.00 each accident and for property damage limit \$50,000.00).

Each vehicle rental business shall submit a certificate of insurance and a copy of the insurance policy for review by the Executive Director prior to obtaining a permit to operate a vehicle rental business at the Airport. A certificate or certificates evidencing such insurance shall provide that such insurance coverage will not be cancelled or reduced without at least thirty (30) days prior written notice to the Authority.



Office of the Birector

Commonwealth of the Northern Mariana Islands H.O. Box 5234 OGRB Saipan, MP 96950

Cable Address Gov. NAI Saipan Phone: 664-1100 Hacsimile: 664-1115

NOTICE OF ADOPTION

DEPARTMENT OF FINANCE

DEVELOPER TAX REGULATION NO. 1600

The Director of Finance, in accordance with the authority provided by Section 20 of P.L. 8-23, 1 CMC §§2553 and 2557 and 1 CMC §9104, hereby adopts the Department of Finance, Proposed Government Developer Tax Regulation No. 1600. Department of Finance, Developer Tax Regulation No. 1600 was published in the December 15, 1993 Commonwealth Register, as proposed Department of Finance Regulation No. 1600.

The Department of Finance has not received any comments on the proposed amendments. In accordance with 1 CMC 9105(b), the Department of Finance Regulation 1600 becomes effective on February 25, 1994.

2/4/94

Gracia De Calicin

MARIA D. CABRERA Acting Director, Department of Finance

07 FEB 1994

DATE

Filed By:

SOLEDAD B. SASAMOTO

Registrar of Corporations

Received By:



Office of the Director

Commonwealth of the Northern Mariana Islands H.O. Box 5234 CHRB Saipan, MP 96950

Cuble Address Cov. NMI Saipan Phone: 664-1100 Farsimile: 664-1115

CERTIFICATION

DEPARTMENT OF FINANCE

DEVELOPER TAX REGULATIONS NO. 1600

I, Maria D. Cabrera, the Acting Director of the Department of Finance which promulgated the Department of Finance, Developer Tax Regulations No. 1600 published in the Commonwealth Register on December 15, 1993, by signature below hereby certify that such Regulations are a true, complete and correct copy of the Department of Finance, Developer Tax Regulation No. 1600 formally adopted by the Department of Finance. I further request and direct that this Certification be published in the Commonwealth Register and then be attached by both the Office of the Registrar of Corporations and Office of the Governor to the Department of Finance, Developer Tax Regulation 1600 referenced above.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 4th day of February, 1994 at Saipan, Commonwealth of the Northern Mariana Islands.

2/4/94

maria D Caliera MARIA D. CABRERA

Acting Director,

Department of Finance

07 FEB 1994

DATE

Filed By:

SOLEDAD B. SASAMOTO

Registrar of Corporations

Received By:



Office of the Birector

Commonwealth of the Northern Mariana Islands P.O. Box 5234 CHRB Saipan, MP 96950

Febreru 15, 1994

Cable Address Gov. NMI Saipan Phone: 664-1100 Vacsimile: 664-1115

NUTISIA PUT ADOPTION
DIPATAMENTON FINANCE
REGULASION KONTRIBUSION DEVELOPER NO.1600

I Direktot Dipatamenton Finance sigun gi aturidat ni manae yan probension Seksiona 20 gi Lai Pupbliku 8-23, 1 CMC §§ 2557 yan likkue 1 CMC § 9104, ha adapta esta i Priniponen Dipatamenton Finance na Regulasion Kontribusion Government Developer No. 1600. I Regulasio Kontribusion Developer no. 1600 gi Dipatamenton Finance mapupblika huyong gi Disember 15, 1993 gi halom i Rehistran Commonwelath, komu mapropoponi na Regulasion No. 1600 ni Dipatamenton Finance.

I Dipatamenton Finance taya komentau ha risibi put i maproponi siha na amendasion, Sigun gi 1 CMC 9105 (b). i Regulasion No. 1600 gi Dipatamenton Finance u efektibu gi Febreru 25, 1994.

2/4/94	maria & Calura
Fecha	MARIA D. CABRERA ACTING DIRECTOR
	DIPATAMENTON FINANCE
07 FEB 1994 Ha File si:	Ammy
echa	SOLEDAD B. SASAMOTO REGISTRAR OF CORPORATION
$\frac{2/7/94}{\text{Pecha}}$ Rinisibi as:	GOVERNOR'S ØFFICE
1 00114	COVERNOR D DITTOE



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

Febreero 15, 1994

ARONGORONG REEL ADOPTION
DIPATAMENTOOL FINANCE
ALLEGHUL DEVELOPER TAX NO. 1600

Samwoolul Finance, igha eyoor bwangil sangi aileewal talil ye 20 mellol Alleghul Towlap ye 8-23, 1 CMC §§ 2553 me 2557 me bwal 1 CMC §9104. nge aa adaptaali mellol Dipatamentool Finance, Alleghul Government Developer Tax No. 1600. Alleghul Dipatamentool Finance ye Alleghul Developer Tax No. 1600 nge aa toowoow wool Disembre 15, 1994 mellol Commwenwealth Register, igha Alleghul Depatamentool Finance No. 1600.

Dipatamentool Finance nge esoor mangemang tiip sangiir towlap kka e atotoolong rel ffeerul illiwe kkaal. Reci rebwe tabweey aileewal mille 1 CMC 9105 (b), nge Alleghul Dipatamentool Finance No. 1600 nge ebwe alegheleghelo Wool Febreero 25, 1994.

2/4/94		maria Dealura
RAL		MARIA D. CABRERA ACTING DIRECTOR OF FINANCE OF FINANCE
07 FEB 1994	FILE-LIIYAL:	mmh
RAL		SOLEDAD B. SASAMOTO REGISTER OF CORPORATIONS
2/7/94 RAL	ARAMAS YE E BWUGHI:	GOVERNOR'S OFFICE

NORTHERN MARIANA ISLANDS RETIREMENT FUND

PUBLIC NOTICE OF ADOPTED AMENDMENTS TO THE RETIREMENT FUND'S ADMINISTRATIVE RULES AND REGULATIONS

The Board of Trustees of the NMI Retirement Fund hereby gives notice to the general public that it has adopted final amendments to the Fund's Administrative Rules and Regulations pursuant to its authority under 1 CMC 8315(f), Section 6 of Public Law 8-30, and the Administrative Procedure Act at 1 CMC 9101, et. seq.

The purpose of these amendments is to provide for the effective administration of Public Laws 8-24, 8-30, and 8-31, and to provide updates to the existing regulations, and for other purposes.

DATED this What day of January, 1994.

MICHAEL A. WHITE

Chairman

TOMAS B. ALDAN

Administrator

NORTHERN MARIANA ISLANDS RETIREMENT FUND

NOTICIAN PUBLIKO

POT I MA ADOPTA NA TINILAIKA

GI AREKLAMENTO YAN REGULASION I RETIREMENT FUND

I Board of Trustees i NMI Retirement Fund man nana'e notisia para i henerat publiko na esta ha adopta i tinilaika gi areklamento yan regulasion i Retirement Fund sigun gi atoridat gi papa' i lai gi 1 CMC 8315(f), Seksiona 6 gi Lai Publiko 8-30, yan i Administrative Procedure Act, gi 1 CMC 9101, et. seq.

I propositon esti na tinilaika pot para umas guaha efektibo na areklo yan atministrasion i Lai Publiko 8-24, 8-30, yan 8-31, yan pot para umana dinanche mas i gaigi pago na regulasion, yan otro lokue siha na proposito.

Ma fecha gi dia <u>Vo</u> de Enero, 1994.

MICHAEL A. WHITE

Chairman

romas B. Aldan

Administrator

Northern Mariana Islands Retirement Fund

Certification of the Adopted Amendments to the Fund's Administrative Rules and Regulations

I, Michael A. White, Chairman of the Board of Trustees, NMI Retirement Fund, which has promulgated the foregoing amendments to the Fund's Administrative Rules and Regulations, by my signature below, do hereby certify that these amendments are true, complete, and correct copy, formally adopted by the Board of Trustees.

I declare under penalty of perjury that the foregoing is true and correct.

DATED this <u>uk</u> day of January, 1994.
m_1
Michael A. White

OFFICE OF THE GOVERNOR:

Received by: Cuy
Date: 1/27/94

OFFICE OF THE REGISTRAR OF CORPORATIONS:



NORTHERN MARIANA ISLANDS RETIREMENT FUND

P.O. Box 1247 • Saipan, MP 96950 Tel.: (670) 234-7228 • Fax: (670) 234-9624

Tomas B. Aldan Administrator

Edward H. Manglona Deputy Administrator

Adopted Amendments To The Administrative Rules And Regulations

The Board of Trustees for the Northern Mariana Islands Retirement Fund hereby promulgates and adopts these amendments to the Fund's Administrative Rules and Regulations pursuant to 1 CMC Section 8316(f), Section 6 of Public Law 8-30, and the Administrative Procedure Act, 1 CMC 9101, et. seq., as initially published in the Commonwealth Register, Vol. 15, No. 12, at 11162, dated December 15, 1993.

PART I. GENERAL PROVISIONS

Section 1. <u>Authority.</u> Under and by virtue of the provisions of 1 CMC Section 8315(f), and the Administrative Procedure Act at 1 CMC 9101, et. seq., the Board of Trustees for the Northern Mariana Islands Retirement Fund hereby adopts these amendments to the Fund's Administrative Rules and Regulations.

Section 2. <u>Purpose</u>. To amend Parts 2, 4, and 6 of the Fund's Administrative Rules and Regulations to add new subsections to provide for the effective administration and enforcement of Public Laws 8-24, 8-30, 8-31, and for other purposes.

PART II. AMENDMENTS

- Section 1. <u>Amendment</u>. Part 2 of the Fund's Administrative Rules and Regulations is hereby amended to add new subsections (l), (m), (n), and (o) to define the following terms:
 - "(1) "Annual salary" For purposes of the 30% bonus, this term shall mean the lower of the base salary earned for the last 26 pay periods immediately preceding the date of retirement or the annual salary stated on the employee's most recent personnel action. The base salary does not include lump sum payment of annual leave, overtime compensation, hazardous pay, differentials, hardship post, or any other extra pay." [Source: P.L. 8-30]
 - "(m) "Regular hours" For purposes of the credit granted for overtime and compensatory time pursuant to P.L. 8-24, this term means 2,080 hours per calendar year consisting of the actual hours worked, annual leave taken and paid, sick leave taken and paid or administrative leave taken and paid, and paid legal holidays. This term does not include annual leave paid in lump sum during the years of credited service or on the date of retirement; or sick leave converted into service credit." [Source: P.L. 8-24]
 - "(n) "Overtime or compensatory time" For purposes of P.L. 8-24, these terms mean the number of hours worked in excess of 2080 regular hours per year during any year of credited service, and for which payment was received and which have been certified by the Director of Finance or the head of the autonomous agency, as the case may be."
 - "(o) "Teacher" For purposes of P.L. 8-30, this term means an employee who is a certified or non-certified classroom teacher, instructor, or an employee holding such other occupational title whose primary duty is to teach students. This term does not include administrative or support personnel, teacher aides, or other professionals whose primary duty is not to teach."

Section 2. <u>Amendment</u>. To add the following new subsections to Part 4 of the Fund's Administrative Rules and Regulations:

"4.20 Vesting Service Credit for Overtime or Compensatory Time.

- (1) To receive vesting service credit for overtime or compensatory time, the following conditions must be met:
 - (a) Overtime or compensatory time hours must exceed 2,080 hours of regular hours worked within the calendar year (January to December of the same year). For example, if an employee work 2,000 regular hours and 200 hours of overtime or compensatory time for the year, the employee is entitled to 120 hours of additional vesting service credit (2,080 minus 2,200 hours equals 120 hours).
 - (b) Overtime and compensatory time must be paid to the employee.
 - (c) Overtime or compensatory time must be certified by the Director of Finance or the Head of the Autonomous Agency where overtime or compensatory was performed.
- (2) The members who are eligible are as follows:
 - (a) Active employees who were paid overtime from January 1, 1985 to the date of retirement.
 - (b) Retired members who are receiving benefits from the NMI Retirement Fund and who had worked overtime or compensatory time while employed by the government from January 1, 1985 to the date of retirement.
 - (c) Retirees or surviving spouse benefits may be adjusted when the overtime or compensatory time is certified to the NMI Retirement Fund.
 - (d) Former employees who are vested (members having 3 or more years of contributing membership service) in the NMI Retirement Fund will receive vesting service credit upon certification by the Director of Finance or certification from the Autonomous Agency Head that the member has overtime or compensatory time. If as a result of such certification the vested member becomes eligible for benefit, it shall be processed and the annuity shall begin from the date the certification of overtime or compensatory is received by the Fund.
- (3) Overtime or compensatory time and accumulated sick leave hours will be converted to vesting service credit by using the following Conversion Table:

VESTING SERVICE CONVERSION TABLE For Sick Leave, Overtime Or Compensatory Time

No.	1 Dy	1 Mo	2 Mo	3 Mo		5 Mo	6 Mo.	7 Mo	8 Mo			11 Mo
Day 0	<u>& Up</u> 	<u>& Up</u> 173	<u>& Up</u> 347	<u>& Up</u> 520	<u>& Up</u> 693	<u>& Up</u> 867	<u>& Up</u> 1040	<u>& Up</u> 1213	<u>& Up</u> 1387	<u>& UP</u> 1560	<u>& Up</u> 1733	<u>& Up</u> 1907
1	6	179	352	527	699	872	1046	1219	1392	1566	1739	1912
2	12	185	358	532	705	878	1052	1225	1398	1572	1745	1918
3	17	191	364	537	711	884	1057	1231	1404	1577	1751	1924
4	23	196	370	543	716	890	1063	1236	1410	1583	1756	1930
5	29	202	376	549	722	896	1069	1242	1416	1589	1762	1936
6	35	208	381	555	728	901	1075	1248	1421	1595	1768	1941
7	40	214	387	560	734	907	1080	1254	1427	1600	1774	1947
8	46	220	393	566	740	913	1086	1260	1433	1606	1780	1953
9	52	225	399	572	745	919	1092	1265	1439	1612	1785	1959
10	58	231	404	578	751	924	1098	1271	1444	1618	1791	1964
11	64	237	410	584	757	930	1104	1277	1450	1624	1797	1970
12	69	243	416	589	763	936	1109	1283	1456	1629	1803	1976
13	75	248	422	595	768	942	1115	1288	1462	1635	1808	1982
14	81	254	428	601	774	948	1121	1294	1468	1641	1814	1988
15	87	260	433	607	780	953	1127	1300	1473	1647	1820	1993
16	92	266	439	612	786	959	1132	1306	1479	1652	1826	1999
17	98	272	445	618	792	965	1138	1312	1485	1658	1832	2005
18	104	277	451	624	797	971	1144	1317	1491	1664	1837	2011
19	110	283	456	630	803	976	1150	1323	1496	1670	1843	2016
20	116	289	462	636	809	982	1156	1329	1502	1676	1849	2022
21	121	295	468	641	815	988	1161	1335	1508	1681	1855	2028
22	127	300	474	647	820	994	1167	1340	1514	1687	1860	2034
23	133	306	480	653	826	1000	1173	1346	1520	1693	1866	2040
24	139	312	485	659	832	1005	1179	1352	1525	1699	1872	2045
25	144	318	491	664	838	1011	1184	1358	1531	1704	1878	2051
26	150	324	497	670	844	1017	1190	1364	1537			
27	156	329	503	676	849	1023	1196	1369	1543	1716	1889	2063
28	162	335	508	682	855	1028	1202	1375	1548	1722	1895	2068
29	168	341	514	688	861	1034	1208	1381	1554	1728	1901	2074

4.25 Early Retirement Bonus.

- (1) General Requirements. Every member of the Fund shall be eligible for the bonus equal to 30% of the annual salary of the member pursuant to P.L. 8-30. General requirements for eligibility to elect and receive the bonus are as follows:
 - (a) Employees, except those specifically exempted by law, who have 20 or more years of vesting service credit with the NMI Retirement Fund on October 1, 1993 must elect to receive the bonus and retire within 90 days of October 1, 1993.
 - (b) Employees, except those specifically exempted by law, must elect and retire within 90 days of attaining 20 years of vesting service with the NMI Retirement Fund.
 - (c) Any member of the NMI Retirement Fund who is occupying an exempted position will be eligible for the bonus only upon attaining at least 20 years of vesting service with the NMI Retirement Fund and who elects to retire.
 - (d) Any employee who did not make the election and retire within 90 days of becoming eligible for the bonus, and who instead converts into a position or status which is exempted from making the immediate election to receive the bonus, is deemed to have waived his/her eligibility for the bonus.
 - (e) Any employee who, during the 90-day eligibility period, converts to a position not requiring an immediate election will continue to be eligible until the expiration of the 90 days. If such an employee fails to elect during the eligibility period and the employee continues to be employed, he/she is deemed to have waived the eligibility for the bonus.
 - (f) Any employee, except those exempted by law, who fails to elect and retire within 90 days of becoming eligible for the early retirement bonus shall forfeit the bonus.
- (2) Specific Election Requirements. To receive the bonus, election must be made as follows:
 - (a) Any employee whose position is classified by the Civil Service Commission and has attained or upon attainment of 20 years of vesting service, must elect and retire within 90 days.
 - (b) Excepted service employees or employees who are under an employment contract and who have attained 20 years of vesting service, must elect and retire within 90 days of the expiration of the employment contract, or if renewed, within 90 days of the expiration of any renewed contract, or any subsequent new contract.
 - (c) Any elected official, or any department director appointed by the governor, or any special assistant to the governor, who has attained at least 20 years of vesting service, may elect and receive the bonus in December and retires on the expiration of his/her term of office in January of the following year.
 - (d) Employees appointed by elected officials who have attained 20 years of vesting service, may elect and retire within 90 days of the expiration of the term of the appointing elected official.

Adopted Amendments To The Funds Rules and Regulation

- (e) For teachers, nurses, doctors or attorneys for the government and who have attained 20 years of vesting service, may, at anytime, elect to receive the bonus and retire.
- (3) For purposes of eligibility for the 30% bonus, 20 years of vesting service shall consist of the following:
 - (a) Actual membership service.
 - (b) Credited prior service. Prior service that has not been credited or has not been fully paid will not be counted until it is fully paid and credited, except when the member elects to retire prior to full settlement.
 - (c) Certified overtime or compensatory time.
- (4) Vesting service for education and military service shall not be included in the determination of bonus eligibility until the employee elects to retire. Sick leave balance will also be considered only at the time the employee elects to retire.

4.26 Procedure For Certification of Lack of Funds.

- (1) Procedure to certify to the Administrator with respect to the lack of funds to pay for the 30% bonus is as follows:
 - (a) Employees within the executive, legislative and judiciary branches including federal programs and agencies whose payroll are processed and paid by the Director of Finance must be certified by the person with expenditure authority, concurred by the Director of Finance and the Special Assistant for Planning and Budget.
 - (b) Employees within the autonomous agencies whose payroll is processed and paid by such autonomous agencies must be certified by the head of the autonomous agency, concurred by its financial officer and approved by the respective Chairman of the Board or Commission.

4.27 Basis For The Payment of Bonus; Witholdings

- (1) The 30% early retirement bonus shall be based on the lower of the annual salary received during the last 12 months consisting of 26 pay periods immediately preceding the date of retirement; or, the annual salary stated in the most recent personnel action.
- (2) The early retirement bonus is subject to withholding for retirement fund contribution and all applicable taxes.

4.28 Reemployment After Bonus Was Received

(1) Any employee who retires pursuant to Public Law 8-30 and later returns to government service in any of the exempted positions must return all bonus received to the NMI Retirement Fund. The repayment shall be either lump sum or through payroll deduction as approved by the Administrator of the NMI Retirement Fund. The Administrator shall, on a monthly basis, remit all collections of repaid bonus to the Director of Finance, less any bonus amount paid by the Fund which remains unreimbursed by the government.

- (2) Retirees prior to October 1, 1993, who subsequently return to government service on or after the effective date of Public Law 8-30 are not eligible for the early retirement bonus of 30%.
- Section 3. <u>Repealer</u>. Section 4.3, entitled "<u>Reemployment and Double Dipping</u>", of the Fund's Administrative Rules and Regulations is hereby repealed in its entirety.
- Section 4. Repealer And Reenactment. Part 6 of the Fund's Administrative Rules and Regulations is hereby repealed in its entirety and the Trustees hereby promulgates a new Part 6 to read as follows:

"PART 6. Other Benefits.

6.1 Cost of Living Allowance (COLA).

- (1) All Class I, Class II and surviving spouses in receipt of benefit from the NMI Retirement Fund will have their annuity adjusted for COLA beginning January 1, and thereafter based on the following criteria:
 - (a) Those annuitants who are 55 years of age or older on January 1, 1994 will receive a COLA on January 1, 1994.
 - (b) Thereafter, annuitants turning 55 years of age during the year will receive their COLA on January 1 of the following year.
- (2) The COLA rate will be adopted by the Board of Trustees which shall be that rate used for the beneficiaries of the United States Social Security System but not less than 2% per annum. Once the Board of Trustees adopts the COLA rate, it will be the same rate applied throughout the year (January to December of the same year).
- (3) The COLA rate will be applied to the benefits based on compound interest formula.

6.2 Life Insurance Contributions and Level of Coverage.

- (1) Persons in receipt of service or age retirement annuity shall have the option to elect, on a form prescribed by the Board of Trustees, to receive the same level of life insurance coverage in force at the time of their retirement. Premium for the excess coverage (amount in excess of what is presently being made available by the government insurance carrier for retirees) is subject to the current prevailing rate for an active government employee or as established by the Board of Trustees based on the prevailing rate for retirees.
- (2) The premium cost shall be equally shared by the retiree and the NMI Retirement Fund for coverage period beginning October 1, 1993. However, if coverage is made retroactive to the date of retirement (prior to October 1, 1993), the one time cost of premium will be paid solely by the NMI Retirement Fund.
- (3) The retroactive effective date does not apply to deceased annuitant's estate or cause added benefits to be paid to survivors of deceased annuitants.
- (4) In the event the existing government life insurance carrier does not consent to provide the additional life insurance coverage, the Board of Trustees will establish a Life Insurance Trust Fund to meet the requirement of the law.

(5) A retiree who did not carry life insurance coverage immediately prior to retirement shall not be eligible for the option described in subsection (1) of this section.

6.3 Health Insurance Contributions.

- (1) Recipients of service retirement and surviving spouse annuity shall be entitled to elect for health insurance coverage. Effective October 1, 1993, the NMI Retirement Fund will share the cost of health insurance premium equal to 52% of the total cost based on the premium under the Government Health Insurance Plan.
- (2) The contribution of the NMI Retirement Fund to other health insurance plans shall be equal to the amount it pays under the Government Health Insurance Plan.

For example: If the NMI Retirement Fund pays \$15.00 for a family health insurance coverage under the Government Health Insurance Plan, it will only contribute \$15.00 for a family health insurance coverage under any other plan.

6.4 Survivor's Benefits Upon Death of a Terminated Vested Member

(1) Upon the death of a vested member who has separated from government service and leaving his/her retirement contribution with the Fund, the surviving spouse and children shall be entitled to survivors benefits pursuant to 1 CMC Section 8353, as amended by Public Law 8-31, if the terminated vested member is a Class I member; and if the terminated vested member is a Class I member, the survivors benefit shall be pursuant to 1 CMC 8351, as amended by Public Law 8-31."

PART III. EFFECTIVE DATE

These amendments to the Fund's Administrative Rules and Regulations shall be effective in accordance with the Administrative Procedure Act at 1 CMC 9101, et. seq.

DULY ADOPTED BY THE BOARD OF TRUSTEES ON

27 JAN 1994

MICHAEL A. WHITE

Chairman



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

ADOPTION OF AMENDMENTS TO WELL DRILLING AND WELL OPERATIONS
REGULATIONS UNDER THE AUTHORITY OF

1 CMC §§ 2601 to 2605, 2 CMC §§ 3103 to 3134, 2 CMC §§ 3311 to 3333,
and 2 CMC §§ 3511 to 3521 by the
DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENTAL SERVICES
DIVISION OF ENVIRONMENTAL OUALITY

The Director 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, 1 CMC §§ 2601 to 2605 amend and revise the Well Drilling and Well Operation Regulations.

The amendments and revisions to the regulations apply to all new and existing wells and activities within the CNMI. The revisions are: 1) for clarity; 2) to modify the permittimg process to add additional protections to the groundwater as a resource; 3) to add sections on groundwater protection; 4) to provide appropriate penalties for the pollution of the groundwater as a resource; and 5) to provide for proper administrative activities.

Copies of the Regulations are available and may be obtained from the Department of Public Health and 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: 2-4-94

MIRYAM K. SEMAN, Chief
Division of Environmental Quality

DR. ISAMU J. ABRAHAM, Acting Director of Public Health and Environmental Services

Filed by:

Date: 07 FEB 1994

SOLEDAD B. SASAMOTO Registrar of Corporations

Received at Governor's Office:

Date: 2/8/94 DONNA J. CRUZ



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

REEL FFÉÉRÚL LLIIWELIL ALLÉGHÚL KKELIL SCHAAL ME MWÓGHUTUGHUTUL ME LEMELEMIL SÁNGI BWÁNGIL 1 CMC §§ 2601 to 2605, 2 CMC §§ 3101 to 3134, 2 CMC §§ 3311 to 3333, ME BWAL 2 CMC §§ 3511 to 3521 SÁNGI 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 ailééwal 1 CMC §§ 2601 ngáli 2605, 2 CMC §§ 3101 ngáli 3134, 2 CMC §§ 3311 ngáli 3333, 2 CMC §§ 3511 ngáli 3521, nge rekke fféér Iliiwel mellól ówtol Alléghúl kkelil Schaal me Lemelemil Schaal Kkel.

Lliiwel kkaal nge e ghil ngáli alongal eweewe fasúl me schaal kkel kka a fféétá mellól CNMI. Fféérúl lliiwel kkaal nge ebwe atotoolong eew Patti reel Groundwater Protection me a ppwal lliiwel eghús ówtol bwe ebwe ffat reel schó kka re lisensiya bwe rebwe tabweey kundisiyoonul lisensiya me ebwe ghatch ngáliir towlap me weleyóroor.

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

Rál 2-4-94	Meure
	MIRIAM K. SEMAN, Chief-il
	Division of Environmental Quality
Rál 214194	DA.K
·	DR. ISAMU J ABRAHAM, Acting Direktoodul
pers, p., p	Public Health me Environmental Services
File-liiyal:	
Rál 07 FEB 1994	mon
	SOLEDAD B. SASAMOTO
	Registrar of Corporations
Re Risibi mellól Bwulasiyool Gubenno:	
Rál 2/8/94	Ham (Cry
į i	DONNA J. CRUZ



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

PUT I MAN MA-ADOPTA NA AMENDASION GI REGULASION MANGUADUK TUPU YAN REGULASION OPERASION-ÑA SIGUN GI ATURIDAT 1 CMC §§ 2601 asta 2605, 2 CMC §§ 3103 asta 3134, 2 CMC §§ 3311 asta 3333 YAN 2 CMC §§ 3511 asta 3521 GINEN DIPATAMENTON PUBLIC HEALTH YAN ENVIRONMENTAL SERVICES YAN LOKKUE' I 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 1 CMC §§ 2601 asta 2605, 2 CMC §§ 3103 asta 3134, 2 CMC §§ 3311 asta 3333, yan 2 CMC §§ 3511 asta 3521 ha adopta para uma amenda yan ribisa i Regulasion Manguaduk Yan Operasion Tupu.

I man ma-adopta siha amendasion yan ribision gi halom i Regulasion manaplikapble para todo parehu ha nuebo pat hagas ni manma u'usa' gi presente siha na tupu gi halom CNMI yan hafa na aktibidat ni ha afefekta i tupu siha gi CNMI. I mapropoponi na amendasion yan ribision i put para uma'nahalom un patte para proteksion Hanom siha ni manggaige gi papa edda' yan famatinas minot na ribision para u mas klaru yan asigura na ayu i manma'lisensia umatattiyi i kondision Lisensia para proteksion Hinemlo' Pupbliku yan uriya.

Kopian i ma-adopta na Regulasion, siña hayi interesao na petsona mañule 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' 2-4-94

MIRIAM K. SEMAN, Chief Division of Environmental Quality

Fecha' 2-4-94

DR. ISAMU J. ABRAHAM, Acting Direktot Public Health van Environmental Services

Ma file as:

Fecha' 07 FEB 1994

SOLEDAD B. SASAMOTO Registrar of Corporations

Ma'risibi gi Ofisinan Gobietno:

Fecha' 2/8/94

DONNA J CRUZ

PAGE



COMMONWEALTH HEALTH CENTER OFFICE OF THE DIRECTOR

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

CERTIFICATION

Dr. Isamu J. Abraham, Acting Director Department of Public Health and

Environmenta Services

- 3.30 "Hazardous Waste" is any waste because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or pose a substantial present or potential hazard to human health or to the environment when improperly collected, contained, stored, transported, processed, recovered, treated, disposed, handled, manipulated, or otherwise accidentally released into the environment. This is inclusive of any waste described or identified as such under either EPA or DEQ regulations.
- 4.2 A non-refundable fee of ten thousand dollars (\$10,000.00), payable to the Division, shall accompany each application for a new Well Driller's License. A non-refundable fee of one thousand dollars (\$1,000.00), payable to the Division, shall accompany each Well Driller's License renewal application.

The fee may be waived for Government Agencies. However, the license for these agencies shall be limited to wells for government usage approved by DEQ. Failure to comply will result in the revocation of the license.

- 4.4 An applicant for a Well Driller's License must prove the following to the satisfaction of the Chief. The Chief shall have the discretion to require additional information as deemed necessary for a specific application.
 - a. The applicant is in possession of the necessary equipment to properly perform well drilling work and related tasks.
- 4.5 An applicant for a Well Driller's License must obtain a Performance Bond in the amount of Seventy-Five Thousand Dollars (\$75,000.00), to remain in effect for the full period in which the Well Driller's License is to be valid. The Bond shall be made payable to the Division, and the Chief shall use the proceeds from the Bond to pay for any corrective action to any well(s) not located or constructed in accordance with these Regulations.

The requirement may be waived for Government Agencies. However, the license for these agencies shall be limited to wells for government usage approved by DEQ. Failure to comply will result in the revocation of the license.

- 4.15 "Provisional" or "temporary" well driller's licenses shall not be issued by the Chief, with the exception of such licenses to Local and Federal Agencies for studies as approved on a case by case basis by the Chief.
- 5.3 Well drilling permit application fees shall be in accordance with the following fee schedule. Payment of fees is required at the time of submitting each permit application, and is non-refundable. Fees shall be paid by check, and made payable to the Division. The Commonwealth Utilities Corporation is exempt from payment of permit application fees.

WELL DRILLING PERMIT APPLICATION FEE TABLE

Application Type Test & Monitoring	Total Well <u>Capacity R</u>		<u> </u>	Application <u>Fee²</u> \$100.00
New	less than 21 gpm 101 gpm 201 gpm 351 gpm over	to to to	20 gpm 100 gpm 200 gpm 350 gpm 500 gpm 500 gpm	\$50.00 \$200.00 \$1000.00 \$2000.00 \$4000.00 \$8000.00

Revised

If discharge capacity requirements changes, the final cost to the applicant shall be based upon the above. If well location changes, no adjustment in fees is necessary, but applicant is required to obtain DEQ written approval.

Renewal There is no well drilling permit renewal fee.

NOTES FOR FEE TABLE:

- (1) See Section 11 defining total well discharge capacity requirement.
- (2) Fees for significantly modified wells shall be the incremental new application fee. For example, if a project is to be expanded, involving a well discharge capacity requirement increase from 80 gpm to 120 gpm, the fee is \$800.00
- (3) Lab fees are not included in the above. If the applicant wishes to utilize the Division's laboratory services for certain water quality sampling and analysis, the appropriate laboratory fees shall be paid to the Division at the time of application. All lab fees must be paid in advance. Payment must be by separate check or money order from the well drilling and well operation fees. In the event that retesting or additional tests are required, the applicant shall be responsible for the additional fees in advance.
- 5.10 A map drawn at a scale of not more than one (1) inch equals one hundred (100) feet showing the following data FOR BOTH PUBLIC AND NON-PUBLIC WATER SUPPLIES:
 - a. Location of property lines and survey monuments with ties to proposed well location.
 - b. Name of property owner upon which well is to be located, and name of abutters of said property.
 - c. A site location plan (no scale required) sufficiently accurate to allow Division staff to find the site.
 - d. Describe existing land use(s) and proposed land uses (must be to scale of no more than 1 inch equals 100 feet).
 - e. Sketch of existing and/or proposed access to well site(s).
 - f. Ground surface topography, with contour intervals not to exceed ten (10) feet, within 150 feet of the proposed well location.

COMMONWEALTH REGISTER VOLUME 16 NUMBER 02 FEBRUARY 15, 1994 PAGE 11709

30

- g. Location of all existing or proposed public sewer lines, sewer pump stations, and other sewerage facilities, individual waste disposal systems, intermittent or perennial streams, ponding basins, other wells (either active or abandoned), buildings, storm water drains, and wetlands within a 2500 foot radius of the proposed well location. In addition, the applicant is responsible for certifying that the proposed PUBLIC WATER SUPPLY meets the minimum set-back requirements outlined in Section 6 of these regulations.
- h. Location and elevation of a temporary benchmark established by a registered land surveyor.
- i. A statement as to whether the proposed well is to be constructed within the 100-year flood plain area.
- j. Location of pump test well water discharge.

The map must be certified to be complete and accurate. In the event that items represented on the map as required in 5.10(f) or (g) change, a revised map must be submitted to DEQ with in thirty (30) calendar days identifying the changes.

- 5.17 As a condition to all well drilling permits, the well driller and permittee are responsible for supplying to DEQ legible copies of drilling logs, pump test results, and other data as required by DEQ. Based on this information and any additional information required by DEQ, a determination shall be made on the pumping capacity of the well. There is no right to the operation of a well. Well operation shall be determined based on intended use and the wells possible degradation of groundwater quality.
- 6.1 PUBLIC WATER SUPPLY wellhead protection area requirements are:

•	MINIMUM DOWN/UPGRADIENT
	DIMENSIONS OF
EXISTING LAND USE	WELLHEAD PROTECTION AREA
Above/Below Grade Structures	10/ 10
Road Drainage Course/ Roadside	50/ 100
Surface Water Body	150/ 150
Public/Private Sewer Line ¹	100/ 200
Sewage Pump Station	150/ 300
Seepage Pit, Outhouse, Cesspool, Leachfield,	
Wastewater Treatment Facility	150/ 300
Underground Fuel Storage Tank	500/ 500
Auto, Heavy Equipment, Engine Repair Facility	250/ 500
Underground Injection Well	250/ 500
IWDS Effluent Disposal (≥ 5,000 gpd)	500/ 500
Above Ground Fuel Storage Facility (≤ 2,000 gal) ²	250/ 500
Above Ground Fuel Storage Facility (> 2,000 gal) ³	1000/2000
Above Ground Fuel Storage Facility 4	500/ 500
Above Ground Fuel Storage Facility 5	200/ 400
Landfill or Hazardous Waste Storage/Treatment Facility	1000/2000
Unsewered Industrial Process	<u>1000/2000</u>

Notes:

- This distance may be reduced to 50 feet provided monitoring and additional safety measures as prescribed by DEQ are put into place and maintained. Tests will typically include increase nitrate monitoring and increase monitoring of sewer line.
- This requirement pertains to existing tanks, constructed prior to the revision of these regulations. Depending on the terrain and site characteristics the Chief may impose additional measures to protect the groundwater. In the event that DEQ promulgates Aboveground storage tank regulations, they shall supercede these requirements.
- This requirement pertains to existing tanks, constructed prior to the revision of these regulations. Depending on the terrain and site characteristics the Chief may impose additional measures to protect the groundwater. In the event that DEQ promulgates Aboveground storage tank regulations, they shall supercede these requirements.
- All existing and new tanks must be suitable as confirmed by the manufacturer for aboveground use for the storage of the product to be stored. Tank and ancillary equipment must be of materials industry recognized and compatible with the product to be stored. Plastic or fiberglass shall not be permitted for flammable or combustible liquids. Tanks must have secondary containment as approved by DEQ. Corrosion protection must be provided for the entire system. Piping shall be double walled, piping below grade shall be equipped with automatic leak detection. Adequate collision protection must be provided. Depending on the terrain and site characteristics the Chief may impose additional measures to protect the groundwater. In the event that DEQ promulgates Aboveground storage tank regulations, they shall supercede these requirements.
- In addition to the requirements in note 3 above, only double walled tanks shall be installed. All tanks shall be precision/strength tested. Each tank shall be surrounded by a secondary containment berm that provides a containment volume of at least 110% of the AST storage volume plus four (4) inch freeboard. All double walled piping shall be placed in a belowgrade vault to capture any leaks that may occur. Depending on the terrain and site characteristics the Chief may impose additional measures to protect the groundwater. In the event that DEQ promulgates Aboveground storage tank regulations, they shall supercede these requirements.

These setbacks shall not apply to monitoring wells. Setbacks for monitoring wells shall be as prescribed by the Chief of DEQ. In the event that a well is in existence, the above criteria shall limit the distance the above items may be constructed from the well head.

7.1.3 Monitoring Wells

Monitoring wells shall be designed and installed in conformance with EPA Manual Handbook of Suggested Practices for the Design and Installation of Ground-Water Monitoring Wells, EPA/600/4-89/034, March 1991, or latest revision. The design and installation of the monitoring well must be approved by DEQ prior to installation.

7.1.4 Materials for Construction

Materials associated with the well and appurtenances for all wells (monitoring, water, and seawater) shall be described in the application.

Construction materials shall be consistent with the environmental conditions in the CNMI and approved by DEQ.

7.1.5 The following is for water wells only

Within thirty (30) days of the completion of well construction and prior to the application for a pump test, the applicant shall submit to the agency for review and approval a well construction report. The well construction report shall include the following information:

- a) Name of driller, geologist and other personnel on site during drilling;
- b) Date/time to start and finish the well;
- c) Location of the well (include diagram of site in accordance with section 5.10);
- d) Elevation of ground surface;
- e) Type of drilling equipment;
- f) Diameter of boring hole;
- g) Depth to water encountered during drilling;
- h) Depth to standing water;
- i) Well boring log that shows soil/rock classification and description;
- i) Total well depth;
- k) Well completion information to include:
 - a description of the well casing (include type of material, casing diameter, total length of casing, depth below ground surface, how sections are joined, and if an end cap was provided)
 - ii) a description of the well screen (include the type of screen material, screen diameter, slot size and length, and the depth to the top and bottom of the screen),
 - iii) a description of the filter pack (include the type/size of pack material, volume of material used, the depth to the top of the filter pack, and the method of placement),
 - iv) a description of grout and/or sealant (include material composition, method of placement, volume placed, and the depth (top and bottom) of the grout interval in the well),
 - a description of the backfill material (include the type of material, and the depth (top and bottom) of the backfilled interval),
 - vi) a description of the surface seal (include the type of seal, and the dimensions of the seal),

This information is not required for exploratory pump tests. The Chief may require on a case by case basis that additional information be obtained and submitted for review and approval. Soil samples are required to be collected every ten (10) feet, labeled stated depth sample was obtained, and put in clean containers (plastic bags are acceptable) so that they be inspected by DEQ.

- 7.16 Wells located near areas of traffic must be provided with appropriate collision protection to ensure the security of the well-head.
- 9.2 At a minimum, a 36-hour pump test (24-hours for non-public water supplies), or "sustained yield test", shall be required on all water wells. The Chief may require a longer test duration, if the hydrogeologic characteristics of the site and the water requirements of the project warrant it. The pump test shall be conducted only after the well has been developed, flushed, and disinfected.

The driller has the option of conducting of conducting a preliminary pump test ("exploratory pump test") to determine if sufficient yield is available from the well in question, provided the bore hole is stable and that all drilling fluid and materials can be recovered. If the driller chooses this option a final pump test must be conducted after well construction and development to determine well capacity.

- 9.4 The start of pump test must be scheduled with the Division at least two (2) working days in advance. Tests must begin and conclude during DEQ's normal working hours whenever possible.
- 13.7 Permittee is responsible for proper maintenance and security of the well-head at all wells including exploratory. In the case of an exploratory well, after completion of the pump test, the well must be sealed (capped) and secured with a temporary fence of no less than six feet in height. The temporary fence must have adequate visual warnings to prevent destruction by vehicles such as earthmoving devices.
- 13.8 Permittee is responsible for groundwater clean-up if hazardous materials/waste are placed down the well.
- 13.9 Permittee is responsible to report any damage to the well-head to DEQ in writing within 24 hours. With the damage report the permittee must submit a schedule for the repair.
- 14.1 <u>Well Siting Criteria.</u> Down gradient and upgradient wellhead protection dimensions for seawater wells may be reduced at the Chief's discretion by up to 66 percent for existing land uses listed in Paragraph 6.1 and 6.2, down to no less than 50 feet, provided the well is constructed with at least 100 feet of solid casing. Seawater wells are exempted from the provisions of Paragraph 6.3. After the effective date of the revision of these regulations 2/25/94, the reduction shall be limited to no more than 50 percent.
- 15.1 <u>Well Siting Criteria.</u> Down gradient and upgradient wellhead protection dimensions for wells pre-determined to undergo reverse osmosis treatment may be reduced at the Chief's discretion by up to 66 percent for existing land uses listed in Paragraph 6.1 and 6.2, down to no less than 50 feet, provided the well is constructed with at least 100 feet of solid casing. Wells

pre-determined to undergo reverse osmosis water treatment are exempted from the provisions of Paragraph 6.3. This part shall not apply if a reduction is requested under Paragraph 14.1 for all wells constructed after the effective date of the revision of these regulations 2/25/94. After the effective date of the revision of these regulations 2/25/94, the reduction shall be limited to no more than 50 percent.

SECTION 25. GROUNDWATER MANAGEMENT ZONES

RESERVED

SECTION 26. WATER SHORTAGE DECLARATION

- 26.1 The Chief, after consultation with the Commonwealth Utilities Corporation, may declare a water shortage and impose restrictions on permits to protect the public health, safety, and welfare.
- 26.2 When a water shortage is declared, the Chief shall cause notice thereof to be published in a prominent place within a newspaper of general circulation or otherwise through the media in the Commonwealth. Such notice shall be published each day for the first week of the shortage and once a week thereafter until the declaration is rescinded. Publication of notice shall serve as notice to all permittees in the area of a water shortage and any restriction on their permits.

SECTION 27. GROUNDWATER PROTECTION

In addition to the other groundwater protection measures within these regulations and the Act, to adequately protect the groundwater from contamination. Measures shall include but not be limited to:

- 27.1 Prohibition of disposal or spill of any hazardous wastes onto the ground or in any manner which has the possibility of contaminating groundwater.
- 27.2 Prohibition of storing of any hazardous wastes or materials in such a manner which has the possibility of contaminating groundwater.
- 27.3 Prohibition of storing or spilling hazardous materials/substances as defined by EPA, U.S. Department of Transportation, or DEQ in such a manner which has the possibility of contaminating groundwater.

Storage shall be done in a manner that to prevent possible contamination to groundwater. The Chief may require more prevention measures as determined necessary by the Chief.

SECTION 29. SEVERABILITY

29.1 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.



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 REVISION OF THE CNMI PESTICIDES REGULATIONS
PROMULGATED UNDER THE AUTHORITY OF

2 CMC §§ 3103 to 3134, 1 CMC §§ 2601 to 2605, 2 CMC §§ 3311 to 3333 and
2 CMC §§ 3511 to 3521 by the

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENTAL SERVICES
and by the DIVISION OF ENVIRONMENTAL OUALITY

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, and the Chief of the Division of Environmental Quality (DEQ) in accordance with 2 CMC §§ 3311 to 3333 and 2 CMC §§ 3511 to 3521 have adopted the revised Pesticides Regulations. These changes conform with the requirements imposed on the Commonwealth in the Federal Insecticide, Fungicide, and Rodenticide Act.

Revisions to the Pesticides Regulations are major in that all aspects of the regulations have been revised. Revisions include an expanded definitions section, increased fees, and integrated pesticide management plans. In addition to major revisions additional sections have been added for workers protection, administrative procedures, and pesticide storage.

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

Date: 2/4/94	DR. ISAMU J. ABRAHAM, Acting Director of Public Health and Environmental Services
Date: 3-4-94	MIRIAM K. SEMAN, Chief of
	Division of Environmental Quality
Filed by: Date: 07 FEB 1994	Symmy
	SOLEDAD B. SASAMOTO
	Registrar of Corporations
Received at Governor's Office:	_
Date: 2/8/94	Donny Cy
, ,	DONINA I CDII7



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

FFÉÉRÚL LLIIWEL MELLÓL ALLÉGHÚL CNMI PESTICIDES

IWE E FFÉÉR SANGI BWÁNGIL

2 CMC §§ 3103 NGÁLI 3134, 1 CMC §§ 2601 NGÁLI 2605, 2 CMC §§ 3311 NGÁLI

3333 ME 2 CMC §§ 3511 NGÁLI 3521 MELLÓL

DIPATAMENTOOL PUBLIC HEALTH ME ENVIRONMENTAL SERVICES

ME BWAL

DIVISION OF ENVIRONMENTAL QUALITY

Direktoodul Dipatamentool Public Health me Environmental Services mellól Commonwealth of the Northern Mariana Islands (CNMI), sángi 2 CMC §§ 3101 ngáli 3134 me 1 CMC §§ 2601 ngáli 2605, me bwal Chief-il Division of Environmental Quality (DEQ), sángi 2 CMC §§ 3311 ngáli 3333 me 2 CMC §§ 3511 ngáli 3521 nge ekke mángiiy bwe ebwe liwili ówtol Alléghúl Pesticides ye eyoor ighila. Lliiwel kkaal nge ebwe ghol fengál me tabweey akkúlé kka re ngalleey Commonwealth sángi Federal Insecticides, Fungicide, me Rodenticide Act.

Lliiwel kka llól Alléghúl Pesticides nge a lap milikka ebwe lliiwel mellól. Lliiwel kkaal nge a pwal toolong tálil ye eghil ngáli ammataf sássáril abwos, aweweel lemelemil plónool pesticide. E bwal toolong tálil ye ebwe yoor bwalabwalúúr schóól angaang, mwóghutughutul lemelem, me aisiisil pesticide.

Kkopiyaal Iliiwel kkaal nge emmwel chagh bwe aramas ye e tipáli ebwe ló bweibwogh mellól Dipatamentool Public Health Environmental Serviçes, Difision of Environmental Quality, aiyeluuwal bibenda mellól Morgen Building me San Jose, Saipan, WP 96950

Rál: 2/4/94

DR. ISAMU J. ABRAHAM, ACTING DIREKTOODUL PUBLIC HEALTH ME ENVIRONMENTAL SERVICES

Rál 9-4-92

MIRIAM K. SEMAN, CHIEF-IL DIVISION OF ENVIRONMENTAL QUALITY

FILE-IIIYAL:

_{Rál:} 07 FEB 199**4**

SOLEDAD B. SASAMOTO, REGISTRAR OF CORPORATIONS

RE RISIBI ME BWULASIYOOL GUBENNO:

Rál: 2/8/94

DONNA J CRUZ



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 MAN MA-ADOPTA NA RIBISION GI REGULASION CNMI PESTICIDES NI MA'ESTBLESI SIGUN GI ATURIDAT 2 CMC §§ 3103 ASTA 3134, 1 CMC §§ 2601 ASTA 2605, 2 CMC §§ 3311 ASTA 3333 YAN 2 CMC §§ 3511 ASTA 3521 GINEN DIPATAMENTON PUBLIC HEALTH YAN ENVIRONMENTAL SERVICES YAN LOKKUE' I DIVISION OF ENVIRONMENTAL QUALITY

I Direktot Dipatamenton Public Health yan Environmental Services, gi Commonwealth of the Northern Mariana Islands (CNMI) sigun gi 2 CMC §§ 3103 asta 3134 yan 1 CMC §§ 2601 asta 2605, yan i Chief i Division of Environmental Quality (DEQ) sigun gi 2 CMC §§ 3311 asta 3333 yan 2 CMC §§ 3511 asta 3521 ha adopta para u ribisa i presente na Regulasion Pesticides. Este siha na tinulaika u akonfotma yan hafa siha manmadimanda yan imposta gi Commonwealth ginene i Federal Insecticide, Fungicide, yan Rodenticide Act.

I ribision gi halom regulasion pesticides manmayot siha na tinulaika. I ribision enklusu para u ma'aomenta i seksionan difinision, aomenta i a'pas yan na dañña i planun minaneha para pesticide. Lokkue' fuera di i mayot na ribision guaha seksiona mana halom put proteksion i manmacho'cho', Administrative procedures, yan pesticide storage.

Kopian i man ma-adopta na ribision siña manmachule' gi Dipatamenton Public Health Environmental Services, Division of Environmental Quality, mina tres bibenda hulo gi halom Morgen Building giya San Jose, Saipan, MP 96950.

Fecha: 2/4/4/

DR. ISAMU J. ABRAHAM, ACTING DIREKTOT PUBLIC HEALTH AND ENVIRONMENTAL SERVICES

Fecha: <u>J-4-9</u>k

MIRIAM K. SEMAN, CHIEF

DIVISION OF ENVIRONMENTAL QUALITY

ITA FILED SI:

Fecha: 07 FEB 1994

SOLEDAD B. SASAMOTO REGISTRAR OF CORPORATIONS

MA'RISIBI GI OFISINAN GOBIETNO:

Fecha: 2/8/94

DONNA J. CRUZ



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

CERTIFICATION

Dr. Isamu J. Abraham, Acting Director Department of Public Health and

Environmental Services

COMMONWEALTH OF NORTHERN MARIANA ISLANDS PESTICIDE REGULATIONS

PART 1 **GENERAL PROVISIONS**

Authority and Scope. These regulations have been promulgated by the Department of Public Health and Environmental Services in accordance 2 CMC §§ 3101 to 3134 (Commonwealth Environmental Protection Act), 2 CMC §§ 3311 to 3333 (Groundwater Management and Protection Act), and 2 CMC §§ 3511 to 3521(Solid Waste Management Act). These regulations and technical provisions 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.

PART 2 **PURPOSE**

The purpose of these regulations is to establish a system of control over the importation, distribution, sale, and use of pesticides by persons within the Commonwealth of the Northern Mariana Islands for the protection of public health and the prevention of environmental contamination.

PART 3 **DEFINITIONS**

- 3.1 "Acting for" in relation to pesticides handling under the Worker Protection Standards includes both employment and contractual relationships.
- "Acts" mean the Commonwealth Environmental Protection Act 2 CMC §§ 3101 3.2 to 3134, Groundwater Management and Protection Act 2 CMC §§ 3311 to 3333, and Solid Waste Management Act 2 CMC §§ 3511 to 3521, unless otherwise stated.
- 3.3 "Active Ingredient" means:
 - 3.3.1 in the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, or mitigate any pest.
 - 3.3.2 in the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the product thereof.
 - 3.3.3 in the case of a defoliant, an ingredient which will case the leaves or foliage to drop from a plant.
 - 3.3.4 in the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.
- 3.4 "Adulterated" means any pesticide if its strength or purity falls below the professed standard of quality as expressed on the labeling under which it is sold, or if any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has been wholly or in part abstracted.
- 3.5 "Agricultural Commodity" means any plant, or part thereof, or animal product, produced by a person (including farmers, ranchers, plant propagators, aquaculturists, flori-culturists, orchardists, foresters, or other comparable persons primarily for sale, consumption, propagation, or other use by man or animals.

- 3.6 "Agricultural Employer" means any person who hires or contracts for the services of workers for any type of compensation to perform activities related to the production of agricultural plants, or any person who is an owner of or is responsible for the management or condition of an agricultural establishment that uses such workers.
- 3.7 "Agricultural Establishment" means any farm, forest, nursery, or greenhouse.
- 3.8 "Agricultural Emergency" means a sudden occurrence or set of circumstances which the agricultural employer could not have anticipated and over which the agricultural employer has no control, and which requires entry into a treated area during a restricted-entry interval, when no alternative practices would prevent or mitigate a substantial economic loss. In the circumstance of typhoon's and tropical storms, it is not an emergency if an employer uses pesticides after a tropical storm has been named.
- 3.9 "Agricultural plant" means any grown or maintained for commercial or research purposes and included, but is not limited to: food, feed and fiber plants; trees; turfgrass; flowers, schrubs; ornamentals; and seedlings.
- 3.10 "Banned Pesticide" means any pesticide, the use of which for any purpose is prohibited by the Division of Environmental Quality or the U.S. Environmental Protection Agency.
- 3.11 "Banned Use" means any use which is prohibited by the Division of Environmental Quality, or any use which is suspended or canceled by the U.S. EPA.
- 3.12 "Biological Control Agent" means any living organism applied to or introduced into the environment that is intended to function as a pesticide against another organism declared to be a pest by the Administrator.
- 3.13 "Certified Pesticide Applicator" means any individual who is certified by the Chief to use any pesticide classified as restricted use pesticide as covered by his or her certification.
- 3.14 "Chemical-resistant" means allowing no measurable amount of the pesticide being used to move through the material during use.
- 3.15 "Chemical-resistant apron" means an apron that is made of chemical-resistant material and that covers the front of the body from mid-chest to the knees.
- 3.16 "Chemical-resistant footwear" means shoes, boots, or coverings for shoes or boots, that are made of chemical-resistant material. If chemical resistant footwear with sufficient durability and a tread appropriate for wear in rough terrain is not obtainable for workers, then leather boots may be worn in such terrain.
- 3.17 "Chemical-resistant headgear" means hood or hat with wide brim, that is made of chemical-resistant material.

- 3.18 "Chemical-resistant suit" means a loose-fitting one or two piece chemical-resistant garment that covers, at a minimum, the entire body except head, hands, and feet.
- 3.19 "Chemigation" means the application of pesticides through irrigation systems.
- 3.20 "Chief" means the Chief of the Division of Environmental Quality unless otherwise stated.
- 3.21 "CNMI" Commonwealth of the Northern Mariana Islands Government.
- 3.22 "Commercial Applicator" means certified applicator (whether or not he is a private applicator with respect to some uses) who uses any pesticide which is classified for restricted use for any purpose or on any property other than as provided by Part 7.
- 3.23 "Commercial Pesticide Handling Establishment" means any establishment, other than an agricultural establishment, that:
 - 3.23.1 Employs any person, including a self-employed person, to apply on an agricultural establishment, pesticides used in the production of agricultural plants.
 - 3.23.2 Employs any person, including a self-employed person, to perform on an agricultural establishment, tasks as a crop advisor.
- 3.24 "Competent" means properly qualified to perform functions associated with pesticide application, the degree of capability required being directly related to the nature of the activity and the associated responsibility.
- 3.25 "Compensation" means pay or wages, payment through services or goods, or barter of services or goods. If only one person receives payment for the joint work of several people, all are considered to compensated, and are employees.
- 3.26 "Coverall" mean a loose-fitting one or two piece garment that covers, at a minimum, the entire body except head, hands, and feet; that is made of a cotton or a cotton polyester blend fabric; and are not chemical-resistant. The pesticide product labeling may specify that the coveralls be worn over a layer of clothing. If a chemical-resistant suit is substituted for coveralls, it need not be worn over a layer of clothing.
- 3.27 "Crop Advisor" means any person who is assessing pest numbers or damage, pesticide distribution, or the status, condition, or requirements of plants.

 Person must be competent to conduct such activities.
- 3.28 "Defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.
- 3.29 "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of the plant tissue.
- 3.30 "Director" means the Director of Public Health and Environmental Services unless otherwise specified.

- 3.31 "Division" means the Division of Environmental Quality unless otherwise specified.
- 3.32 "Early Entry" means entry by a worker into a treated area on the agricultural establishment after a pesticide application is complete, but before any restricted-entry interval for the pesticide has expired.
- 3.33 "Employer" means for the purposes of the workers protection program, person who:
 - 3.33.1 employs or contracts for the services of workers (including themselves and members of their family) for any type of compensation to perform tasks related to the production of agricultural plants; maintenance of resort establishments; or commercial pest control (e.g. rodent and termite extermination); or
 - 3.33.2 owns or operates an agricultural, resort, or commercial pest control establishment.
- 3.34 "Environmental" includes water, air, land, all plants and man and other animals living therein, and the interrelationships which exist among them.
- 3.35 "EPA" or "USEPA" means the United States Environmental Protection Agency.
- 3.36 "Establishment" means an undertaking done for production of agricultural crops, including vegetables, small fruits, tree fruits and nuts, as well as on grass lands and non-crop agricultural lands; Resort Pest Control including maintenance of resort grounds, golf courses, or green houses; or Commercial including persons in the business of contracting to obtain pest controlling projects such as extermination of ants, termites, rodents, or plants.
- 3.37 "Farm" means any operation, other than a nursery or forest, engaged in the outdoor production of agricultural plants.
- 3.38 "Federal Insecticide, Fungicide, and Rodenticide Act" or "FIFRA" means the US Federal Insecticide, Fungicide, and Rodenticide Act, 7 USC §§ 136 to 136y.
- 3.39 "Forest" means any operation engaged in the outdoor production of any agricultural plant to produce wood fiber or timber products.
- 3.40 "Fumigant" means any pesticide that is a vapor or gas or forms a product that is a vapor or gas on application and whose method of pesticidal action is through the gaseous state.
- 3.41 "Fungus" means all non-chlorophyll-bearing thallophytes including rusts, smuts, mildews, bacteria, molds and yeasts, except those on or living in man or other animals and those on or in processed foods, beverages, or pharmaceuticals.
- 3.42 "General Use Pesticide" means pesticide other than one designated a restricted use pesticide.

- 3.43 "Gloves" mean hand coverings that are the type listed on the pesticide label.
 Gloves or glove linings made of leather, cotton, or other absorbent materials are listed on the pesticide labeling as acceptable for such use.
- "Greenhouse" means any operation engaged in the production of agricultural plants inside any structure or space that is enclosed with nonporous covering and that is of sufficient size to permit worker entry. This term includes, but is not limited to polyhouses, mushroom houses, rhubarb houses and similar structures. It does not include such structures as malls, atriums, conservatories, arboretums, or office buildings where agricultural plants are present primarily for aesthetic or climatic modification.
- 3.45 "Groundwater Management and Protection Act" means the Commonwealth Groundwater Management and Protection Act, 2 CMC §§ 3312 to 3333.
- 3.46 "Hand Labor" means any agricultural activity performed by hand or with hand tools that causes a worker to have substantial contact with surfaces (such as plants, plant parts, or soil) that may contain pesticide residues. These activities include, but are not limited to, harvesting, detasseling, thinning, weeding, topping, planting, sucker removal, pruning, disbudding, roguing, and packing produce into containers in the field. Hand labor does not include operating, moving, or repairing irrigation or watering equipment or performing the tasks of crop advisors.
- 3.47 "Handler" or "Pesticides Handler" means any person, including a self-employed person:
 - 3.47.1 Who is employed for any type of compensation by an agricultural establishment or commercial pesticide handling establishment, or commercial resort and who is:
 - A. Mixing, loading, transferring, or applying pesticides.
 - B. Disposing of pesticides or pesticide containers.
 - C. Handling opened containers of pesticides.
 - D. Acting as a flagger.
 - E. Cleaning, adjusting, handling, or repairing the parts of mixing, loading, or application equipment that may contain pesticide residues.
 - F. Assisting with the application of pesticides.
 - G. Entering a greenhouse or other enclosed area after the application and before the inhalation exposure level listed in the labeling has been reached or one of the ventilation criteria or in the labeling has been met:
 - i. operation of ventilation equipment.
 - ii. adjustment or removal of coverings used in fumigation.
 - iii. monitoring air levels.
 - H. Entering a treated area outdoors after application of any soil fumigant to adjust or remove soil coverings such as tarpaulins.
 - I. Performing tasks as a crop advisor.
 - i. During any pesticide application.

- ii. Before any inhalation exposure level listed in the labeling has been reached or one of the ventilation criteria or in the labeling has been met.
- iii. During any restricted-entry interval.
- 3.47.2 The term does not include any person who is only handling pesticide containers that have been emptied or cleaned according to pesticide product labeling instructions, or in the absence of such instructions, have been subjected to triple-rinsing or its equivalent.
- 3.48 "Handler Employer" means any person who is self-employed as a handler or who employs any handler, for any type of compensation.
- 3.49 "Hazard" means a situation where there exists a probability that a given pesticide will cause injury or have an adverse effect on public health or the environment.
- 3.50 "Hazardous Waste" means any waste because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or pose a substantial present or potential hazard to human health or to the environment when improperly collected, contained, stored, transported, processed, recovered, treated, disposed, handled, manipulated, or otherwise accidentally released into the environment. This is inclusive of any waste described or identified as such under either EPA or DEQ regulations.
- 3.51 "Immediate family" means only one's spouse, children, stepchildren, foster children, parents, brothers, and sisters. Cousins, uncles, aunts, and other relatives are not included in the definition of immediate family.
- 3.52 "Importation" means causing to be brought into the CNMI.
- 3.53 "Inert Ingredient" means an ingredient which is not an active ingredient.
- 3.54 "Ingredient Statement" means the name and percentage of each active ingredient, and the total percentage of all inert ingredients in the pesticide.
- 3.55 "Insect" means invertebrate animals belonging to the class insecta or other allied classes of arthropods, such as Arachnida and Chilopoda.
- 3.56 "Label" means the written, printed or graphic matter on, or attached, to, the pesticide or device or any of its containers or wrappers.
- 3.57 "Labeling" means all labels and all other written, printed, or graphic matter accompanying the pesticides, or to which reference is made on the label or in literature accompanying the pesticide, except to current official publications of the U.S. Environmental Protection Agency, the United States Departments of Agriculture and Interior, or the U.S. Department of Health and Human Services.
- 3.58 "Licensed Dealer" means any person who is licensed by the Chief to sell or distribute restricted use pesticides.

- 3.59 "MSDS" means Material Safety Data Sheets as required under the Occupational Safety and Health Act of 1970 [29 USC § 651 et sqq.] as amended and regulation promulgated pursuant to this act and amendments 29 CFR 1910.1200(g).
- 3.60 "Misbranded" means any pesticide if:
 - 3.60.1 Its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;
 - 3.60.2 Its labeling bears instructions for a banned use;
 - 3.60.3 It is contained in a package or other container or wrapping which does not conform to standards established by the EPA;
 - 3.60.4 It is an imitation of, or is offered for sale under the name of, another pesticide;
 - 3.60.5 Its label does not bear the EPA registration number;
 - 3.60.6 The labeling accompanying it does not contain, in English, instructions for use which are necessary, proper, and adequate for the protection of the public;
 - 3.60.7 The label does not contain warning or caution statements in English, which if complied with are adequate to protect health and the environment;
 - 3.60.8 The label does not bear an ingredient statement on the immediate container, or on the outside container or wrapper if such outside container or wrapper does not allow the ingredient statement on the immediate container to be clearly read;
 - 3.60.9 The label does not contain the following:
 - A. Name of Pesticide in bold letters;
 - B. Restricted use designation (if applicable);
 - C. Description of which pests are controlled;
 - D. Chemical name of Pesticide;
 - E. Active ingredients and percentages;
 - F. Inert ingredients;
 - G. EPA Registration number;
 - H. Patent numbers;
 - 1. Appropriate signal words:
 - i. Caution;
 - ii. Warning; or
 - iii. Danger Poison;
 - J. Directions for proper use; and

- 3.60.10 Any additional label which that was required by the Chief is not conspicuously displayed on each container.
- 3.61 "Nematode" means unsegmented roundworms of the class Nematode which inhabit soil, water, plants, or plant parts.
- 3.62 "Nursery" means any operation engaged in the outdoor production of any agricultural plant to produce cut flowers and ferns or plants that will be used in their entirety in another location. Such plants include, but are not limited to, flowering and foliage plants or trees; vegetable, fruit, and ornamental transplants; and turfgrass produced for sod.
- 3.63 "Owner" means any person who has a present possessory interest (e.g. fee, leasehold, rental, or other) in an agricultural, resort, or commercial pest control establishment. A person who has both leased such establishment to another person and granted that same person the right and full authority to manage and govern the use of such establishment is not an owner for purpose of this part.
- 3.64 "Person" means an individual, corporation, partnership, association, or governmental entity.
- 3.65 "Personal protective equipment" or "PPE" means apparel and devices worn to protect the body from contact with pesticides or pesticide residues, including:

3.65.1	coveralls;
3.65.2	chemical-resistant suits;
3.65.3	chemical-resistant gloves;
3.65.4	chemical-resistant footwear;
3.65.5	chemical-resistant aprons;
3.65.6	chemical-resistant headgear;
3.65.7	protective eye-wear; and
3.65.8	respirators.

long-sleeved shirts, short-sleeved shirts, long pants, short pants, shoes, socks, and other items of work clothing are not considered personal protective equipment for purposes of this section and are not subject to the requirements of this section, although pesticide labeling may require that such work clothing be worn during some activities.

- 3.66 "Pest" means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life, or virus, bacteria, or other microorganism which the Chief declares to be a pest.
- 3.67 "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant, other than any article that:
 - 3.67.1 is animal drug or feed that is:
 - A. a new animal drug under FFDCA § 201(w), or

- an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug, or
- C. an animal feed under FFDCA § 201(x) that bears or contains any substances described in paragraph(s) 3.67.1.A or 3.67.1.B;
- 3.67.2 is not intended for use against "pests" as, if it is:
 - A. A product intended for use only for the control of fungi, bacteria, viruses, or other microorganisms in or on living man or animals, and labeled accordingly;
 - B. A product intended for use only for control of internal invertebrate parasites or nematodes in living man or animals, and labeled accordingly;
 - C. Products that are intended to exclude pests only by providing a physical barrier against pest access.
- 3.68 "Plant Regulator" means any substance or mixture of substances intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof, but shall not include substances to the extent that they are intended as plant inoculants, and soil amendments. Also, the term 'plant regulator' shall not be required to include any of such of those nutrient mixtures or soil amendments as are commonly known as vitamin-hormone horticultural products intended for improvement, maintenance, survival, health, and propagation of plants, and are not for pest destruction and are non-toxic, non-poisonous in the undiluted packaged concentration.
- 3.69 "Private Applicator" means a certified applicator who uses any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.
- 3.70 "Protective Eyewear" means one of the following types of eyewear; goggles; face shield; safety glasses with front, brow, and temple protection; or a full-face respirator.
- 3.71 "Respirator" means a device that protects the respiratory system and is either 1) the type listed on the pesticide label or 2) more protective, and must be appropriate for the pesticide product being used and for the activity being performed.
- 3.72 "Restricted Use Pesticide" means a pesticide, one or more uses of which have been restricted by regulation under the Federal Insecticide, Fungicide; and Rodenticide Act, as amended, or by DEQ under these regulations, and which bears on its label the phrase 'restricted use pesticide'.
- 3.73 "Restricted-Entry Interval" means the time after the end of a pesticide application during which entry to the treated area is restricted.
- 3.74 "Rodent" means mammals of the order Rodentia, such as rats and mice.

- 3.75 "Sell or Distribute" means to distribute, sell, solicit, offer for sale, hold for sale, ship, or deliver for shipment any pesticide in the CNMI.
- 3.76 "Solid Waste Management Act" means the Solid Waste Management Act, 2 CMC §§ 3511 to 3521.
- 3.77 "Substantial economic loss" means a loss in profitability greater than that which would be expected based on the experience and fluctuations of crop yields in previous years. Only losses caused by the agricultural emergency specific to the affected site and geographic area are considered. The contribution of mismanagement cannot be considered in determining the loss.
- 3.78 "Treated Area" means any area to which a pesticide is being directed or has been directed.
- 3.79 "Use" means in relation to pesticides handling under the Worker Protection Standards the following:
 - 3.79.1 Preapplication activities, including, but not limited to:
 - A. Arranging for the application of the pesticide:
 - B. Mixing and loading the pesticide; and
 - C. Making necessary preparations for the application of the pesticide, including responsibilities related to worker notification, training of handlers, decontamination, use and care of personal protective equipment, emergency information, and heat stress management.
 - 3.79.2 Application of the pesticide.
 - 3.79.3 Post-application activities necessary to reduce the risks of illness and injury resulting from handlers' and workers' occupational exposures to pesticide residues during the restricted-entry interval plus 30 days. These activities include, but are not limited to, responsibilities related to worker training, notification, and decontamination.
 - 3.79.4 Other pesticide-related activities, including, but not limited to, providing emergency assistance, transporting or storing pesticides that have been opened, and disposing of excess pesticides, spray mix, equipment wash waters, pesticide containers, and other pesticide-containing materials.
- 3.80 "Virus" means any group of microscopic infective agents which cause diseases in plants and animals.
- 3.81 "Weed" means any plant growing where it is not wanted.
- 3.82 "Waterproof personal protective equipment" means it shall be made of material that allows no measurable movement of water or aqueous solutions through the material during use.
- 3.83 "Worker" means anyone who: (1) is employed (including self employed) for any type of compensation and (2) is doing tasks, such as harvesting, weeding, or watering, relating to the production of agricultural plants on a farm, forest,

nursery, or greenhouse. This term does not include persons, who are crop advisors.

PART 4 ADMINISTRATION OF THE CNMI PESTICIDES REGULATIONS

The Chief is authorized to take such action as may be necessary in the administration and enforcement of these regulations.

PART 5 UNLAWFUL ACTS

5.1 General

- 5.1.1 Except as otherwise exempted in Part 5.2 it shall be unlawful for any person within the CNMI to import, sell or distribute, receive and (having so received) deliver or offer to deliver to any person, or use:
 - A. any pesticide which is adulterated or misbranded; or
 - B. any banned pesticide.

5.1.2 It shall be unlawful for any person:

- A. to detach, alter, deface, or destroy, in whole or in part, any labeling, unless such action is taken with the written approval of the Chief to correct an improper label or labeling;
- B. to refuse to keep any records required pursuant to Part 8, or to refuse to allow the inspection of any records pursuant to Part 8 or 13 to refuse to allow the Chief or Chief's designee to observe pesticide use, investigate pesticide misuse, or take a sample of any pesticide pursuant to Part 13;
- C. to use any pesticide in a manner inconsistent with its labeling;
- D. to violate any order issued under pursuant to these regulations or the Acts;
- E. to violate any ban or prohibition issued under Part 10;
- F. to knowingly falsify all or part of any application for certification, license, or use permit, or any record required to be maintained pursuant to Part 8;
- G. to sell or distribute restricted use pesticides unless licensed to do
- H. to sell or distribute any restricted use pesticide to any person other than a licensed dealer or a certified applicator;
- to use, store, transport, mix or discard any pesticide or the containers of such pesticide in such a way as to pose a hazard to human health or the environment;
- J. to use or apply restricted use pesticides unless certified under Part 6;
- to use or apply pesticides for commercial purposes unless acting under the supervision of a certified applicator;
- L. to use for his or her own advantage or to reveal any information relative to formulas of products acquired in the administration of these regulations to persons other than proper officers or employees of the DEQ or U.S. Government, or to courts in response to subpoena, or to physicians, or, in emergencies, to

- pharmacists or other qualified persons for use in the preparation of antidotes; or
- M. To violate these regulations in any way including but not limited to storage, usage, record keeping, and worker's protection requirements provided in these regulations, by permit, labels, orders, certification, or law.
- N. No pesticide product bearing requiring amended labeling under 40 CFR 156 or as amended shall be distributed or sold by any registrant after April 21, 1994.
- O. No pesticide product bearing requiring amended labeling under 40 CFR 156 or as amended shall be distributed or sold by any person after October 23, 1995.
- 5.2 Exemptions. The penalties provided for a violation of Part 5.1 shall not apply to:
 - 5.2.1 any carrier while lawfully shipping, transporting, or delivering for shipment any pesticide, if such carrier upon request of any person duly designated by the Chief shall permit such person to copy all of its records concerning such pesticide.
 - 5.2.2 any person possessing, receiving, shipping or delivering to another person any pesticide while acting under the written instructions of or with the express written approval of the Chief.

PART 6 CERTIFICATION OF APPLICATORS

- 6.1 <u>Class of Applicators.</u> A certified applicator shall be classified as either a commercial applicator or a private applicator.
- 6.2 <u>Commercial Applicator.</u> Any person who uses or supervises the use of restricted use pesticides or general use pesticides for the production of agricultural commodities, resort facilities (e.g. golf courses), commercial pest control, and regulatory pest control unless such use is in accordance with that specified in paragraph 6.2.5 shall be classified as a commercial applicator in the following category:

6.2.1 Agriculture Pest Control

This category includes commercial applicators using restricted use pesticides, or using or supervising the use of general use pesticides in the production of agricultural crops, including vegetables, small fruits, tree fruits and nuts, as well as on grass lands and non-crop agricultural lands. Pesticide use in this category include but are not limited to the control of:

- A. Plants:
- B. Rodents; or
- C. Mosquitoes.

6.2.2 Resort Pest Control

This category includes commercial applicators using restricted use pesticides, or using or supervising the use of general use pesticides in the maintenance of resort grounds, golf courses, or green houses. Pesticide use in this category include but are not limited to the control of:

- A. Plants;
- B. Rodents;
- C. Mosquitoes
- D. Ants; or
- E. Termites.

6.2.3 Commercial Pest Control

This category includes commercial applicators using restricted use pesticides, or using or supervising the use of general use pesticides in the business of controlling pests which include but are not limited to use in forest, industrial, institutional, and structural applications. Pesticide use in this category include but are not limited to the control of:

- A. Plants;
- B. Rodents;
- C. Mosquitoes;
- D. Ants; or
- E. Termites.

6.2.4 Regulatory Applicator

This category includes commercial applicators using restricted use pesticides, or using or supervising the use of general use pesticides by government agencies such as the Department of Natural Resources; Division of Customs; Division of Plant Industry; Department of Public Works; and Department of Public Health and Environmental Services usage such for such purposes including but not limited to forest; public health, and right of way control. Pesticide use in this category include but are not limited to the control of:

- A. Plants:
- B. Rodents;
- C. Mosquitoes;
- D. Ants: or
- E. Termites.

6.2.5 Private Applicator.

Any person who uses restricted use pesticides for the purpose of producing any either agricultural commodity on property owned or rented by him or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person shall be classified as a private applicator.

6.3 Standards for Certification of Commercial Applicators.

Competence in the use and handling of pesticides shall be determined by written examination and, as appropriate, by demonstration, based upon standards which meet or exceed those set forth below.

6.3.1 General Standards for all Certified Commercial Applicators

A. Label

- i. Labeling Comprehension.
- ii. The general format and terminology of pesticide labels and labeling.
- iii. Understanding of instructions, warnings, terms, symbols, and other information commonly appearing on pesticide labels.
- iv. Classification of the product, general or restricted.
- v. Necessity for use consistent with the label.

B. Safety Factors Including:

- i. Pesticide toxicity and hazard to man and common exposure routes.
- ii. Common types and causes of pesticide accidents.
- iii. Precautions necessary to guard against injury to applicators and other individuals in or near treated areas.
- iv. Need for and use of protective clothing and equipment.
- v. Symptoms of pesticide poisoning.
- vi. First aid and other procedures to be followed in case of a pesticide accident
- vii. Proper identification, storage, transport, handling, mixing procedures, and disposal methods for pesticides and used pesticide containers, including precautions to be taken to prevent children from having access to pesticides and pesticide containers.
- C. The potential environment consequences of the use and misuse of pesticides as may be influenced by such factors as:
 - i. Weather and other climatic conditions.
 - ii. Types of terrain, soil, or other substrate.
 - iii. Presence of fish, wildlife, and other non-target organisms.
 - iv. Drainage patterns.

D. Pests related factors such as:

- i. Common features of pest organisms and characteristics of damage needed for pest recognition.
- ii. Recognition of relevant pests.
- iii. Pest development and biology as it may be relevant to problem identification and control.

E. Pesticides related factors such as:

- i. Types of pesticides.
- ii. Types of formulations.
- iii. Compatibility, synergism, persistence, and animal and plant toxicity of the formulations.
- iv. Hazards and residues associated with use.
- v. Factors which influence effectiveness or lead to such problems as resistance to pesticides.
- vi. Dilution procedures.

- F. Equipment related factors including:
 - i. Types of equipment and advantages and limitations of each type.
 - ii. Uses, maintenance and calibration.
- G.. Application Techniques including:
 - i. Methods used to apply various formulations of pesticides, togethers with a knowledge of which technique of application to use in a given situation.
 - ii. Relationship of discharge and placement of pesticides to proper use, unnecessary use, and misuse.
 - iii. Prevention of drift and pesticide loss into the environment.
- H. Worker Protection Factors including:
 - i. Ventilation
 - ii. Personal Protective Equipment
 - iii. Entry Intervals
- I. Laws and Regulations applicable to the CNMI including Federal laws and regulations.
- 6.4 <u>Standards for Certification of Private Applicators.</u> As a minimum requirement for certification, a private applicator must show that she/he possesses a practical knowledge of the pest problems and pest control practices associated with the operations, proper storage, use, handling, and disposal of the pesticide and containers, and her/his related legal responsibility. This practical knowledge includes ability to:
 - 6.4.1 Recognize common pests to be controlled and damage caused by them.
 - 6.4.2 Read and understand the label and labeling information, including the common name of pesticides he applied, pest(s) to be controlled, timing and methods, of application, safety precautions, any pre-harvest or reentry restrictions, and any specific disposal procedures.
 - 6.4.3 Apply pesticides in accordance with label instructions and warnings, including the ability to prepare the proper concentration of pesticide to be used under particular circumstances taking into account such factors as area to be covered and the quantity dispersed in a given period of operation.
 - 6.4.4 Recognize local environmental situations that must considered during the application to avoid contamination.
 - 6.4.5 Recognize poisoning symptoms and procedures to follow in case of a pesticide accident.
- 6.5 <u>Determination of Competency</u>
 - 6.5.1 Commercial Applicators. Application for certification as a private applicator shall be made to the Chief on a form provided for that purpose. The applicant may qualify for certification by passing a written examination or by satisfactorily demonstrating the ability to use pesticides and application equipment correctly and by passing an oral

- examination. Such examinations and demonstration requirements shall be based on standards contained in Part 6.2.5.
- 6.5.2 <u>Duration of Certification and Renewals.</u> All certificates shall be valid for a period of three (3) years from the date of issuance unless earlier suspended or revoked by the Chief. Application for renewal shall be made to the Chief on a form provided for that purpose. The applicant shall be required to pass another examination and/or give a demonstration of proficiency in order to ensure that certified applicators continue to meet the requirements of changing technology and to assure a continuing level of competency and ability to use pesticides safely and properly.
- Standards for Supervisor of Non-Certified Applicators by Certified Private and Commercial Applicators. Restricted use pesticides may be applied by a non-certified but competent person acting under the direct supervision of a certified applicator. The availability of the certified applicator must be directly related to the hazard of the situation. In situations where the certified applicator is not required to be physically present 'direct supervision' shall include verifiable instruction to the competent person including, but not limited to, detailed guidance for applying the pesticide properly and provisions for contacting the certified applicator in the event he is needed. In other situations, and as required by the label, the actual physical presence of a certified applicator may be required when application is made by a non-certified applicator. In either situation, responsibility for proper application shall remain with the certified applicator.
- 6.7 Temporary Certification. The Chief may issue a temporary certificate valid for a period not to exceed ninety (90) days to a person who holds a valid pesticide applicator's certificate issued in another state or territory of the United States having an approved state plan. Written application for temporary certificate shall be made to the Chief on a form provided for that purpose. Temporary certification shall be limited to the same type and category of pesticide use for which the applicant is certified in the other state or territory. Except under such circumstances as the Chief may recognize, a temporary pesticide applicator certificate shall be non-renewable.
- 6.8 Denial, Suspension or Revocation, and Appeal.
 - 6.8.1 The Chief will deny suspend or revoke a certificate and assess criminal and/or civil penalties for misuse of a pesticide or falsification of any records required to be maintained by a certified applicator.
 - 6.8.2 The Chief may deny certification to:
 - A. any person whose certificate is suspended or revoked.
 - B. any person who has been found to be in violation of any part of these regulations.
 - C. any person who has failed to pass the proficiency test.
 - D. any person who fails to pay the required fees.
 - E. failure to submit address change.
 - 6.8.3 Any certification issued pursuant to this part will be reviewed for suspension or revocation by the Chief for violation of any condition of the certificate or of these regulations, of criminal conviction under

Section 14(b) of amended FIFRA, a final order imposing civil penalty under Section 14(a) of amended FIFRA, or a CNMI enforcement action.

6.9 ADDRESS OF APPLICATOR

In the event that the certified applicator relocates or changes the address where they may be reached, the applicator must notify DEQ in writing of the change of address within thirty (30) calendar days.

6.10 APPEAL

Any person who has been denied certification pursuant to Part 6.8 or whose certificate has been suspended or revoked may appeal to the DEQ to set aside such denial, suspension, or revocation. The Chief's written decision on the matter shall be final.

6.11 <u>FEES</u>

6.11.1	Commercial applicators shall pay a non-refundable fee of three hundred dollars (\$300) for the processing of the application.
6.11.2	Private applicators shall pay a non-refundable fee of fifty dollars (\$50) for the processing of the application. The fee shall increase
	to one hundred dollars (\$100) for the processing of the application as of January 1, 1996.
6.11.3	Fees for Government Applicators may be waived, provided the Applicator only conducts such applications at Government projects.

Additional fees shall be required for renewals. Renewals shall be made at least thirty (30) calendar days, but no more than ninety (90) calendar days prior to expiration of the certification.

PART 7 <u>LICENSING OF RESTRICTED USE PESTICIDE DEALERS</u>

Every person engaged in the sale or distribution of restricted use pesticides and every person importing restricted use pesticides who is not a certified applicator shall obtain a license from the Chief. Application for a license shall be made to the Chief on a form provided for that purpose and shall be accompanied by a fee of two hundred dollars (\$200.00), which is non-refundable, except that no fee is required of the Government of the CNMI. Each license shall expire one (1) year from the date of issue. Additional fees shall be required for renewals. Renewals shall be made at least thirty (30) calendar days, but no more than ninety (90) calendar days prior to expiration of the license.

A dealer's license may be suspended or revoked by the Chief for any violation of these regulations whether committed by the dealer or an employee thereof. Any such violation during the three (3) years preceding the date of application for a license may serve as ground for rejection of same.

PART 8 RECORDS

8.1 Records to be kept by Commercial Applicators and Private. Commercial and Private Applicators shall keep and maintain for a period of not less than three (3) years, true and accurate records of the use and application of both restricted use and general use pesticides, including the following information:

- 8.1.1 At the time of purchase or receipt of a pesticide record of:
 - A. the brand name, quantity, and EPA registration number of the product.
 - the name an address of the person from whom purchased or received.
 - C. the date of purchase or receipt.
- 8.1.2 At the time of application of a pesticide, a record of:
 - A. the brand name and EPA registration number of the product, and the date of purchase or receipt.
 - B. the amount of product used and, if the product is to be mixed with another substance prior to use, the name of the other substance and the total amount of mixture prepared.
 - C. the site of use and purpose of use.
 - D. the date and time of application.
 - E. the signature of the certified applicator and, if the pesticide is used by a person acting under the supervision of the certified applicator, the name of the user.
 - F. MSDS for the pesticide.
 - G. Label of the Pesticide.
- 8.1.3 At the time of disposal of a pesticide product, container, or mixture, a record of:
 - A. the brand name and EPA registration number of the product, and the date of purchase or receipt.
 - B. the amount of product or mixture disposed, or the number and type of containers disposed, and, if a mixture, the concentration of active ingredient(s).
 - C. the date, site, and method of disposal.
 - D. MSDS for the pesticide.
 - E. Label of the Pesticide.

8.1.4 Submission of Records to DEQ

Applicators are required to submit quarterly pesticide reports to DEQ no later than 10 working days after the end of the fiscal quarter. Fiscal quarter's end on December 31, March 31, June 30, and September 30. Reports shall include all of the information in 8.1 for that fiscal quarter.

- 8.2 Records to be kept by Licensed Dealers. Each licensed dealer shall keep and maintain for a period of not less than three (3) years true and accurate records of the receipt and sale or distribution of both restricted use and general use pesticides, including the following information:
 - 8.2.1 Upon receipt of a pesticide, a record of:
 - A. the brand name, EPA registration number, and number of containers.

- B. the net weight of each container, and the type of container construction (e.g., glass, metal, paper carton, paper bag, hard plastic, etc.).
- the name and address of the person from whom purchased or received.
- D. the date of receipt.
- E. MSDS for the pesticide.
- F. Label of the Pesticide.

8.2.2 Upon sale or distribution of a pesticide, a record of:

- A. the name, address, and certification number or dealer's license (if applicable) number of the person purchasing or receiving the pesticide.
- B. the date of sale or distribution
- C. the brand name, EPA registration number, and quantity of product sold or distributed.
- D. the signature of the person selling or distributing the pesticide.
- E. MSDS for the pesticide.
- F. Label of the pesticide.

8.2.3 Submission of Records to DEQ

Licensed Dealers are required to submit quarterly pesticide reports to DEQ no later than 10 working days after the end of the Fiscal Quarter. Fiscal Quarter's end on December 31, March 31, June 30, and September 30. Reports shall include all of the information in 8.1 for that fiscal quarter.

- 8.3 <u>Notice of Disposal</u>. Prior to the disposal of any pesticides, the applicator must submit to DEQ:
 - 8.3.1 the brand name, EPA registration number, and number of containers.
 - 8.3.2 the net weight of each container, and the type of container construction (e.g., glass, metal, paper carton, paper bag, hard plastic, etc.).
 - 8.3.3 MSDS for the pesticide.
 - 8.3.4 Label of the Pesticide.
 - 8.3.5 Plan and method of Disposal.

Disposal shall not take place until DEQ has reviewed and approved the disposal plan.

- 8.4 <u>Additional Records.</u> Additional records, as found to be necessary for the enforcement of these regulations, may be prescribed by the Chief or Chief's designee.
- 8.5 Access to Records. The Chief or Chief's designee shall have access to such records at any reasonable time to examine, copy, or make copies of such records for the purpose of carrying out the provisions of these regulations. Unless required for the enforcement of the regulations, such information shall be confidential and, if summarized, shall not identify an individual person.

PART 9 <u>IMPORTATION</u>

- 9.1 Notice of Intent. Persons desiring to import a pesticide into the CNMI shall submit a notice of intent to the Chief on a form provided for that at least ten (10) working days prior to arrival of the pesticide shipment. Form must be accompanied with the Material Safety Data Sheet, a copy of the pesticides label, a nonrefundable filing fee of \$15 per pesticide type of general use per shipment and \$50 per pesticide type of restricted use per shipment.
- 9.2 <u>Notice of Arrival.</u> Upon arrival of the pesticide shipment into the CNMI, the Chief shall be notified on a form provided for. The Notice of Arrival is not to be substituted for the Notice of Intent to import.
- 9.3 <u>Inspection.</u> Upon arrival of the shipment, the Chief or Chief's representative shall inspect the pesticide and shall compare the results of the inspection and the entry papers for the shipment with the information provided by the importer on the notice of intent. If no discrepancies are noted and the Chief has not instructed to the contrary, the shipment shall be released. However, any discrepancies shall be reported to the Chief, and the shipment may be detained until such discrepancies are resolved.
- 9.4 Shipments Arriving Without Notice. When a shipment of pesticide arrives in the CNMI without notice, the shipment shall be detained or denied access and the Chief shall be notified. The Chief shall then determine whether a notice of intent to import pesticides has been submitted and shall provide instructions for disposition of the shipment.
- 9.5 <u>Detained, Denied, and Impounded Shipments.</u> All expenses arising from detainment, denial, and impounded of a pesticide shipment due to failure of the importer to submit a notice of intent to the Chief in a timely manner shall be payable by the importer. Failure of the importer to pay the assessed costs may result in impoundment of the shipment or of any future importation made by the importer.

Any pesticide shipment for which delivery is denied shall be disposed of by the Chief if not exported by the consignee within ninety (90) days of denial of delivery. All expenses for storage, cartage, labor, and shipping shall be payable by the consignee and in default of such payment shall constitute a lien against any further importation made by the importer.

If the owner of an impounded pesticide shipment does not satisfy any and all liens against such shipment within (90) days after notification in writing of the amount of said liens, the Chief with the approval of the Director, shall instruct the Attorney General to enter into such action as may be necessary to effect transfer of ownership of the shipment to the CNMI Government for satisfaction of said liens. This does not preclude recovery of any additional costs that may be expended by the Government.

PART 10 RESTRICTING AND BANNING OF PESTICIDES

10.1 Restricting of Pesticides. DEQ may restrict any use of any pesticide to application by a certified applicator or a person acting under the supervision of a certified applicator when misuse by non-certified applicators has produced or is

deemed likely to produce substantial adverse effects on human health of or the environment. Any pesticide having had one or more uses restricted by the DEQ shall be a 'restricted use pesticide' for the purposes of these regulations and must be labeled as such.

Banning of Pesticides. DEQ may prohibit the importation, sale, distribution, and use of any pesticide or prohibit a specific use or uses of any pesticides when such use or uses has produced or is deemed likely to produce substantial adverse effects on human health or the environment. For the purposes of these regulations, any use suspended or canceled by the EPA shall constitute a banned use.

PART 11 STORAGE OF PESTICIDES

- 11.1 Pesticides shall be stored in the following manner:
 - 11.1.1 In a cool, dry place out of direct sunlight.
 - 11.1.2 Adequate and ventilation.
 - 11.1.3 Locked up.
 - 11.1.4 In a location separate from food, feed, seed, or animals;
 - 11.1.5 In the original container with label, unless the container is damaged, then in a container with exactly the same contents.
 - 11.1.6 Area shall be supplied with absorbent materials such as sand or absorbent clay.
 - 11.1.7 Area shall be supplied with fire extinguisher.
 - 11.1.8 Incompatible pesticides and/or fertilizers must be stored in separate areas.
 - 11.1.9 Floor of storage area must be constructed in a manner that will not impact ground or surface waters. If storing more than twenty-five (25) pounds of pesticides at any one time, a concrete slab must be provided.
- 11.2 For areas that store more than twenty-five (25) pounds of pesticides at any one time must be approved by DEQ. To obtain approval applicant must submit the following:
 - A plan detailing the storage area must be submitted to DEQ for approval prior to construction and operation. A non-refundable fee of \$25 must be submitted with the plan proposed to be approved.

PART 12 WORKER PROTECTION STANDARDS

12.1 Applicability

The following standards are for worker's protection. Employers are responsible for the protection of their workers. In the event that the standards are not adhered to by either the employee, the workers, handlers, or employer, the employer is responsible. Workers Protection Standards apply when any pesticide product is used on an agricultural establishment, resort establishment, commercial pest control, or private applicator in the controlling of pests. The standards do not apply when any pesticide is applied on an establishment in the following circumstances:

- 12.1.1 For mosquito abatement, Mediterranean fruit fly eradication, or similar wide-area public pest control programs sponsored by governmental entities approved by DEQ.
- 12.1.2 On livestock or other animals, or in or about animal premises.
- 12.1.3 For the purposes of this Worker Protection Standards, owners of establishments need not assure that the protection is provided to themselves and members of their immediate family.

12.2 General Duties

- 12.2.1 The employer or the handler employer as appropriate shall:
 - A. Assure that each worker subject to these regulations or each handler subject to these regulations receives the protection required.
 - B. Assure that any pesticide is used in a manner consistent with the labeling of the pesticide.
 - C. Provide, to each person who supervises any worker or handler, information and directions sufficient to assure that each worker or handler receives the protection required. Such information and directions shall specify which persons are responsible for actions required to comply with Worker Protection Standards.
 - D. Require each person who supervises any worker or handler to assure compliance by the worker or handler with the provisions of this part and to assure that the worker or handler receives the protection as required to comply with Worker Protection Standards.
- 12.2.2 Prohibited actions. The agricultural employer or the handler employer shall not take any retaliatory action for attempts to comply with Worker Protection Standards or any action having the effect of preventing or discouraging any worker or handler from complying with Worker Protection Standards.

12.3 Violations of the Worker Protection Standards

- 12.3.1 It is unlawful for any person "to use any registered pesticide in a manner inconsistent with its labeling." When this is referenced on a label, users must comply with all of its requirements except those that are inconsistent with product-specific instructions on the labeling.
- 12.3.2 A person who has a duty as referenced on the pesticide product label, and who fails to perform that duty, is subject to a civil penalty. A person who knowingly violates is subject to criminal sanctions. A person is liable for a penalty if another person employed by or acting for that person violates any part of the regulations.
- 12.4 Restrictions associated with pesticide applications.
 - 12.4.1 Farms and forests. During the application of any pesticide on a farm or in a forest, the agricultural employer shall not allow or

direct any person, other than an appropriately trained and equipped handler, to enter or to remain in the treated area.

12.4.2 Nurseries. In a nursery, during any pesticide application described in column A of Table 12.1, the agricultural employer shall not allow or direct any person, other than an appropriately trained and equipped handler, to enter or to remain in the area specified in column B of Table 12.1. After the application is completed, until the end of any restricted-entry interval, the entry-restricted area is the treated area.

Table 12.1 - Entry Restricted Areas in Nurseries During Pesticide Applications

A. During Application of a Pesticide:	B. Workers are Prohibited in:
1) (a) Applied: (i) Aerially, or (ii) In an upward direction, or (iii) Using a spray pressure greater than 150 psi, or (b) Applied as a: (i) Fumigant, or (ii) Smoke, or (iii) Mist, or (iv) Fog, or (v) Aerosol.	Treated area plus 100 feet in all directions on the nursery
 2) (a) Applied downward using: (i) A height of greater than 12 inches from the planting medium, or (ii) A fine spray, or (iii) A spray pressure greater than 40 psi and less than 150 psi. (b) Not as in 1 or 2(a) above but for which a respiratory protection device is required for application by the product labeling. 	Treated area plus 25 feet in all directions on the nursery
3) Applied otherwise.	Treated area.

12.4.3 Greenhouses. When a pesticide application described in column A of this Table 12.2 takes place in a greenhouse, the agricultural employer shall not allow or direct any person, other than an appropriately trained and equipped handler, to enter or to remain in the area specified in column C of Table 12.2 has expired. 12.4.4 After the time specified in column C of Table 12.2 has expired, until the expiration of any restricted-entry interval, the agricultural employer shall not allow or direct any worker to enter or to remain in the treated area as specified in column D of Table 12.2, except as provided in 12.5. 12.4.5 When column C of Table 12.2 under specifies that ventilation criteria must be met, ventilation shall continue until the air concentration is measured to be equal to or less than the inhalation exposure level the labeling requires to be achieved. If no inhalation exposure level is listed on the labeling, ventilation shall continue until after:

- A. Two hours of ventilation using fans or other mechanical ventilating systems;
- B. Four hours of ventilation using vents, windows or other passive ventilation; or
- C. Eleven hours with no ventilation followed by 1 hour of mechanical ventilation; or
- D. Eleven hours with no ventilation followed by 2 hours of passive ventilation; or
- E. Twenty-four hours with no ventilation.

Table 12.2 - Greenhouse Entry Restrictions Associated with Pesticide Applications

A. When a pesticide is applied	B. Workers are prohibited in:	C. Until:	D. After the expiration of time in column C until the restricted-entry interval expires, the entry-restricted area is:
1) As a fumigant	Entire greenhouse plus any adjacent structure that cannot be sealed off from the treated area	The ventilation criteria of 12.4.5 are met	No entry restrictions after criteria in column C are met
2) As a i) Smoke, ii) Mist, iii) Fog, or iv) Aerosol	Entire enclosed area	The ventilation criteria of 12.4.5 are met	Entire enclosed area is the treated Area
3) Not in 1 or 2 above, and for which a respiratory protection device is required for application by the project labeling	Entire enclosed area	The ventilation criteria of 12.4.5 are met	Treated Area
4) Not in 1, 2, or, 3 above, and: i) From a height of greater than 12 inches from the planting medium, ii) As a fine spray, or iii) Using a spray pressure greater than 40 psi	Treated Area plus 25 feet in all directions in the enclosed area	Application is complete	Treated Area

5)	Otherwise	Treated Area	Application is complete	Treated Area

12.5 Entry Restrictions.

12.5.1 General restrictions.

- A. After the application of any pesticide on an establishment, the employer shall not allow or direct any worker to enter or to remain in the treated area before the restricted-entry interval specified on the pesticide labeling has expired, except as provided in this section.
- B. Entry restricted area in greenhouses are specified in column D in Table 12.2.
- C. When two or more pesticides are applied at the same time, the restricted-entry interval shall be the longest of the applicable intervals.
- D. The employer shall assure that any worker who enters a treated area under a restricted-entry interval as permitted by paragraphs (c), (d), and (e) of this section uses the personal protective equipment specified in the product labeling for early-entry workers and follows any other requirements on the pesticide labeling regarding early entry.

12.5.2 Exception for activities with no contact.

A worker may enter a treated area during a restricted-entry interval if the employer assures that both of the following are met:

- A. The worker will have no contact with anything that has been treated with the pesticide to which the restricted-entry interval applies, including, but not limited to, soil, water, air, or surfaces of plants; and
- B. No such entry is allowed until any inhalation exposure level listed in the labeling has been reached or any ventilation criteria established by 12.4.5 or in the labeling have been met.

12.5.3 Exception for short term activities.

A worker may enter a treated area during a restricted-entry interval for short term activities if the employer assures that the following requirements are met:

- A. No hand labor activity is performed.
- B. The time in treated areas under a restricted-entry interval for any worker does not exceed 1 hour in any 24 hour period.
- C. No such entry is allowed for the first 4 hours following the end of the application, and no such entry is allowed thereafter until any inhalation exposure level listed in the labeling has been reached or any ventilation criteria established by 12.4.5 or in the labeling have been met.
- D. The personal protective equipment specified on the product labeling for early entry is provided to the worker.

 R VOLUME 16 NUMBER 02 FEBRUARY 15, 1994 PAGE

- E. The agricultural employer shall assure that the worker, before entering the treated area, either has read the product labeling or has been informed, in a manner that the worker can understand, of all labeling requirements related to human hazards or precautions, first aid, symptoms of poisoning, personal protective equipment specified for early entry, and any other labeling requirements related to safe use.
- F. The agricultural employer shall assure that:
 - i. Workers wear the personal protective equipment correctly for its intended purpose and use personal protective equipment according to manufacturer's instructions.
 - ii. Before each day of use, all personal protective equipment is inspected for leaks, holes, tears, or worn places, and any damaged equipment is repaired or discarded.
 - iii. Personal protective equipment that cannot be cleaned properly is disposed of in accordance with any applicable Federal and CNMI requirements.
 - iv. All personal protective equipment is cleaned according to manufacturer's instructions or pesticide product labeling instructions before each day of reuse. In the absence of any such instructions, it shall be washed thoroughly in detergent and hot water.
 - v. Before being stored, all clean personal protective equipment is dried thoroughly or is put in a well-ventilated place to dry.
 - vi. Any person who cleans or launders personal protective equipment contaminated with pesticides is kept separately and washed separately from any other clothing or laundry.
 - vii. Any person who cleans or launders personal protective equipment is informed that such equipment may be contaminated with pesticides, of the potentially harmful effects of exposure to pesticides, and of the correct way(s) to handle and clean personal protective equipment and to protect themselves when handling equipment contaminated with pesticides.
 - viii. All clean personal protective equipment is stored separately from personal clothing and apart from pesticide-contaminated areas.
 - ix. Each worker is instructed how to put on, use, and remove the personal protective equipment and is informed about the importance of washing thoroughly after removing personal protective equipment.
 - x. Each worker is instructed in the prevention, recognition, and first aid treatment of heat-related illness.
 - xi. Workers have a clean place(s) away from pesticide-storage and pesticide-use areas for storing personal clothing not in use; putting on personal protective equipment at the start of any exposure period; and removing personal protective equipment at the end of any exposure period.
 - xii. When personal protective equipment is required by the labeling of any pesticide for early entry, the agricultural employer shall assure that no worker is allowed or directed to perform the early-entry activity without implementing,

- when appropriate, measures to prevent heat-related illness.
- xiii. During any early-entry activity, the agricultural employer shall provide a decontamination site.
- xiv. The agricultural employer shall not allow or direct any worker to wear home or to take home personal protective equipment contaminated with pesticides.

12.5.4 Exception for an agricultural emergency.

- A. A worker may enter a treated area under a restricted-entry interval in an agricultural emergency to perform tasks, including hand labor tasks, necessary to mitigate the effects of the agricultural employer assures that all following criteria are met:
 - i. A CNMI or Federal Agency having jurisdiction declares the existence of circumstances that could cause an agricultural emergency on that agricultural establishment.
 - ii. The agricultural employer makes a reasonable determination that agricultural establishments is subject to the circumstances of the agricultural emergency.
 - iii. The requirements of 12.5.3 except 12.5.3.A and 12.5.3.B.

12.5.5 Pesticide Handlers

- A. Restrictions during applications.
 - Contact with workers and other persons.

The handler employer and the handler shall assure that no pesticide is applied so as to contact, either directly or through drift, any worker or other person, other than appropriately trained and equipped handler.

ii. Handlers handling highly toxic pesticides.

The handler employer shall assure than any handler who is performing any handling activity with a product that has the skull and crossbones symbol on the front panel of the label is monitored visually or by voice communication at least every two hours.

iii. Fumigant applications in greenhouses.

The handler employer shall assure:

 a. That any handler who handles a fumigant in a greenhouse, including a handler who enters the greenhouse before the acceptable inhalation exposure level or ventilation criteria have been met to monitor air levels or to initiate ventilation,

- maintains continuous visual or voice contact with another handler.
- b. That the other handler has immediate access to the personal protective equipment required by the fumigant labeling for handlers in the event entry into the fumigated greenhouse becomes necessary for rescue.

12.6 Notice of applications to employees.

Whenever workers and handlers are employed by a commercial pesticide handling establishment will be performing pesticide handling tasks, or before the application of any pesticide on or in an establishment the employer shall provide to the employee, or assure that the employee is aware of, the following information concerning any areas on the establishment that the employee may be in (or walk within 1/4 mile of) and that may be treated with a pesticide or that may be under a restricted-entry interval while the employee will be on the establishment:

12.6.1	Specific location and description of the treated area.
12.6.2	Time and date of application.
12.6.3	Product name, EPA registration number, and active ingredient(s).
12.6.4	Restrictions on entering those areas.
12.6.5	Restricted-entry interval.
12.6.6	Whether posting and oral notification are required.
12.6.7	Any other product-specific requirements on the product labeling concerning protection of workers or other persons during or after application.

12.7 Notice of applications.

- 12.7.1 Notification to workers of pesticide applications in greenhouses: The employer shall notify workers of any pesticide application in the greenhouse in accordance with his paragraphs.
 - A. All pesticides applications shall be posted in accordance with this 12.7.1.E.
 - B. If the pesticide product labeling has a statement requiring both the posting of treated areas and oral notification to workers, the agricultural employer shall also provide oral notification of the application to the worker in accordance with 12.7.1.F.
 - C. Notice need not to be given to a worker if the employer can assure that one of the following is met:
 - i. From the start of the application until the end of the application and during any restricted-entry interval, the worker will not enter, work in, remain in, or pass through the green house; or
 - ii. The worker applied (or supervised the application of) the pesticide for which the notice is intended and is aware of all information required by 12.7.1.F.

- D. Notification to workers on farms, in nurseries, or in forests of pesticide applications. The employer shall notify workers of any pesticide application on the farm or in the nursery or forest as follows:
 - If the pesticide product labeling has a statement requiring both the posting of treated areas and oral notification to workers, the agricultural employer shall post signs in accordance with 12.7.1.E and shall provide oral notification of the application to the worker in accordance 12.7.1.F.
 - ii. For any pesticide other than those for which the labeling requires both posting and oral notification of applications, the employer shall give notice of the application to the worker either by the posting of warning signs in accordance 12.7.1.E or orally in accordance with 12.7.1.F, and shall inform the workers as to which method of notification is in effect.
 - iii. Notice need not be given to a worker if the agricultural employer can assure that one of the following is met:
 - a. From the start of the application until the end of the application and during any restricted-entry interval, the worker will not enter, work in, remain in, or pass through on foot the treated area or any area within 1/4 mile of the treated area; or
 - b. The worker applied (or supervised the application of) the pesticide for which notice is intended and is aware of all information required by 12.7.1.F.
- E. Posted warnings signs. The agricultural employer shall post warning signs in accordance with the following criteria:
 - i. The warning sign shall have a background color that contrasts with red. The words "DANGER" and "PELIGRO." plus "PESTICIDES" and "PESTICIDAS." shall be at the top of the sign, and the words "KEEP OUT" and "NO ENTRE" shall be at the bottom of the sign. Letters for all words must be clearly legible. A circle containing an upraised hand on the left and a stern face on the right must be near the center of the sign. The inside of the circle must be red, except that the hand and a large portion of the face must be at least twice the height of the smallest letters. The length of the face must be only slightly smaller than the hand. Additional information such as the name of the pesticide and the date of application may appear on the warning sign if it does not detract from the appearance of the sign or change the meaning of the required information. DEQ may require the posting of additional language translations. These a additional translations shall be in conformance to the language comprehension of the work-force.

- ii. The sign shall be at least 14 inches by 16 inches in size, and the letters shall be at least 1 inch in height unless a smaller sign and smaller letters are necessary because the treated area is too small to accommodate a sign of this size. If a smaller sign is used, it must meet the proportions and other requirements described in 12.7.1.E.i.
- iii. On farms and in forests and nurseries, the signs shall be visible from all usual points of worker entry to the treated area, including at least each access road, each border with any labor camp adjacent to the treated area, and each footpath and other walking route that enters the treated area. When there are no usual points of worker entry, signs shall be posted in the corners of the treated area or in any other location affording maximum visibility.
- iv. In greenhouses, the signs shall be posted so they are visible form all usual points of worker entry to the treated area including each aisle or other walking route that enters the treated area. When there are no usual points of worker entry to the treated area, signs shall be posted in the corners of the treated area affording maximum visibility.
- v. The sign shall:
 - a. Be posted no sooner than 24 hours before the scheduled application of the pesticide.
 - b. Remain posted through the application and entry restricted-entry interval.
 - Be removed within 3 days after the end of the application and any restricted-entry interval and before agricultural worker entry is permitted.
 - d. The signs shall remain visible and legible during the time they are posted.
 - e. When several contiguous areas are to be treated with pesticides on a rotating or sequential basis, the entire area may be posted.
- F. Oral warnings. The agricultural employer shall provide oral warnings to workers in a manner that the worker can understand. If a worker will be on the premises during the application, the warning shall be given before the application takes place. Otherwise, the warning shall be given at the beginning of the worker's first work period during which the application is taking place or the restricted-entry interval for the pesticide is in effect. The warning shall consist of:
 - i. The location and description of the treated area.
 - ii. The time during which entry is restricted.
 - iii. Instructions not to enter the treated area until the restricted entry interval has expired.

When workers or handlers are on an establishment and, within the last 30 days, a pesticide has been applied on the establishment or a restricted-entry interval has been in effect, the employer shall display, in accordance with this section, specific information about the pesticide.

12.8.1 Location, accessibility, and legibility.

The information shall be displayed in the location specified for the pesticide safety poster in a specified location, and shall be accessible and legible.

12.8.2 Timing.

- A. If warning signs are posted for the treated area before an application, the specific application information for that application shall be posted at the same time or earlier.
- B. The information shall be posted before the application takes place, if workers will be on the establishment during application.
 Otherwise, the information shall be posted at the beginning of any handler or worker's first work period.
- C. The information shall continue to be displayed for at least 30 days after the end of the restricted-entry interval (or, if there is no restricted-entry interval, for at least 30 days after the end of the application) or at least until workers and handlers are no longer on the establishment, whichever is earlier.

12.8.3 Required information.

The information shall include:

- A. The location and description of the treated area.
- B. The product name, EPA registration number, and active ingredient(s) of the pesticide.
- C. The time and the date the pesticide is to be applied.
- D. The restricted-entry interval for the pesticide.

12.9 Pesticide Safety Training.

12.9.1 General requirement - Employer assurance.

The employer shall assure that each worker or handler as required by 12.9, has been trained as required by 12.9 during the last three years, counting from the end of the month in which the training was completed.

A. Requirement for workers performing early-entry activities. Before a worker enters a treated area on the establishment during a restricted-entry interval to perform early-entry activities and contacts anything that has been treated with the pesticide to which the restricted-entry interval applies, including but not limited to, soil, water, or surfaces of plants, the employer shall assure that the worker has been trained.

B. Requirement for other workers

i. Training before the 6th day of entry.

Except as provided in 12.9.1.A, before the 6th day that a worker enters any areas on the establishment where, within the last 30 days a pesticide has been applied or a restricted-entry interval for such pesticide has been in effect, the employer shall assure that the worker has been trained. This exception does not apply to handlers.

ii. Exception for first 3-year period.

Until February 25, 1997, and except as provided in 12.9.1.A, before the 16th day that a worker enters any areas on the I establishment where, within the last 30 days a pesticide has been applied or a restricted-entry interval for such pesticide has been in effect, the employer shall assure that the worker has been rained. This exception does not apply to handlers. After February 25, 1997, this exception no longer applies.

C. Requirement for Handlers

Handlers are required to have been trained in accordance with this section prior to performing any handling tasks performs any handling task. Training must have been obtained during the last 3 years, counting from end of the month in which the training was completed.

- 12.9.2 Exception. A worker or handler who is currently certified as an applicator of restricted-use pesticides or who satisfies the training requirements.
- 12.9.3 Training programs.
 - A. General pesticide safety information shall be presented to workers and handlers either orally from written materials or audio-visually. The information must be presented in a manner that the workers can understand (such as through a translator) using nontechnical terms. The presenter also shall respond to worker's questions.
 - i. The person who conducts the training shall meet at least one of the following criteria:
 - (i) Be currently certified as an applicator of restricted-use pesticides.
 - (ii) Be currently designated as a trainer of certified applicators or pesticide handlers by a Federal Agency or DEQ.
 - Have completed a pesticide safety train-thetrainer program approved by a Federal Agency and DEQ, or DEQ.
 - ii. Any person who issues an approved Worker Protection Standard worker training certificate must assure that the

PAGE

worker who receives the training certificate has been trained in accordance with the following.

- (i) The training materials shall convey, at a minimum, the following information:
 - (a) Where and in what form pesticides may be encountered during work activities.
 - (b) Format and meaning of information contained on pesticide labels and in labeling.
 - (c) Hazards of pesticides resulting from toxicity and exposure, including acute and chronic effects, delayed effects, and sensitization.
 - (d) Routes through which pesticides can enter the body.
 - (e) Signs and symptoms of common types of pesticide poisoning.
 - (f) Emergency first aid for pesticide injuries or poisonings.
 - (g) How to obtain emergency medical care.
 - (h) Routine and emergency decontamination procedures, including emergency eye-flushing techniques.
 - (i) Prevention, recognition, and first aid treatment of heat related illness.
 - (j) Need for appropriate use of personal protective equipment.
 - (k) Hazards and environmental concerns from chemigation and drift.
 - (I) Environmental concerns of runoff and to wildlife.
 - (m) Hazards from pesticide residues on clothing.
 - (n) Warnings about taking pesticides or pesticide containers home.
 - (o) Safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup.
 - (p) Requirements of Part 12 designed to reduce the risks of illness or injury resulting from workers' occupational exposure to pesticides, including application and entry restrictions, the design of the warning sign, posting of warning signs, oral warnings, the availability of specific information about applications, and

the protection against retaliatory acts.

(ii) Verification of training.

The requirements for verification have been met if the employer assures that a worker possesses an approved Worker Protection Standard worker training certificate, except if the agricultural employer is aware or has reason to know that an approved Worker Protection Standard worker training certificate has not been issued in accordance 12.9.3.A.ii, or has not been issued to the worker bearing the certificate, or the training was completed more than three years before the beginning of the current month.

12.10 Posted pesticide safety information.

12.10.1 Requirement.

When handlers or workers are on an establishment and, within the last 30 days, a pesticide has been applied on the establishment or a restricted-entry interval has been in effect, the employer shall display, in accordance with this section, pesticide safety information.

A. Pesticide safety poster.

A safety poster must be displayed that conveys, at a minimum, the following basic pesticide safety concepts:

- i. Help keep pesticides from entering your body. At a minimum, the following points shall be conveyed:
 - Avoid getting on your skin or into your body any pesticides that may be on plants and soil, in irrigation water, or drifting from nearby applications.
 - Wash before eating, drinking, using chewing gum or tobacco, or using the toilet.
 - Wear work clothing that protects the body from pesticide residues (long-sleeved shirts, long pants, shoes and socks, and a hat or scarf).
 - d. Wash/shower with soap and water, shampoo hair, and put on clean clothes after work.
 - e. Wash work clothes separately from other clothes before wearing them again.
 - f. Wash immediately in the nearest clean water if pesticides are spilled or sprayed on the body. As soon as possible, shower, shampoo, and change into clean clothes.
 - g. Follow directions about keeping out of treated or restricted areas.

- ii. There are CNMI and federal rules to protect workers and handlers, including a requirement for safety training.
- B. Emergency medical care information.
 - i. The name, address, and telephone number of the nearest emergency medical care facility shall be on the safety poster or displayed close to the safety poster.
 - ii. The employer shall inform workers promptly of any change to the information on emergency medical care facilities.

C. Location.

- i. The information shall be displayed in a central location on the farm or in the nursery or greenhouse where it can be readily seen and read by workers and handlers.
- ii. The information shall be displayed in a location in or near the forest in a place where it can be readily seen and read by workers and handlers and where workers handlers are likely to congregate or pass by, such as at a decontamination site or an equipment storage site.

D. Accessibility.

Workers and handlers shall be informed of the location of the information and shall be allowed access to it.

E. Legibility.

The information shall remain legible during the time it is posted.

12.11 Decontamination.

12.11.1 Requirement.

If any worker or handler on an establishment performs any activity in any area where, within the last 30 days, a pesticide has been applied or a restricted-entry interval has been in effect and contacts anything that has been treated with the pesticide, including, but not limited to, soil, water, or surfaces of plants, the employer shall provide, a decontamination site for washing off pesticide residues.

12.11.2 General conditions.

- A. The handler and worker employer shall provide handlers and workers with enough water a for routine washing and emergency eye-flushing. At all times when the water is available to workers, the employer shall assure that it is of a quality and temperature that will not cause illness or injury when it contacts the skin or eyes or if it is swallowed.
- B. When water stored in a tank is to be used for mixing pesticides, it shall not be used for decontamination or eye-flushing, unless the

- tank is equipped with properly functioning valves or other mechanisms that prevent movement of pesticides into the tank.
- C. The handler and worker employer shall provide soap and singleuse towels at each decontamination site in quantities sufficient to meet employees' needs.
- D. Emergency Eye-flushing. To provide for emergency eye-flushing for pesticides which labeling requires protective eyewear, the handler and worker employer shall assure that at least 1 pint of water is immediately available to 1) each handler and 2) each worker who is performing early-entry activities. The eye-flush water shall be carried by the employee, or shall be on the vehicle or aircraft the handler is using, or shall be otherwise immediately accessible.
- E. The handler employer shall provide one clean change of clothing, such as coveralls, at each decontamination site for use in an emergency.

12.11.3 Location.

- A. The decontamination site shall be reasonably accessible to and not more than 1/4 mile from each worker or handler during the activities.
- B. The decontamination site shall not be in an area that is being treated with pesticides
- C. The decontamination site shall not be in an area that is or under a restricted-entry interval unless the employees are performing early-entry activities permitted by these regulations..
- D. Exception for mixing sites. For mixing activities, the decontamination site shall be at the mixing site.
- E. Exception for pilots. The decontamination site for a pilot who is applying pesticides aerially shall be in the airplane or at the aircraft's loading site.

12.11.4 Decontamination after handling activities.

At the end of any exposure period, the handler employer shall provide at the site where handlers remove personal protective equipment, soap, clean towels, and a sufficient amount of water so that the handlers may wash thoroughly.

12.11.5 Decontamination after early-entry activities.

At the end of any exposure period for workers engaged in early-entry activities permitted by 12.5 and involving contact with anything that has been treated with the pesticide to which the restricted-entry interval applies, including, but not limited to, soil, water, air, or surfaces of plants, the agricultural employer shall provide, at the site where the workers remove personal protective equipment, soap, clean towels, and a sufficient amount of water so that the workers may wash thoroughly.

12.12 Emergency Assistance.

If there is reason to believe that a person who is or has been employed and has been poisoned or injured by exposure to pesticides used on the establishment, including, but not limited to, exposures from application, splash, spill, drift, or pesticide residues, the employer shall:

- 12.12.1 Make available to that person prompt transportation from the establishment, including any labor camp on the establishment, to an appropriate emergency medical facility.
- 12.12.2 Provide to that person or to treating medical personnel, promptly upon request, any obtainable information on:
 - A. Product name, EPA registration number, and active ingredients of any product to which that person might have been exposed.
 - B. Antidote, first aid, and other medical information from the product labeling.
 - C. The circumstances of application or use of the pesticide on the establishment.
 - D. The circumstances of exposure of that person to the pesticide.
- 12.13 Knowledge of labeling and site-specific information.
 - 12.13.1 Knowledge of labeling information.
 - A. The handler employer shall assure that before the handler performs any handling activity, the handler either has read the product labeling or has been informed in a manner the handler can understand of all labeling requirements related to safe use of the pesticide, such as signal words, human hazard precautions, personal protective equipment requirements, first aid instructions, environmental precautions pertaining to the handling activity to be performed.
 - B. The handler employer shall assure that the handler has access to the product labeling information during handling activities.
 - 12.13.2 Knowledge of site-specific information.

Whenever a handler who is employed by a commercial pesticides handling establishment will be performing pesticide handling tasks on an establishment, the handler employer shall assure that the handler employer shall assure that the handler is aware of the following information concerning any areas on the establishment that the handler may be in (or may walk within 1/4 mile of) and that may be under a restricted-entry interval while the handler will be on the establishment:

- A. Specific location and description of any such areas; and
- B. Restrictions on entering those areas.
- 12.14 Safe operation of equipment
 - 12.14.1 The handler employer shall assure that before the handler uses any equipment for mixing, loading, transferring, or applying VOLUME 16 NUMBER 02 FEBRUARY 15, 1994 PAGE

pesticides, the handler is instructed in the safe operation of such equipment, including, when relevant, chemigation safety requirements and drift avoidance.

- 12.14.2 The handler employer shall assure that, before each day of use, equipment used for mixing, loading, transferring, or applying pesticides is inspected for leaks, clogging, and worn or damaged parts, and any damaged equipment is repaired or is placed.
- 12.14.3 Before allowing any person to repair, clean, or adjust equipment that has been used to mix, load, or transfer, or apply pesticides, that the handler employer shall assure that the pesticides residues have been removed from the equipment, unless the person doing the cleaning, repairing, or adjusting is a handler employed by the pesticide handling establishment. If pesticides residue removal is not feasible, the handler employer shall assure that the person who repairs, cleans, or adjusts such equipment is informed:
 - A. That such equipment may be contaminated with pesticides.
 - B. Of the potentially harmful effects of exposure to pesticides.
 - C. Of the correct way to Handle such equipment.

12.15 Personal Protective equipment for Handlers

12.15.1 Requirements.

Any person who performs tasks as a pesticide handler shall use the clothing and personal protective equipment specified on the labeling for use of the product.

12.15.2 Exceptions

- A. Closed systems. If handling tasks are performed using properly functioning systems that enclose the pesticide to prevent it from contacting handlers or other persons, and if such systems are used and are maintained in accordance with that manufacturer's written operating instructions, exceptions to labeling-specified personal protective equipment for the handling activity are permitted as provided as follows:
 - i. Persons using a closed system to mix or load pesticides with a signal word of DANGER or WARNING may substitute a long sleeved shirt, long pants, shoes, socks, chemical resistant apron, and any protective gloves specified personal protective equipment.
 - ii. Persons using a closed system to mix or load pesticides other than those in 12.15.2.A.i or to perform other handling tasks may substitute a long-sleeved shirt, long pants, shoes, and socks for the labeling-specified personal protective equipment.
 - iii. Persons using a closed system that operates under pressure shall wear protective eyewear.

iv. Persons using a closed system shall have all labeling specified personal protective equipment immediately available for use in an emergency.

B. Enclosed cabs.

If handling tasks are performed from inside a cab that has a nonporous barrier which totally surrounds the occupants of the cab and prevents contact with pesticides outside of the cab, exceptions to personal protective equipment specified on the product labeling for that handling activity are permitted as provided as follows:

- i. Persons occupying an enclosed cab may substitute a longsleeved shirt, long pants, shoes, and socks for the labeling specified personal protective equipment. If a respiratory protection device is specified on the pesticide product labeling for the handling activity, it must be worn.
- ii. Persons occupying an enclosed cab that has a properly functioning ventilation system which is used and maintained in accordance with the manufacturer's written operating instructions and which is declared in writing by the manufacturer's or by a governmental agency to provide respiratory protection equivalent to or greater than a dust/mist filtering respirator may substitute a long-sleeved shirt, long pants, shoes, and sock for the labeling specified personal protective equipment. if a respiratory protection device other than a dust/mist filtering respirator is specified on the pesticide product labeling, it must be worn.
- iii. Persons occupying an enclosed cab that has a properly functioning ventilation system which is used and maintained in accordance with the manufacturer's written operating instructions and which is declared in writing by the manufacturer or by a respiratory protection equivalent to or greater than the vapor-or gas-removing respirator specified on pesticide product labeling may substitute a long-sleeved shirt, long pants, shoes, and socks for the labeling specified personal protective equipment. If an air supplying respirator or a self contained breathing apparatus (SCBA)is specified on the pesticide product labeling, it must be worn.
- iv. Persons occupying an enclosed cab shall have all labeling specified personal protective equipment immediately available and stored in a chemical resistant container, such as a plastic bag. They shall wear such personal protective equipment if it is necessary to exit the cab and contact pesticide-treated surfaces in the treated area. Once personal protective equipment is worn in the treated area, it must be removed before reentering the cab.

C. Aerial Applications

i. Use of gloves.

Chemical resistant gloves shall be worn when entering or leaving an aircraft contaminated by pesticide residues. In the cockpit, the gloves shall be kept in an enclosed container to prevent contamination of the inside of the cockpit.

ii. Open cockpit.

Persons occupying an open cockpit shall use the personal protective equipment specified in the product labeling for use during application, except that chemical-resistant footwear need not be worn. A helmet may be substitute for protective eyewear.

iii. Enclosed cockpit.

Persons occupying an enclosed cockpit may substitute a longsleeved shirt, long pants, shoes, and socks for labeling specified personal protective equipment.

12.15.3 Use of Personal Protective Equipment

The handler employer shall assure that:

- A. Personal protective equipment is used correctly for its intended purpose and is used according to the manufacturer's instructions.
- B. Before each day of use, all personal protective equipment is inspected for leaks, holes, tears, or worn places, and any damaged equipment is repaired or discarded.
- C. All protective equipment is cleaned according to the manufacturer's instructions or pesticide product labeling instructions before each day of reuse. In the absence of any such instructions, it shall be washed thoroughly in detergent and hot water. If any personal protective equipment cannot be cleaned properly, the handler employer shall dispose of the personal protective equipment in accordance with any applicable Federal, State, and local regulations. Coveralls or other absorbent materials that have been drenched or heavily contaminated with an undiluted pesticide that has the signal word DANGER or WARNING on the label shall be not reused.
- D. Contaminated personal protective equipment is kept separately and washed separately from any other clothing or laundry.
- E. The handler employer shall assure that all clean personal protective equipment shall be either dried thoroughly before being stored or shall be put in a well ventilated place to dry.
- F. All personal protective equipment is stored separately from personal clothing and apart from pesticide contaminated areas.
- G. When dust/mist filtering respirators are used, the filters shall be replaced:
 - i. When breathing resistance becomes excessive.
 - ii. When the filter element has physical damage or tears.
 - iii. According to manufacturer's recommendations or pesticide product labeling, whichever is more frequent.

- iv. In the absence of any other instructions or indications of service life, at the end of each day's work period.
- H. When gas or vapor removing respirators are used, the gas or vapor removing canisters or cartridges shall be replaced.
- I. Any person who cleans or launders personal protective equipment is informed:
 - i. That such equipment may be contaminated with pesticides.
 - ii. Of the potentially harmful effects of exposure to pesticides.
 - iii. Of the correct way(s) to clean personal protective equipment and to protect themselves when handling such equipment.
- J. Handlers have a clean place(s) away from pesticides storage and pesticide used areas where they may:
 - i. Store personal clothing not in use.
 - ii. Put on personal protective equipment at the start of any exposure period.
 - iii. Remove personal protective equipment at the end of any exposure period.
- K. Handlers are not allow or directed to wear home or to take home personal protective equipment contaminated with pesticides.
- When the use of personal protective equipment is specified by the labeling of any pesticide for the handling activity, no handler is allowed or directed to perform the handling activity unless appropriate measures are taken, if necessary, to prevent heat related illness.
- 12.16 Crop advisors entering treated areas while a restricted-entry interval is in effect may wear the personal protective equipment specified on the pesticide labeling for early-entry activities instead of the personal protective equipment specified on the pesticide labeling for handling activities, provided:
 - 12.16.1 Applications has been completed for at least 4 hours.
 - 12.16.2 Any inhalation exposure level listed in the labeling has been reached or any ventilation criteria or in the labeling have been met.
- 12.17 Hazard Information.
 - 12.17.1 Requirement.

The employer shall make available hazard information concerning a pesticide, to any handler or worker who enters a pesticide treated area on an establishment where, within the last 30 days a pesticide has been applied or a restricted-entry interval has been in effect, or to any handler or worker who may be exposed to the pesticide during its normal conditions of use or in a foreseeable emergency.

12.17.2 Format of information.

- A. A Material Safety Data Sheet for the product, or for each active and inert ingredient listed on the label of the product.
- B. A fact sheet has been prepared or approved by DEQ or a Federal agency for the pesticide.
 - i. Contents of fact sheets shall comply with 40 CFR 170.133(c).

12.17.3 Obtaining information.

The fact sheet or Material Safety Data Sheet for the formulated product or for each label-listed active and inert ingredient in the formulated product must be available at the time the product is purchased.

12.17.4 Maintaining Information.

The employer shall maintain the information specified in 12.17.1 at an appropriate central location, accessible to workers and handlers during working hours and readily obtainable in an emergency.

12.17.5 Providing Information.

The employer shall provide a written copy of the information specified in 12.17.2 within a reasonable amount of time, on the request of the worker, handler, DEQ, or medical personnel treating the worker.

PART 13 <u>ENFORCEMENT</u>

- 13.1 <u>Rights of Entry</u>. For purposes of enforcing the provisions of these regulations, the Chief or Chief's designee is authorized:
 - to enter, at reasonable times, any establishment or other place where pesticides are stored, held for distribution or sale, or used.
 - 13.1.2 inspect any pesticide, pesticide container labels and labeling, or application equipment.
 - 13.1.3 collect samples of any pesticide, suspected pesticide, or pesticide labeling.
 - observe operations involving the use or disposal of any pesticide, or the disposal of pesticide containers.
 - 13.1.5 investigate suspected misuse of any pesticide.
 - to enter any premises at any time if there is substantial reason to believe that any pesticide used, stored, or otherwise present on such premises is, through accident carelessness, or other circumstance, producing adverse effects on human health or the environment, for the purpose of taking such action as may be necessary to prevent or mitigate further adverse effects.
- 13.2 Seizure. A pesticide may be seized for condemnation by the Chief if:

- 13.2.1 it is adulterated or misbranded.
- in the case of a restricted use pesticide, it is found in the possession of a person other than a licensed dealer or an employee of such dealer, or a certified applicator or a person acting under the supervision of a certified applicator.

No notice or hearing shall be required prior to the seizure. Proceedings for condemnation shall be held in either the CNMI Court system or in U.S. Federal District Court, depending on jurisdiction and the CNMI Government's discretion. If the pesticide is condemned it shall, after entry of the decree, be disposed of by the Chief, and court costs and fees, storage, and other proper expenses shall be awarded against the owner of the pesticide. If the pesticide is disposed of by sale, the proceeds shall be paid into the treasury of the CNMI. However, upon payment of the costs of the condemnation proceedings and the execution and delivery of a good and sufficient bond conditioned that the pesticide shall not be sold or otherwise disposed of contrary to the provisions of these regulations, the court may direct that such pesticide be delivered to the owner.

13.3 Stop Sale, Etc. Order. Whenever the Chief has reason to believe on the basis of inspection or tests that such pesticide is in violation of any of the provisions of these regulations, or that such pesticide has been or is intended to be distributed or sold in violation of any such provisions, or when EPA registration of the pesticide to meet a special local need is disapproved by the EPA or revoked by the DEQ, the Chief may issue a written or printed 'stop sale, use, or removal' order to any person who owns, controls, or has custody of such pesticide, and after receipt of such order no person shall sell, use, or remove the pesticide described in the order except in accordance with the provisions of the order.

PART 14 RESTRICTED FOR APPLICATION

- 14.1 Pesticide Use Classification. The pesticides are classified under general or restricted use. The restricted use pesticides are listed in 40 CFR Part 152.175 (as may be amended.)
- 14.2 Additional Restricted Uses. Any other pesticide or pesticide formulation classified for restricted use under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, and the regulations adopted pursuant to, shall be a restricted use pesticide for the purposes of these regulations.
- 14.3 List of Restricted Use Pesticide. The Chief shall prepare a list of all pesticides or pesticide formulations classified for restricted use and shall amend such list whenever necessary. Such list shall be made available upon request to pesticide dealers, certified pesticide applicators, and to any person requesting such list.
- 14.4 Experimental Permits for use of Pesticides may be used only if the pesticide has received a permit from EPA as required under FIFRA §5 and 40 CFR Part 172 Subpart A (as may be amended.)

15 PESTICIDE USAGE PLANS AND PERMIT REQUIREMENTS

15.1 USAGE PLANS

All persons using restricted use pesticides in any amount or general use pesticides in quantities of greater than one hundred (100) pounds per year must submit a pesticide usage plan. The pesticide usage plan must include the following information:

15.1.1	Integrated Pest Management Plan for the area to reduce pesticide usage;
15.1.2	Pesticide Storage Plan;
15.1.3	Fertilizer usage plan;
15.1.4	MSDS for all pesticides to be used;
15.1.5	Long term environmental impacts of pesticides;
15.1.6	Impacts on pesticides to be used on endangered species in the area; and
15.1.7	Pesticide and fertilizer minimization plan.
15.1.8	Map showing location of all wells and water bodies within one thousand (1000) feet of the area that pesticides are to be applied.
15.1.9	An Emergency Plan for entry and exit in case of fire.
15.1.10	First-Aid Plan in the event of accident or injury.
15.1.11	Additional, information as the Chief deems necessary may also be requested prior to approval.
15.1.12	Non-refundable filing fee of \$20.

DEQ may prescribe forms in which information must be submitted on. Prior to the usage of pesticides, the plan must be approved by DEQ. The plan must be revised and resubmitted on a bi-yearly basis, for DEQ's approval. Applicator will be required to follow the plan. Any derivations must be approved by DEQ in advance. Failure to follow the plan shall be considered a violation of these regulations punishable by a fine of \$1,000 per occurrence.

15.2 STRUCTURAL TREATMENT PERMITS

For all structures which will be undergoing pesticides treatment on the foundation or ground area surrounding the foundation, a permit must be obtained prior to application of the pesticides. The following information is required to be submitted for review prior to issuance of any permit.

- 15.2.1 Integrated Pest Management Plan for the area to reduce pesticide usage;
- 15.2.2 MSDS for all pesticides to be used;
- 15.2.3 Map showing location of all wells and water bodies within one thousand (1000) feet of the area that pesticides are to be applied.

15.2.4 Non-refundable filing fee of \$50.

The Applicator is required to schedule inspection by the DEQ. The inspections are to be conducted prior to the application and upon immediate completion of the pesticide application (prior to any additional construction or earthmoving in the area). Inspections must be scheduled during DEQ's normal working hours.

16 PENALTIES, FINES, SUSPENSION, REVOCATION, AND OTHER ORDERS

The Chief may institute civil actions through the Courts or by Administrative Orders issued by the Chief.

16.1 Penalty Authority

- 16.1.1 2 CMC § 3131 of the Commonwealth Environmental Protection Act empowers the Chief, pursuant to regulations issued by the Director, to issue any necessary order to enforce the provisions of the Commonwealth Environmental Protection Act any regulations, This order may require that the person violating and any permit. immediately cease and desist from such violation or within a stated period of time take such mitigating measures as necessary to reverse or reduce any significant adverse effect of such violation. In the event that the person fails to comply with the order the person is liable for a civil penalty of not more than \$1,000 for each day of continuance of the failure. In addition the person is liable for an additional penalty for any amount expended by any agency of the Commonwealth in taking any necessary action to reverse or reduce the adverse effect of the violation when a person is unable or unwilling to do so.
- 16.1.2 2 CMC § 3331 Groundwater Management and Protection Act empowers the Chief to issue any order to enforce provisions of the Groundwater Management and Protection Act. The Chief may order the person to do any of the following: 1) cease and desist from the violation; 2) take mitigating measures to correct the violation; or 3) pay a civil fine of not more that \$1,000 for each violation.
- 16.1.3

 2 CMC § 3519 of the Solid Waste Management Act empowers the Chief to issue any order to enforce provisions of the Solid Waste Management Act. The Chief may order the person to do any of the following: 1) cease and desist from the violation; 2) take mitigating measures to correct the violation; or 3) pay a civil fine of not more that \$1,000 for each violation. Any person who violates any hazardous waste management provision of the Solid Waste Management Act or regulations issued under the authority of the Solid Waste Management Act or refuses or neglects to comply with an order issued by the Chief shall pay DEQ a civil penalty of not less than \$10,000 per day for each violation. Pesticides may be hazardous wastes depending on the characteristics and whether the expiration date of the pesticides has expired.

- The Chief may suspend, revoke, or modify any permit, license, or certification issued by the Division for violation of these Acts, any regulations adopted pursuant to the Acts, any permit or license issued pursuant to the Acts and such regulations.
- 16.3 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 Acts, regulations, permit, license, or any order issued thereunder.
- 16.4 Any person who knowingly and willfully commits any act in violation of the Acts, 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.
- 16.5 The Chief may issue and order any person to pay a civil fine of not more than \$1,000.00 for each violation of these Acts, regulations adopted pursuant to the Acts, or any permit or license issued pursuant to the Acts and such regulations, except if the violation pertains to the hazardous waste management related circumstances. If the violations pertains to hazardous waste management related violations, the Chief may issue and order any person to pay a civil fine of not more than \$10,000.00 for each day of violation. Each day of continued violation is a separate offense
- 16.6 Procedures for Administrative Orders
 - Any person who is subject to civil penalties, revocation, or suspension pursuant to Section 15 may be served with an Administrative Order and Notice of Violation and may upon written request seek an appeal hearing before the Chief or 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.
 - 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.

- 16.6.3 The respondent may also request and 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.
- 16.6.4 If a hearing is conducted the Chief or Chief's 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 the Chief 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.
- 16.6.5 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. The Chief will issue a written decision within thirty (30) calendar days.
- 16.6.6 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.
- 16.6.7 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.
- 16.7 The Chief shall have the responsibility to prepare, issue, modify, revoke and enforce orders for compliance with any of the provisions of these regulations or of any rules and regulations issued pursuant thereto and requiring the taking of such remedial measures as may be necessary or appropriate to implement or effectuate the provisions and purposes of these regulations.
- 16.8 The Chief may initiate civil actions 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. The Attorney General will institute legal actions to enjoin a violation, continuing violation, or threatened violation of these regulations.

- 16.9 If the Chief 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.
- 16.10 The Chief or Chief's designee may enter property for purposes specified in 16.9 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.

17 **SEVERABILITY**

Should any part, section, paragraph, sentence, clause, phrase, or application of these rules and regulations be declared unconstitutional or invalid for any reason by competent authority, the remainder or any other application of these rules and regulations shall not be affected in any way thereby.