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FÉÉRÉL AWEEWEL (AIR POLLUTION CONTROL) YÁÁNG PWEL IYE RE BWE ATTABWEEY

FÉÉRÉL AWEEWE IYE E FFÉTÁ RE BWE ATTABWEEY: Commonwealth of the Northern Mariana Islands, Office of the Governor, Bureau of Environmental and Coastal Quality (BECQ) re bwe fééri mili-ffééta Air Pollution Control Regulations, me re bwe liweli sángi aweewe ila e mwákketiw NMIAC Chapter 65-10, sángi me reel aweewe me lóll Administrative Procedure Act,1 CMC §§ 9102 and 9104(a). Aweewel Regulations nge ebwe bweletá me lóll 10 rál ngare a bwúng sángi 1 CMC §§ 9102 and 9104(a). 1 CMC § 9105(b).

ATORIDAD: Samwolul BECQ (Administrator of BECQ) yoor yaal ebwe lemelem wóól meeta schóól Legislature re adóptáli aweewe bwe i e yoor yaal lemelem sángi Commonwealth Environmental Protection Act. 2 CMC § 3122.

IYA TOOL ME AWEEWEL ÓWTOL: Féérél aweewel Air Pollution Control Regulations nge re bwe attabwey me aweewey ngáli yaar schóól National Ambient Air Quality Standards (NAAQS) faal ówtol Clean Air Act, 42 U.S.C. §§ 7401, et seq. (CAA), bwe ówtol aweewel féérél yáang pwel nge re bwe konsideráli me re bwe attabweey meeta lóll CNMI fengál me New Source Performance Standards (NSPS) me bwal schóól National Emission Standards for Hazardous Air Pollutants (NESHAPS) faal schóól CAA. Bwe CNMI nge e bwe petmitiiy féérél yáang pwel kka e yoor me re bwal aweewe me iya.. Tumwoghol aweewe kkaal nge e petmittiiy sángi United States Environmental Protection Agency (USEPA).

ÓWTOL ME MEETA FÉÉRÉL:

1. Féérél aweewel tool yáang ngare e ghi tumwógh me ngare e ghitighiit totool.
2. Féérél aweewel tool yáang ngare e ghi tumwógh me ngare e ghitighiit binenol totool.
3. Féérél aweewel permit, me repod, me attabwey meeta e lo lóll aweewel kkaal.
4. Yáang pwel (air pollution standard) reel podbus me yángil bwuraat me e roschol yáang pwel sángi gas, diesel, me bwuratil ghareeta me wóól highway.

FÉÉRIL EBWE AMWÉLA FISCHIY ME EBWE ABWÁRI NGÁLIR TOWLAP: Alongal Proposed Amended Regulations nge rebwe atemalighatchúw-long llól Commonwealth Register llól peighil sóbwol Proposed and Newly Adopted Regulations (1 CMC § 9102(a)(1)) me rebwe appaschá-fetáley igha aramas towlap reghal schú iye me alongal bwulasiyol gobieno me alongal sóóbw llól senatorial district, sángi English me i me ruwow mwaliyer falúw ngare Refalúwasch me Remaralis. 1 CMC § 9104(a)(1)

ISIISILONG AWEEWE: Afanga me isiisilong yóómw aweewe ngáli Ray Masga, Director, Division of Environmental Quality, BECQ, *Re: Proposed New Air Pollution Control Regulations*, me llól address me ngare ubwe fax ngáli me ngare email ngáli raymasga@becq.gov.mp. Aweewe nge emmwel ubwe isiislong sángi 30 rál igha e toowol arongorong yeel.. Isiisilong aweewe me yóómw mángámáng iye ubwe isiislong. 1 CMC § 9104(a)(2)

Alongal aweewe kkaal nge e tooto me e apreba sángi Acting Administrator wóól September ____2017.

Isiiss ngáli: _____ 9/21/17
RAY S. MASGA — Rál
Acting Administrator
CNMI Bureau of Environmental & Coastal Quality

Bwughi me reel: _____ 9/28/17
SHIRLEY P. CAMACHO-OGUMORO — Rál
Governor's Special Assistant
for Administration

Fayeli me Rekodili: _____ 09.28.2017
ESTHER SN. NESBITT — Rál
Commonwealth Register

Sángi ówtol 1 CMC § 2153(e) (AG e aprebáli regulations rebwe fééri) me aléghúw fééril me 1 CMC § 9104(a)(3) (AG e amweschúl lúghúw appreba kkaal) reel proposed regulations kka e appasch bwe ra árághil me aweewel me apprebáli bwe legal me e allégh sángi CNM Attorney General bwe ebwe atowowul bwe aramas towlap rebwe repiyálil (1 CMC § 2153(f)(publication of rules and regulations).

Sángi lóll 22 rál wool ~~June~~ September ____, 2017

_____
EDWARD MANIBUSAN
Attorney General

DIVISION OF ENVIRONMENTAL QUALITY

CNMI REGULATIONS

AIR POLLUTION CONTROL

Part 1 General Requirements

Part 2 General Prohibitions

PART 1

GENERAL REQUIREMENTS

§ 1 Definitions. As used in these rules, unless otherwise defined for purposes of a particular Part or section of these rules:

(a) "ug/m^3" means micrograms per cubic meter.

(b) "Act" means the Clean Air Act, as amended, 42 United States Code §§ 7401, et seq.

(c) "Actual emissions" means the actual rate of emissions of a regulated or hazardous air pollutant from a stationary source. Actual emissions for a time period as specified by the Administrator shall equal the average rate in pounds per hour at which the stationary source actually emitted the pollutant during the specified time period, and which is representative of the source's actual operation. The Administrator shall allow the use of a different time period upon a determination that it is more representative of the actual operation of a source. Actual emissions shall be calculated using the source's actual operating hours, production rates, and amounts of materials processed, stored, or combusted during the selected time period. Other parameters may be used in the calculation of actual emissions if approved by the Administrator.

(d) "Administrative permit amendment" means a permit amendment which:

(1) Corrects typographical errors;

(2) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;

(3) Requires more frequent monitoring or reporting by the permittee;

(4) Without changing any conditions or requirements, consolidates the terms and conditions of two or more minor source permits into one minor source permit for a facility;

(5) Incorporates applicable requirements for any insignificant activity in § 63(e), provided the activity is not by itself subject to PSD or § 111 or § 112 of the Act, does not cause a minor stationary source to become a major source, and does not cause the stationary source to become subject to PSD or § 111 or § 112 of the Act; or

(6) Allows for a change in ownership or operational control of a source provided the Administrator has determined that no other change in the permit is necessary, and provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Administrator.

(e) "Administrator" means the Administrator of the Bureau of Environmental and Coastal Quality.

(f) "Agricultural burning permit" means written authorization from the Administrator to engage in agricultural burning.

(g) "Air pollutant" has the same meaning as in the Act, § 302, and any substance the Administrator may by rule designate as such.

(h) "Air pollution" means the presence in the outdoor air of substances in quantities and for durations which may endanger human health or welfare, plant or animal life, or property or which may unreasonably interfere with the comfortable enjoyment of life and property throughout the Commonwealth and in such areas of the Commonwealth as are affected thereby, but excludes all aspects of employer-employee relationships as to health and safety hazards.

(i) "Air pollution control equipment" means equipment or a facility of a type intended to eliminate, prevent, reduce, or control the emissions of any regulated or hazardous air pollutant to the atmosphere.

(j) "Allowable emissions" means the emissions of a stationary source calculated using the maximum rated capacity of the source, unless the source is subject to federally enforceable limits which restrict the operating rate, capacity, or hours of operations, or any combination of these, and the most stringent of the following:

(1) The applicable standards set forth in the Standards of Performance for New Stationary Sources or the National Emissions Standards for Hazardous Air Pollutants;

(2) Any CNMI state implementation plan emission limitation, including those with a future compliance date; and

(3) The emission rates specified as a federally enforceable permit condition, including those with a future compliance date.

(k) "Applicable requirement" means all of the following as they apply to emissions units in a minor or major source:

(1) Any standard or other requirement provided for in the state implementation plan approved or promulgated by the USEPA;

(2) Any NAAQS or CNMI ambient air quality standard;

(3) Any standard or other requirement approved pursuant to Title I of the Act, including but not limited to §§ 111, 112, 114, 129, and 183 and Part C.

(4) Any standard or other requirement of the program to control air pollution from outer continental shelf sources approved pursuant to § 328 of the Act;

(5) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone approved pursuant to Title VI of the Act;

(6) The application of best available control technology to control those pollutants subject to any NAAQS or CNMI ambient air quality standard, but only as best available control technology would apply to new minor sources and modifications to minor sources that have the potential to emit or increase emissions above significant amounts considering any limitations, enforceable by the Administrator, on the minor source to emit a pollutant;

(7) Requirements in § 81(a) of these rules; and

(8) Any standard or other requirement promulgated pursuant to 2 CMC, Division 3, Chapter 1 or this chapter.

(l) "Applicant" means any person who submits an application for a permit.

(m)"Authority to construct" means the permit issued by the Administrator pursuant to repealed CNMI Air Pollution Control Regulations (9 CR 4861) giving approval or conditional approval to an owner or operator to construct an air pollution source.

(n) "BECQ" means the Bureau of Environmental and Coastal Quality.

(o) "Begin actual construction" means in general, initiation of physical on-site construction activities on an emissions unit which are permanent in nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in the method of operation this term refers to those on-site activities other than preparatory activities that mark the initiation of a change.

(p) "Best available control technology ("BACT")" means an emissions limitation including a visible emission standard based on the maximum degree of reduction for each pollutant subject to regulation approved pursuant to the Act which would be emitted from any proposed stationary source or modification which the Administrator, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard promulgated pursuant to 40 CFR Parts 60, 61, and 63. If the Administrator determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice, or

operation, and shall provide for compliance by means which achieve equivalent results.

(q) "Biomass fuel burning boilers" means fuel burning equipment in which the actual heat input of biomass fuel exceeds the actual heat input of fossil fuels, calculated on an annual basis.

(r) "BTU" means British thermal unit.

(s) "CFR" means the latest promulgated Code of Federal Regulations.

(t) "Chapter" means these Air Pollution Control Rules

(u) "CNMI Ambient Air Quality Standards" means any standard developed or to be developed by the CNMI for "air pollutants" as defined in § 1(j)(2).

(v) "Commenced" as applied to construction of or modification to a stationary source means that the owner or operator has all necessary preconstruction approvals or permits and either has:

(1) Begun, or caused to begin a continuous program of actual operation or on-site construction of the source; or

(2) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual operation or construction of the source.

(w) "Complete" means, in reference to an application for a minor source permit, that the application contains all of the necessary information.

(v) "Compliance plan" means a plan which includes a description of how a source will comply with all applicable requirements, and includes a schedule of compliance under which the owner or operator will submit progress reports to the Administrator no less frequently than every six months.

(w) "Construction" means a physical change or change in the method of operation including fabrication, erection, installation, demolition, or modification of an emissions unit which would result in a change in actual emissions.

(x) "Draft permit" means the version of a permit for which the Administrator offers public notice, including the method by which a public hearing can be requested, and an opportunity for public comment pursuant to § 98.

(y) "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator of the source, which requires immediate corrective action to restore normal operation, and causes the source to exceed a technology based emission limitation under the permit. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error, and shall not include an exceedance of a health-based emission limitation.

(z) "Emission" means the release or discharge air pollutants into the air from any source, or an air pollutant which is released or discharged into the air from any source.

(aa) "Emission standard" or "Emission limitation" means a requirement established by the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

(bb) "Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated or hazardous air pollutant.

(cc) "Enforceable as a practical matter" means that an emission limitation or other standard is both legally and practicably enforceable as follows:

(1) An emission limitation or other standard is legally enforceable if the Administrator has the right to enforce it.

(2) Practical enforceability for an emission limitation or for other standards (design standards, equipment standards, work practices, operational standards, pollution prevention techniques) in a permit for a source is achieved if the permit's provisions specify:

(A) A limitation or standard and the emissions units or activities at the source subject to the limitation or standard;

(B) The time period for the limitation or standard (e.g., hourly, daily, monthly and/or annual limits such as rolling annual limits); and

(C) The method to determine compliance, including appropriate monitoring, recordkeeping, reporting and testing.

(dd) "USEPA" means the United States Environmental Protection Agency.

(ee) "Existing major source" means a stationary major source that has received an authority to construct permit, commenced construction or modification, or was in operation prior to the effective date of these rules.

(ff) "Existing minor source" means a stationary minor source that has received an authority to construct permit, commenced construction or modification, or was in operation prior to the effective date of these rules.

(gg) "Federally enforceable" means (i) all limitations and conditions which are enforceable by the USEPA Administrator, including those requirements developed pursuant to 40 CFR Parts 60, 61, and 63; (ii) requirements within the CNMI state implementation plan; (iii) any permit requirements established pursuant to Title I Part C of the Act; (iv) all permit terms and conditions in a major source permit except those specifically designated as not federally enforceable; (v) or regulations approved pursuant to 40 CFR Part 51 Subpart I, including operating permits issued under an

USEPA-approved program that is incorporated into this Part and expressly requires adherence to any permit issued under such program.

(hh) "Fuel burning equipment" means a furnace, boiler, internal combustion engine, apparatus, stack, and all appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power.

(ii) "Fugitive dust" means the emission of solid airborne particulate matter from any source other than combustion.

(jj) "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(kk) "Hazardous air pollutants" means those hazardous air pollutants listed pursuant to § 112(b) of the Act. This definition also applies to the terms "air toxics" and "toxic air pollutants".

(ll) "Major modification" means the same as defined at 40 CFR 52.21(b) (2).

(mm) "Major source" means for purposes of determining the applicability of the federal Title V program pursuant to 40 CFR Part 71:

(1) For hazardous air pollutants, except radionuclides, a source or a group of stationary sources that is located within a contiguous area under common control that emits or has the potential to emit considering controls and fugitive emissions, any hazardous air pollutant, except radionuclides, in the aggregate of ten tons per year or more or twenty-five tons per year or more of any combination; or

(2) For any other pollutant, a source, or a group of stationary sources that is located within a contiguous area under common control belonging to a single major industrial grouping (i.e., all having the same two-digit Standard Industrial Classification Code) and that emits or has the potential to emit, considering controls, one hundred tons per year or more of any air pollutant. Fugitive emissions from the stationary source shall be considered by the Administrator in determining whether the stationary source is major, if it belongs to one of the following categories of stationary sources:

Coal cleaning plants (with thermal dryers);
Kraft pulp mills;
Portland cement plants;
Primary zinc smelters;
Iron and steel mills;
Primary aluminum ore reduction plants;
Primary copper smelters;
Municipal incinerators capable of charging more than two hundred fifty tons of refuse per day;
Hydrofluoric, sulfuric, or nitric acid plants;

Petroleum refineries;
Lime plants;
Phosphate rock processing plants;
Coke oven batteries;
Sulfur recovery plants;
Carbon black plants (furnace process);
Primary lead smelters;
Fuel conversion plants;
Sintering plants;
Secondary metal production plants;
Chemical process plants;
Fossil fuel boilers (or combination thereof) totaling more than two hundred fifty million BTU per hour heat input;
Petroleum storage and transfer units with a total storage capacity exceeding three hundred thousand barrels;
Taconite ore processing plants;
Glass fiber processing plants;
Charcoal production plants;
Fossil fuel fired steam electric plants of more than two hundred fifty million BTU per hour heat input;
All other stationary source categories regulated by a standard promulgated pursuant to §§ 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category;

(3) For radionuclides, a source having the meaning specified by the Administrator by rule and;

For nonattainment areas, a major stationary source as defined in Part D of Title I of the Act.

(4)"Major source" for the purposes of determining whether a physical change or change in the method of operation constitutes a major modification to a major source or major emitting facility means the same as "major stationary source" as defined in 40 CFR 52.21(b).

(nn) "Maximum achievable control technology ("MACT")" means the maximum degree of reduction in emissions of hazardous air pollutants that the Administrator determines to be achievable, such a determination shall be made on a case-by-case basis, taking into consideration the cost of achieving such emission reductions, any non-air quality health and environmental impacts, and energy requirements.

(oo) "Minor modification at a major source" means a modification at major source that does not qualify as a major modification.

(pp) "Minor source" means any stationary source that is not a major source and is not otherwise exempted in Part 4.

(qq) "Modification" means a physical change in or a change in the method of operation of a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted; or every significant change in existing monitoring requirements, and every relaxation of, or significant change in reporting or recordkeeping requirements. Routine maintenance, repair, and replacement of parts shall not be considered a modification. A change in source location shall be considered a modification.

(rr) "NAAQS" means the National Ambient Air Quality Standards contained in 40 CFR Part 50.

(ss) "National Emission Standards for Hazardous Air Pollutants" means the federal emission standards contained in 40 CFR Parts 61 and 63.

(tt) "Necessary preconstruction approvals or permits" means those permits or approvals required pursuant to federal or CNMI air quality control laws and regulations.

(uu) "New major source" means a major source that commenced construction or modification on or after the effective date of these regulations.

(vv) "New minor source" means a minor source that commenced construction or modification on or after the effective date of these regulations.

(ww) "Opacity" means a condition which renders material partially or wholly impervious to rays of light and causes obstruction of an observer's view.

(xx) "Owner or operator" means a person who owns, leases, operates, controls, or supervises a stationary source.

(yy) "Particulate matter" means any material, except water in uncombined form that is or has been airborne and exists as a liquid or a solid at standard conditions.

(zz) "Permit" means written authorization from the Administrator to construct, modify, relocate, or operate any regulated or hazardous air pollutant source. A permit authorizes the owner or operator to proceed with the construction, modification, relocation, or operation of a regulated or hazardous air pollutant source, and to cause or allow the emission of such air pollutants in a specified manner or amount.

(aaa) "Permit renewal" means the process by which a permit is reissued at the end of its term.

(bbb) "Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, federal or CNMI government agency, commission, or political subdivision, and to the extent permitted by law, the United States or any interstate body.

(ccc) "PM10" means particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers.

(ddd) "Portable" means any source which emits or may emit any air pollutant and is capable of being operated at more than one location.

(eee) "Potential annual heat input" means the product of the maximum rated heat input capacity (megawatts or million BTU per hour) times 8760 hours per year.

(fff) "Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator.

(ggg) "PSD" means prevention of significant deterioration as set forth in Title I, Part C of the Act.

(hhh) "Reconstruction" means the replacement of components at an existing stationary source to such an extent that the fixed capital cost of the new components exceeds fifty percent of the fixed capital cost that would be required to construct a comparable entirely new stationary source.

(iii) "Regulated air pollutant" means:

(1) Nitrogen oxides or any volatile organic compound;

(2) Any air pollutant for which a national or CNMI ambient air quality standard has been promulgated;

(3) Any air pollutant that is subject to any standard adopted pursuant to 2 CMC, Division 3, Chapter 1, or promulgated pursuant to § 111 of the Act;

(4) Any Class I or II substance subject to a standard promulgated pursuant to or established by Title VI of the Act; or

(5) Any air pollutant subject to a standard or other requirement promulgated pursuant to § 112 of the Act, including:

(A) Any air pollutant subject to requirements of § 112(j) of the Act. If the Administrator does not promulgate a standard by the date established pursuant to § 112(e) of the Act, any air pollutant for which a subject source would be major shall be considered a regulated air pollutant on the date eighteen months after the applicable date established pursuant to § 112(e) of the Act; and

(B) Any air pollutant for which the requirements of § 112(g)(2) of the Act have been met, but only with respect to the individual source subject to § 112(g)(2) requirements.

(jjj) "Responsible official" means:

(1) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation,

or an authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(A) The delegation of authority to such representative is approved in advance by the Administrator;

(2) For a partnership or sole proprietorship: a general partner or the proprietor, respectively; or

(3) For a municipality, state, federal, or other public agency: a principal executive officer, ranking elected official, or an authorized representative as approved by the Administrator. For the purposes of these rules, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(kkk) "Risk assessment" means the process of determining the potential adverse health effects of human exposure to environmental hazards. The process includes hazard identification, dose-response assessment, exposure assessment, and risk characterization by quantifying the magnitude of the public health problem that results from the hazard.

(lll) "SICC" means Standard Industrial Classification Code.

(mmm) "Significant" means, in reference to a net emissions increase, the same as defined at 40 CFR 52.21(b) (23).

(nnn) "Smoke" means the gaseous products of burning carbonaceous materials made visible by the presence of small particles of carbon.

(ooo) "Source" means property, real or personal, which emits or may emit any air pollutant.

(ppp) "Stack" means a point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

(qqq) "Standard Industrial Classification Code" means Major Group Number, Industry Group Number, or Industry Number as described in the Standard Industrial Classification Manual, 1987.

(rrr) "Standards of Performance for New Stationary Sources" means the federal emission standards contained in 40 CFR Part 60.

(sss) "Stationary source" means any piece of equipment or any activity located in a building, structure, facility, or installation that emits or may emit any air pollutant.

(ttt) "Submerged fill pipe" means a fill pipe the discharged opening of which is entirely submerged when the liquid level is six inches above the bottom of the tank; or when applied to a tank which is loaded from the side, shall mean a fill pipe the discharge opening of which is eighteen inches above the bottom of the tank.

(uuu) "Synthetic minor source" means a source that otherwise has the potential to emit regulated NSR pollutants in amounts that are at or above the thresholds for major sources in 40 CFR 71.2, as applicable, but has taken a restriction

so that its PTE is less than such amounts for major sources. Such restrictions must be enforceable as a practical matter.

(vvv) "Tpy" means tons per year.

(www) "Volatile organic compound" means any compound described at 40 CFR 51.100.

(xxx) "Volatile organic compound water separator" means a tank, box, sump, or other container which is primarily designed to separate and recover volatile organic compounds from water. Petroleum storage tanks from which water incidental to the process is periodically removed are not considered volatile organic compound water separators.

§ 2 Prohibition of air pollution. (a) No person shall engage in any activity which causes or allows air pollution or the emission of any regulated or hazardous air pollutant without first obtaining written approval from the Administrator, unless specifically exempted by these regulations.

(b) No person shall engage in any activity which causes or allows deterioration of existing air quality in the CNMI that violates PSD requirements pursuant to Title I, Part C of the Act.

§ 3 Requirement for a permit. Except as provided in Parts 4, 5, and 6, no person shall begin actual construction, reconstruction, modification, relocation, or operation of an emissions unit or air pollution control equipment of any minor or major source without first obtaining the applicable permits, either from the Administrator for minor sources, or from USEPA for major sources.

§ 4 General conditions for considering applications. The Administrator shall approve an application for a minor source or synthetic minor source permit if the applicant can show that all provisions of these regulations and all other applicable requirements will be complied with to the satisfaction of the Administrator.

§ 5 Certification. Every application form, report, compliance plan, or notice submitted pursuant to these rules shall contain certification by a responsible official of their truth, accuracy, and completeness. This certification and any other certification required pursuant to these regulations shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

§ 6 Permit conditions. In addition to the conditions authorized in Part 9, the Administrator may impose more restrictive conditions in a minor source permit to further limit the air pollutants and operation of the source. In determining whether to impose more restrictive conditions, the Administrator shall consider the relevant

circumstances of each individual case: the availability of a reasonable control technology, cleaner fuels or operating process; existing air quality and the resulting degradation; protection of public health, welfare and safety; and any information, assumptions, limitations, or statements made in conjunction with a permit application.

§ 7 Holding of permit. (a) Each major or minor source permit, or a copy thereof, shall be maintained at or near the stationary source for which the permit was issued and shall be made available for inspection upon the Administrator's request.

(b) No person shall willfully deface, alter, forge, counterfeit, or falsify a minor or major source permit.

§ 8 Transfer of permit. (a) Except as provided in the case of temporary sources in § 69, all minor source permits issued by the Administrator pursuant to these regulations and all major source permits issued by the USEPA pursuant to USEPA regulations shall not be transferable, whether by operation of law or otherwise, either from one location to another or from one piece of equipment to another.

(b) All minor source permits issued pursuant to these regulations shall not be transferable, whether by operation of law or otherwise, from one person to another without the approval of the Administrator. A request for transfer from one person to another shall be made on a permit transfer application form furnished by the Administrator.

(c) All major source permits issued by USEPA shall not be transferable without the approval of USEPA.

§ 9 Reporting discontinuance. Within thirty days of permanent discontinuance of the construction, modification, relocation, or operation of any major or minor source, the discontinuation shall be reported in writing to the Administrator by a responsible official of the source.

§ 10 Cancellation of a minor source permit. (a) If construction authorized by a minor source permit is not commenced within twelve months after the minor source permit takes effect, is discontinued for a period of twelve months or more or is not completed within a reasonable time, the minor source permit shall become invalid with respect to the authorized construction.

(b) § 10(a) shall not apply to phased construction projects. Instead, each phase shall commence construction within twelve months of the projected and approved commencement dates in the permit.

(c) The Administrator may extend the specified periods upon a satisfactory showing that an extension is justified.

§ 11 Permit termination, suspension, reopening, and amendment. (a) The

Administrator, at the Administrator's sole discretion or on the petition of any person, may terminate, suspend, reopen, or amend any minor source permit if, after affording the permittee an opportunity for a hearing in accordance with the Administrative Procedures Act 1 CMC §§ 9101, et seq., the Administrator determines that:

(1) The permit contains a material mistake made in establishing the emissions limitations or other requirements of the permit;

(2) Permit action is required to assure compliance with the requirements of the Act; 2 CMC, Division 3, Chapter 1; and these rules;

(3) Permit action is required to address additional requirements of the Act; 2 CMC, Division 3, Chapter 1; and these rules;

(4) There is a violation of any condition of the permit;

(5) The permit was obtained by misrepresentation or failure to disclose fully all relevant facts;

(6) The source is neither constructed nor operated in accordance with the application for the minor source permit and any information submitted as part of the application;

(7) There is a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted emissions;

(8) More frequent monitoring or reporting by the permittee is necessary; or

(9) Such is in the public interest, as determined pursuant to 2 CMC, Division 3, Chapter 1.

(b) The provisions of this section are supplemental to the provisions of §§ 72 and 75.

§ 12 Sampling, testing, and reporting methods. (a) All sampling and testing shall be made, and the results calculated, in accordance with the reference methods specified by USEPA or, in the absence of a USEPA reference method, test procedures approved by the Administrator. All tests shall be performed under the direction of persons knowledgeable in the field of air pollution control.

(b) The BECQ may perform emissions tests on any source of air emissions. Upon request of the Administrator, an owner or operator of a stationary source may be required to conduct tests of emissions of air pollutants at the owner or operator's expense. The owner or operator of the stationary source to be tested shall provide necessary ports in stacks or ducts and such other safe and proper sampling and testing facilities, exclusive of instruments and sensing devices, as may be necessary for proper determination of air emissions.

(c) The Administrator may require the owner or operator of any stationary source to maintain files in a permanent form suitable for inspection or in a manner authorized by the Administrator. Such files shall contain pertinent process and

material flow, fuels used, nature, amount, and time periods or durations of emissions, or any other information as may be deemed necessary by the Administrator to determine whether the stationary source complies with applicable emission limitations, NAAQS, any CNMI ambient air quality standard, or other provisions of these regulations.

(d) The information recorded shall be summarized and reported to the Administrator as specified in the permit and in accordance with any requirement of these rules. Recording periods shall be January 1 to June 30, and July 1 to December 31, or any other period specified by the Administrator, except the initial recording period shall commence on the date the Administrator issues the notification of the recordkeeping requirements. The Administrator may require the owner or operator to submit any reported summary to BECQ.

(e) Information recorded by the owner or operator of a stationary source and copies of the summarizing reports submitted to the Administrator shall be retained by the owner or operator for a specified time period from the date on which the information is recorded or the pertinent report is submitted. The specified time period shall be at least 3 years for minor sources.

(f) Test reports shall include a comparison of test results with permit limits.

§ 13 Air quality models. (a) All required estimates of ambient concentrations shall be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR Part 51, Appendix W.

(b) Where an air quality model specified in Appendix A of 40 CFR Part 51, Appendix W is inappropriate, the model may be modified or another model substituted on written request to and written approval from the Administrator who must also obtain USEPA approval in the case of a synthetic minor source under Part 6. The Administrator shall provide for public notice, requests for public hearings and an opportunity for public comment, on all proposed modifications or substitutions of an air quality model. Guidelines identified in 40 CFR Part 51, Appendix W for substituting or using alternate models shall be used in determining the acceptability of a substitute or alternate model.

§ 14 Operations of monitoring stations. During the operation of any monitoring station required by the Administrator or these regulations, the monitoring requirements of Appendix B to 40 CFR Part 58, "Ambient Air Quality Surveillance," shall be met as a minimum.

§ 15 Public access to information. (a) Except as provided in § 15(b), all information submitted to the agency shall be considered government records as set forth in the Open Government Act of 1992, 1 CMC § 9917:

(b) Any owner or operator of an existing or proposed major or minor source may request confidential treatment of specific information, including information concerning secret processes or methods of manufacture, by submitting a written request to the Administrator at the time of submission, clearly identifying the specific information that is to be accorded confidential treatment. With respect to each item in the request, the owner or operator shall provide the following documentation:

(1) How the information concerns secret processes, secret methods of manufacture;

(2) Who has access to the information;

(3) What steps have been taken to protect the secrecy of the information; and

(4) Why it is believed the information must be accorded confidential treatment and the anticipated prejudice should disclosure be made.

(c) Any information submitted to the BECQ without a request for confidentiality in accordance with this section shall be considered a public record.

(d) Upon a satisfactory showing to the Administrator that records, reports, or information, or particular part thereof, contain information of a confidential nature, they shall be kept confidential except that such records, reports, or information may be disclosed to USEPA, as well as to other Commonwealth and federal officers or employees concerned with implementing or enforcing these regulations or the Act. Emissions data shall not be entitled to confidentiality protection.

(e) Records, reports, or information for which confidentiality has been claimed may be disclosed only after the person who made the claim of confidentiality has received reasonable notice and has had the opportunity to demonstrate why these records, reports or information should not be disclosed.

(f) Any person who has claimed confidentiality for records, reports, or other information and whose claim was denied by the Administrator may obtain administrative review and subsequent judicial review of the denial pursuant to the Administrative Procedures Act, 1 CMC §§ 9101, et seq. Records which are the subject of a judicial review shall not be released until the judicial review is complete and only if the court authorizes such release.

(g) All requests for public records shall be in accordance with the Open Government Act of 1992, 1 CMC §§ 9901, et seq.

§ 16 Reporting of equipment shutdown. (a) In the case of shutdown of air pollution control equipment for necessary scheduled maintenance, the intent to shut down such equipment shall be reported to the Administrator at least twenty-four hours prior to the planned shutdown. The notice shall include:

(1) Identification of the specific equipment to be taken out of service as well as its location and permit number;

(2) The expected length of time that the air pollution control equipment will be out of service;

(3) The nature and quantity of emissions of air pollutants likely to be emitted during the shutdown period;

(4) Measures, such as the use of off-shift labor and equipment, that will be taken to minimize the length of the shutdown period; and

(5) The reasons why it would be impossible or impractical to shut down the source operation during the maintenance period.

(b) The submittal of the notice shall not be a defense to an enforcement action.

§ 17 Prompt reporting of deviations. (a) Except for emergencies under § 18, in the event any emissions unit, air pollution control equipment, or related equipment malfunctions or breaks down and causes the emission of air pollutants in violation of these rules or a permit, the owner or operator shall immediately notify the BECQ of the malfunction or breakdown, unless the protection of personnel or public health or safety demands immediate attention to the malfunction or breakdown and makes such notification infeasible. In the latter case, the notice shall be provided as soon as practicable, but not later than seven days after the malfunction or breakdown.

(b) The owner or operator shall provide the following information in writing within five working days of the malfunction or breakdown:

(1) Identification of each affected emission point and each emission limit exceeded;

(2) Magnitude of each excess emission;

(3) Time and duration of each excess emission;

(4) Identity of the process or control equipment causing each excess emission;

(5) Cause and nature of each excess emission;

(6) Description of the steps taken to remedy the situation, prevent a recurrence, limit the excessive emissions, and assure that the malfunction or breakdown does not interfere with the attainment and maintenance of the NAAQS and CNMI ambient air quality standards;

(7) Documentation that the equipment or process was at all times maintained and operated in a manner consistent with good practice for minimizing emissions; and

(8) A statement that the excess emissions are not part of a recurring pattern indicative of inadequate design, operation, or maintenance.

(c) The submittal of the notice shall not be a defense to an enforcement action.

§ 18 Emergency provision. (a) An emergency constitutes an affirmative defense to any action brought for noncompliance with any technology-based emission limitation, if it can be demonstrated to the Administrator through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An emergency occurred and the owner or operator of the source can identify the cause or causes of the emergency;

(2) The permitted facility was at the time being properly operated;

(3) During the period of the emergency, the owner or operator of the source took all reasonable steps to minimize emission levels that exceeded the emission limitations or other requirements in the major or minor source permit; and

(4) The owner or operator of the source submitted written notice of the emergency to the Administrator within two working days of the time when emission limitations were exceeded due to the emergency, provided that the notice contained a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

(b) In any proceedings for enforcement action, the owner or operator of the source seeking to establish the occurrence of an emergency has the burden of proof.

(c) This emergency provision is in addition to any emergency or upset provision in any applicable requirement.

§ 19 Prevention of air pollution emergency episodes. (a) This section is designed to prevent the excessive buildup of air contaminants during air pollution episodes, thereby preventing the occurrence of any emergency due to the effects of these contaminants on the public health.

(b) Conditions justifying the proclamation of an air pollution alert, air pollution warning, or air pollution emergency shall be deemed to exist whenever the Administrator determines that the accumulation of air contaminants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to a threat to the health of the public. In making this determination, the Administrator shall be guided by the criteria set forth in § 19 (c) to (g).

(c) If the national weather service issues an atmospheric stagnation advisory or if an equivalent local forecast of stagnant atmospheric conditions is issued, the BECQ shall survey its monitoring stations to determine whether alert, warning, or emergency levels have occurred or are likely to occur.

(d) The alert level is that concentration of pollutants at which first stage control action is to begin. An alert shall be declared, health advisories issued, and source activities curtailed as ordered by the Administrator when any one of the following levels is reached:

(1) SO_2 - eight hundred ug/m^3 (0.3 ppm), twenty-four-hour average;

(2) PM_{10} - three hundred fifty ug/m^3, twenty-four-hour average;

(3) SO_2 and particulate matter combined - product of SO2, ug/m^3, twenty-four-hour average and particulate matter, ug/m^3, twenty-four-hour average equal to 65 x 10^3;

(4) CO - seventeen mg/m^3 (15 ppm), eight-hour average;

(5) Ozone - four hundred ug/m^3 (0.2 ppm), one-hour average; or

(6) NO_2 - one thousand one hundred thirty ug/m^3 (0.6 ppm), one-hour average; two hundred eighty-two ug/m^3 (0.15 ppm), twenty-four-hour average and meteorological conditions are such that this condition can be expected to continue for twelve or more hours.

(e) The warning level indicates that air quality is continuing to degrade and that additional abatement actions are necessary. A warning shall be declared, health advisories issued, and source activities curtailed or terminated as ordered by the Administrator when any one of the following levels is reached:

(1) SO_2 - one thousand six hundred ug/m^3 (0.6 ppm), twenty-four-hour average;

(2) PM_{10} - four hundred twenty ug/m^3, twenty-four-hour average;

(3) SO_2 and particulate matter combined - product of SO2, ug/m^3, twenty- four-hour average and particulate matter, ug/m^3, twenty-four-hour average equal to 261 x 10^3;

(4) CO - thirty-four mg/m^3 (30 ppm), eight-hour average;

(5) Ozone - eight hundred ug/m^3 (0.4 ppm), one-hour average; or

(6) NO_2 - two thousand two hundred sixty ug/m^3 (1.2 ppm), one-hour average; five hundred sixty-five ug/m^3 (0.3 ppm), twenty-four-hour average; and meteorological conditions are such that this condition can be expected to continue for twelve or more hours.

(f) The emergency level indicates that air quality may have an impact on public health. An emergency shall be declared, health advisories issued, source activities terminated as ordered by the Administrator, and the public evacuated from the affected area if so recommended by the Administrator, civil defense, or the police BECQ when the warning level for a pollutant has been exceeded and:

(1) The concentrations of the pollutant are continuing to increase;

(2) The Administrator determines that, because of meteorological or other facts, the concentrations will continue to increase; or

(3) When one of the following levels is reached:

(A) SO_2 - two thousand one hundred ug/m^3 (0.8 ppm), twenty-four-hour average;

(B) PM_{10} - five hundred ug/m^3, twenty-four-hour average; or

(C) SO_2 and particulate matter combined - product of SO2, ug/m^3, twenty-four-hour average and particulate matter, ug/m^3, twenty-four-hour average equal to 393 x 10^3;

(D) CO - forty-six mg/m^3 (40 ppm), eight-hour average;

(E) Ozone - one thousand ug/m^3 (0.5 ppm), one-hour average; or

(F) NO_2 - three thousand ug/m^3 (1.6 ppm), one-hour average; seven hundred fifty ug/m^3 (0.4 ppm), twenty-four-hour average.

(g) Once declared, any episode level reached by application of these criteria shall remain in effect until the criteria for that level are no longer met. At that time, the next lower episode level shall be assumed.

§ 20 Variances. (a) No variance shall prevent or interfere with the maintenance or attainment of NAAQS. Any application for a variance shall include a calculation and description of any change in emissions and the expected ambient air quality concentrations.

(b) Under no circumstances shall a variance be granted from any requirement under the Act or from any federally enforceable permit terms and conditions.

§ 21 Penalties and remedies. Any person who violates any provision of these rules, any term or condition of a permit, or any term or condition of an agricultural burning permit shall be subject to the penalties and remedies provided for in 2 CMC § 3131.

§ 22 Severability. If any provision of these regulations or their application to any person or circumstance is held invalid, the application of such provision to other persons or circumstances and the remainder of these rules shall not be affected thereby.

§§ 23-30 Reserved.

PART 2

GENERAL PROHIBITIONS

§ 31 Applicability. (a) All owners or operators of an air pollution source are subject to the requirements of this Part, regardless of whether the source requires a permit from the CNMI or federal government. In the event any federal or CNMI laws, rules, or regulations are in conflict with the provisions of this Part, the most stringent requirement shall apply.

§ 32 Visible emissions. (a) Visible emission restrictions for stationary sources which commenced construction or were in operation before March 21, 1972, shall be as follows:

(1) No person shall cause or permit the emission of visible air pollutants of a density equal to or darker than forty percent opacity, except as provided in § 32(a)(2);

(2) During start-up, shutdown, or when breakdown of equipment occurs, a person may discharge into the atmosphere from any single source of emission, for a period aggregating not more than six minutes in any sixty minutes, air pollutants of a density not darker than sixty percent opacity.

(b) Visible emission restrictions for stationary sources which commenced construction, modification, or relocation after March 20, 1972, shall be as follows:

(1) No person shall cause or permit the emission of visible air pollutants of a density equal to or darker than twenty percent opacity, except as provided in § 32(b)(2);

(2) During start-up, shutdown, or when breakdown of equipment occurs, a person may discharge into the atmosphere from any single source of emission, for a period aggregating not more than six minutes in any sixty minutes, air pollutants of a density not darker than sixty percent opacity.

(c) Compliance with visible emission requirements shall be determined by evaluating opacity of emissions pursuant to 40 CFR Part 60, Appendix A, Method 9 and other USEPA approved methods.

(d) Emissions of uncombined water, such as water vapor, are exempt from the provisions of § 32 (a) and (b), and do not constitute a violation of this section.

§ 33 Fugitive dust and other pollutants. (a) No person shall cause or permit visible fugitive dust to become airborne without taking reasonable precautions. Examples of reasonable precautions are:

(1) Use of water or suitable chemicals for control of fugitive dust in the demolition of existing buildings or structures, construction operations, the grading of roads, or the clearing of land;

(2) Application of asphalt, water, or suitable chemicals on roads, material stockpiles, and other surfaces which may result in fugitive dust;

(3) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials. Reasonable containment methods shall be employed during sandblasting or other similar operations;

(4) Covering all moving, open-bodied trucks transporting materials which may result in fugitive dust;

(5) Conducting agricultural operations, such as tilling of land and the application of fertilizers, in such manner as to reasonably minimize fugitive dust;

(6) Maintenance of roadways in a clean manner; and

(7) Prompt removal of earth or other materials from paved streets which have been transported there by trucking, earth-moving equipment, erosion, or other means.

(b) Except for persons engaged in agricultural operations or persons who can demonstrate to the Administrator that the best practical operation or treatment is being implemented, no person shall cause or permit the discharge of visible fugitive dust beyond the property lot line on which the fugitive dust originates.

(c) No person shall cause or permit the discharge of any vapors, odors or other emissions which are noxious to persons, interfere with sleep, upset appetite, produce irritation of the upper respiratory tract, create symptoms of nausea, or which are or may be detrimental or dangerous to health. The Administrator may require that stack heights of relevant sources be increased, or may prescribe any other remedy necessary, to prevent the discharge of such emissions.

§ 34 Motor vehicles. (a) No person shall operate a gasoline-powered motor vehicle which emits any visible smoke while upon streets, roads, or highways.

(b) No person shall operate a diesel-powered motor vehicle which emits visible smoke for a period of more than five consecutive seconds while upon streets, roads, or highways.

(1) To ensure compliance with § 34(b), BECQ requires diesel-powered vehicles to be certified by DEQ through visible emission testing.

(2) The visible emissions certification fee of $40 shall be assessed upon passing and issuance of VEC.

(3) If initial testing is failed, retesting shall be performed no later than 30 calendar days; each retest will be assessed an additional fee of $10.

(c) No person shall cause any engine to be in operation while the motor vehicle is stationary at a loading zone, parking or servicing area, route terminal, or other off street areas, except:

(1) During adjustment or repair of the engine at a garage or similar place of repair;

(2) During operation of ready-mix trucks, cranes, hoists, and certain bulk carriers, or other auxiliary equipment built onto the vehicle or equipment that require power take-off from the engine, provided that there is no visible discharge of smoke and the equipment is being used and operated for the purposes as originally designed and intended. This exception shall not apply to operations of air conditioning equipment or systems;

(3) During the loading or unloading of passengers, not to exceed three minutes; and

(4) During the buildup of pressure at the start-up and cooling down at the closing down of the engine for a period of not more than three minutes.

(d) No person shall remove, dismantle, fail to maintain, or otherwise cause to be inoperative any equipment or feature constituting an operational element of the air pollution control system or mechanism of a motor vehicle as required by the provisions of the Act except as permitted or authorized by law.

§ 35 Incineration. (a) Qwners or operators of solid waste incinerators subject to the Title V requirements of § 129(e) of the Act shall be subject to the requirements of 40 CFR part 71 and shall apply for and obtain a Part 71 permit from USEPA as required by law.

(a) No person shall cause or permit the emissions of particulate matter to exceed 0.20 pounds per one hundred pounds (two grams per kilogram) of refuse charged from any incinerator.

(b) All required emission tests shall be conducted at the maximum burning capacity of the incinerator or at other capacities, as approved by the Administrator. The burning capacity of an incinerator shall be the manufacturer's or designer's guaranteed maximum rate or such other rate as may be determined by the Administrator.

(c) For the purposes of this section, the total of the capacities of all furnaces within one system shall be considered as the incineration capacity.

§ 36 Biomass fuel burning boilers. No person shall cause or permit the emissions of particulate matter from each biomass burning boiler and its drier or driers in excess of 0.40 pounds per one hundred pounds of biomass as burned.

§ 37 Process industries. (a) No person shall cause or permit the emission of particulate matter in any one hour from any stack or stacks, except for incinerators and

biomass fuel burning boilers, in excess of the amount determined by the equation $E = 4.10\ p^{0.67}$, where E = rate of emission in pounds per hour and p = process weight rate in tons per hour, except that no rate of emissions shall exceed forty pounds per hour regardless of the process weight rate.

(b) Process weight per hour is the total weight of all materials introduced into any specific process that may cause any emission of particulate matter through any stack or stacks. Solid fuels charged shall be considered as part of the process weight, but liquid and gaseous fuels and combustion air shall not. For a cyclical or batch operation, the process weight per hour shall be derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, including any time during which the equipment is idle. For a continuous operation, the process weight per hour shall be derived for a typical period of time by the number of hours of the period.

(c) Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation, the interpretation that results in the minimum value for the allowable emission shall apply.

(d) For purposes of this section, a process is any method, reaction, or operation whereby materials introduced into the process undergo physical or chemical change. A specific process is one which includes all of the equipment and facilities necessary for the completion of the transformation of the materials to produce a physical or chemical change. There may be several specific processes in series necessary to the manufacture of a product. However, where there are parallel series of specific processes, the similar parallel specific processes shall be considered as a single specific process.

§ 38 Sulfur oxides from fuel combustion. (a) No person shall burn any fuel containing in excess of two percent sulfur by weight, except for fuel used in ocean-going vessels.

(b) No person shall burn any fuel containing in excess of 0.05 percent sulfur by weight in any fossil fuel fired power and steam generating facilities having a power generating output in excess of twenty-five megawatts or a heat input greater than two hundred fifty million BTU per hour.

(c) The use of fuels prohibited in § 38(a) and (b) may be allowed at the Administrator's sole discretion if it can be demonstrated that the use of these fuels will result in emission rates of oxides of sulfur equivalent to or lower than the emission rates which would result from the fuels allowed by § 38(a) and (b).

§ 39 Storage of volatile organic compounds. (a) Except as provided in §39(c), no person shall place, store, or hold in any stationary tank, reservoir, or other container of more than a forty thousand-gallon (one hundred fifty thousand-liter) capacity any volatile organic compound which, as stored, has a true vapor pressure

equal to or greater than 1.5 pounds per square inch absolute unless the tank, reservoir, or other container is pressurized and capable of maintaining working pressures sufficient at all times to prevent vapor or gas loss to the atmosphere or is designed and equipped with one of the following vapor loss control devices:

(1) A floating roof, consisting of a pontoon type roof, double deck type roof or internal floating cover roof, which will rest on the surface of the liquid contents and be equipped with a closure seal or seals to close the space between the roof edge and tank wall. This control equipment shall not be permitted if the volatile organic compounds have a vapor pressure of eleven pounds per square inch absolute (five hundred sixty-eight millimeters of mercury) or greater under actual storage conditions. All tank gauging or sampling devices shall be gas-tight except when tank gauging or sampling is taking place;

(2) A vapor recovery system, consisting of a vapor gathering system capable of collecting the volatile organic compound vapors and gases discharged, and a vapor disposal system capable of processing such volatile organic compound vapors and gases to prevent their emission to the atmosphere. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place; or

(3) Other equipment or means of equal efficiency for purposes of air pollution control as may be approved by the Administrator.

(b) No person shall place, store, or hold in any new stationary storage tank, reservoir, or other container of more than a two hundred fifty-gallon (nine hundred fifty-liter) capacity any volatile organic compound unless such tank, reservoir, or other container is equipped with a permanent submerged fill pipe, is a pressure tank as described in §39(a), or is fitted with a vapor recovery system as described in §39(a)(2).

(c) Underground tanks shall be exempted from the requirements of § 39(a) if the total volume of volatile organic compounds added to and taken from a tank annually does not exceed twice the volume of the tank.

§ 40 Volatile organic compound water separation. No person shall use any single or multiple compartment volatile organic compound water separator which receives effluent water containing two hundred gallons (seven hundred sixty liters) or more of any volatile organic compound a day from any equipment that is processing, refining, treating, storing, or handling volatile organic compounds having a Reid vapor pressure of 0.5 pounds per square inch or greater unless such compartment is equipped with a properly installed vapor loss control device described as follows and which is in good working order, and in operation:

(1) A container having all openings sealed which totally encloses the liquid content. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place;

(2) A container equipped with a floating roof, consisting of a pontoon type roof, double deck-type roof, or internal floating cover roof, which will rest on the surface of the liquid contents and be equipped with a closure seal or seals to close the space between the roof edge and container wall. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place;

(3) A container equipped with a vapor recovery system consisting of a vapor gathering system capable of collecting the volatile organic compound vapors and gases discharged, and a vapor disposal system capable of processing such volatile organic compound vapors and gases to prevent their emission to the atmosphere. All container gauging and sampling devices shall be gas-tight except when gauging and sampling is taking place; or

(4) A container having other equipment of equal efficiency for purposes of air pollution control as may be approved by the Administrator.

§ 41 Pump and compressor requirements. All pumps and compressors handling volatile organic compounds having a Reid vapor pressure of 1.5 pounds per square inch or greater which can be fitted with mechanical seals shall have mechanical seals or other equipment of equal efficiency for purposes of air pollution control as may be approved by the Administrator. Pumps and compressors not capable of being fitted with mechanical seals, such as reciprocating pumps, shall be fitted with the best sealing system available for air pollution control given the particular design of pump or compressor as may be approved by the Administrator.

§ 42 Waste gas disposal. No person shall cause or permit the emissions of gas streams containing volatile organic compounds from a vapor blowdown system unless these gases are burned by smokeless flares, or abated by an equally effective control device as approved by the Administrator.

§§ 43-50 Reserved.

PART 3

OPEN BURNING

§ 51 Definitions. As used in this Part:

(a) "Agricultural burning" means the use of open outdoor fires in agricultural operations, forest management, or range improvements.

(b) "Agricultural operation" means a bona fide agricultural activity with the primary purpose of making a profit, conducting agricultural research, or providing agricultural instruction by an educational institution, and includes the growing and harvesting of crops or the raising of fowl or animals.

(c) "District" means a geographic area, as designated by the Administrator, to distinguish appropriate air basins for the purpose of smoke management.

(d) "DLNR" means the Department of Lands and Natural Resources.

(e) "Forest management" means wildland vegetation management using prescribed burning procedures which have been approved by the DLNR or responsible federal agency prior to the commencement of any burn and which are being conducted by a public agency or through a cooperative agreement involving a public agency. The fire department may be consulted for advice and guidance as part of the prescribed burning procedure.

(f) "Open burning" means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through an adequate stack or flare.

(g) "Range improvement" means the removal of vegetation for a wildlife, game, or livestock habitat.

§ 52 General provisions. (a) Except as provided in § 52(b) and § 53, no person shall cause, permit, or maintain any open burning. Any open burning is the responsibility of the person owning, operating, or managing the property, premises, business establishment, or industry where the open burning is occurring.

(b) § 52(a) shall not apply to:

(1) Fires for the cooking of food;

(2) Fires for recreational, decorative, or ceremonial purposes as approved by the Administrator;

(3) Fires to abate a fire hazard, provided that the Administrator receives notification prior to the commencement of any burn, that the hazard is so declared by the fire department, DLNR , or federal agency having jurisdiction, and that a prescribed burning plan, if applicable, has been submitted to and approved by the jurisdictional agency prior to the commencement of any burn;

(4) Fires for prevention or control of disease or pests as approved by the Administrator;

(5) Fires for training personnel in firefighting methods, provided that prior notice of any building, structure, or simulated aircraft set a fire for training purposes is given to the Administrator;

(6) Fires for the disposal of military ordnance or similarly dangerous materials, where there is no alternative method of disposal and burning is approved by the Administrator;

(7) Fires for residential bathing purposes, provided that plastics, used oil, and wood which has been painted with lead paint or treated with insecticides or pesticides are not being used as fuel for these fires;

(8) Fires for the non-commercial burning of leaves, grass, weeds, paper, and wood which has not been painted with lead paint or treated with insecticides or pesticides, not exceeding twenty-five pounds or twenty seven cubic feet, whichever is smaller, per day, provided such burning is:

(A) Not within fifty feet of any habitable building;

(B) Attended or supervised by an adult;

(C) Started and completed between 9:00 a.m. and 6:00 p.m.;

(D) Not in violation of the rules of other fire control agencies; and

(9) Other fires as approved by the Administrator.

§ 53 Agricultural burning: permit requirement. No person engaged in any agricultural operation, forest management, or range improvement shall cause or allow agricultural burning without first obtaining an agricultural burning permit from the Administrator. Any person who fails to comply with the terms and conditions of the permit or this chapter shall be subject to the penalties and remedies provided for in 2 CMC § 3131, including the invalidation of the permit. No agricultural permit shall be granted for, or be construed to permit, the open burning of trash and other wastes that have been handled or processed by factory operations.

§ 54 Agricultural burning: recordkeeping and monitoring. Each permittee shall monitor and maintain records in accordance with the agricultural burning permit issued by the Administrator.

§ 55 Agricultural burning: action on application. (a) The Administrator shall act on an application within a reasonable time, but not to exceed twenty one calendar days from the date an application is deemed complete by the Administrator, and shall notify the applicant in writing of the approval or denial of the application.

(b) If an application is denied, the applicant may request a hearing in accordance with 1 CMC § 9101, et seq.

(c) The permit may be granted for a period of up to one year from the date of approval.

(d) At the Administrator's sole discretion or the application of any person, the Administrator may terminate, suspend, reopen, or amend a permit if, after affording the applicant a hearing in accordance with the Administrative Procedures Act (1 CMC §§ 9101 et seq.), it is determined that:

(1) Any condition of the permit has been violated;

(2) Any provision of the CNMI Air Pollution Control Rules has been violated;

(3) Any provision of 2 CMC, Division 3, Chapter 1, has been violated;

(4) The maintenance or attainment of NAAQS and CNMI ambient air quality standards will be interfered with; or

(5) The action is in the public interest.

(e) The permit shall not be transferable whether by operation of law or otherwise or from one person to another.

§§ 56-60 Reserved.

PART 4

MINOR SOURCES

§ 61 Definitions. As used in this Part, unless otherwise defined for purposes of a particular section or subsection of this Part:

(a) "General permit" means a minor source permit covering numerous similar sources that meets the requirements of § 70.

(b) "Modification" means a physical change in or a change in the method of operation of a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted; or every significant change in existing monitoring requirements, and every relaxation of, or significant change in reporting or recordkeeping requirements. Routine maintenance, repair, and replacement of parts shall not be considered a modification. A change in source location shall be considered a modification.

(c) "Temporary minor source" means a minor source that is intended to be operated at multiple locations for a designated period of time at each location. The operation of the source shall be temporary and involve at least one change of location during the term of a minor source permit.

(d) "Timely application" means:

(1) An initial application for a minor source permit which is submitted to the Administrator in accordance with the schedule for application submittal specified in § 67; or

(2) An application for a minor source permit renewal which is submitted to the Administrator at least sixty days prior to the date of permit expiration.

§ 62 Applicability. Except as provided in §§ 63(d) and (f) and § 67, the requirements of this Part are applicable to the construction, reconstruction, modification, relocation, or operation of any minor source.

§ 63 Permit Requirements. (a) A minor source shall apply for and receive a minor source permit prior to commencing or continuing any of the activities cited in § 62. The permit shall require the permittee to comply with all permit conditions, all other applicable requirements and all provisions of the permit application.

(b) The minor source permit shall remain valid past the expiration date and the minor source shall not be in violation for failing to have a minor source permit, until the Administrator has issued or denied a renewal of the minor source permit provided:

(1) Prior to permit expiration, a timely and complete renewal application has been submitted and the owner or operator acts consistently with the permit previously granted, the application on which it was based, and all plans, specifications, and other information submitted as part of the application; and

(2) The owner or operator has submitted to the Administrator within the specified deadlines all requested additional information deemed necessary to evaluate or take final action on the renewal application, as described in § 74(c).

(c) A minor source permit shall not constitute, nor be construed to be an approval of the design of a minor source. It is the responsibility of the applicants to insure compliance with all applicable requirements in the construction and operation of any minor source.

(d) Prior to issuance of a minor source permit, if there is reason to be concerned that the minor source or modification would cause or contribute to a violation of the NAAQS or CNMI ambient air quality standards, the Administrator may require the applicant to conduct and submit an air quality model, as outlined in § 13 of these rules. If the air quality model reveals that construction of the source or modification would cause or contribute to a violation of the NAAQS or CNMI ambient air quality standards, the Administrator shall require the reduction or mitigation of such impacts before issuing a minor source permit.

(e) The following emissions units are exempt from the need for a minor source permit, provided that no exemption affects the applicability of any requirement of Part 5 or the determination of whether a stationary source is subject to any requirement of this chapter:

(1) Emissions units with potential emissions of less than 1.0 tpy for each air pollutant and less than 0.1 tpy for each hazardous air pollutant;

(2) Any storage tank, reservoir, or other container of capacity equal to or less than forty thousand gallons storing volatile organic compounds, except those storage tanks, reservoirs, or other containers subject to any standard or other requirement pursuant to §§ 111 and 112 of the Act;

(3) Gasoline service stations;

(4) Fuel burning equipment - other than smoke house generators and gasoline fired industrial equipment - with a heat input capacity less than 150,000 BTU per hour, or a combination of fuel burning equipment operated simultaneously as a single unit having a total combined heat input capacity of less than 150,000 BTU per hour;

(5) Steam generators, steam superheaters, water boilers, or water heaters, all of which have a heat input capacity of less than five million BTU per hour, and are fired exclusively with one of the following:

(A) Natural or synthetic gas;

(B) Liquefied petroleum gas; or

(C) A combination of natural, synthetic, or liquefied petroleum gas;

(6) Kilns used for firing ceramic ware heated exclusively by natural gas, electricity, liquid petroleum gas, or any combination of these and have a heat input capacity of ten million BTU per hour or less;

(7) Welding booths;

(8) Diesel fired portable industrial equipment less than 200 horsepower in size which is used during power outages or periodically for the equipment's maintenance and repair;

(9) Gasoline fired portable industrial equipment less than:

(A) 25 horsepower; or

(B) 200 horsepower in size which is used during power outages or periodically for the equipment's maintenance and repair;

(10) Hand held equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning of ceramic art work, precision parts, leather, metals, plastics, fiber board, masonry, carbon, glass, or wood, provided reasonable precautions are taken to prevent particulate matter from becoming airborne. Reasonable precautions include the use of dust collection systems, dust barriers, or containment systems;

(11) Laboratory equipment used exclusively for chemical and physical analyses;

(12) Containers, reservoirs, or tanks used exclusively for dipping operations for coating objects with oils, waxes, or greases where no organic solvents, diluents, or thinners are used; or dipping operations for applying coatings of natural or synthetic resins which contain no organic solvents;

(13) Closed tumblers used for cleaning or deburring metal products without abrasive blasting, and pen tumblers with batch capacity of one thousand pounds or less;

(14) Ocean-going vessels, except for ocean-going vessels subject to any standard or other requirement for the control of air pollution from outer continental shelf sources, pursuant to 40 CFR Part 55;

(15) Fire water system pump engines dedicated for firefighting and maintaining fire water system pressure, which are operated only during fire fighting and periodically for engine maintenance, and fired exclusively by natural or synthetic gas; or liquefied petroleum gas; or fuel oil No. 1 or No. 2; or diesel fuel No. 1D or No. 2D;

(16) Smoke generating systems used exclusively for training in government or certified firefighting training facilities;

(17) Internal combustion engines propelling mobile sources such as automobiles, trucks, cranes, forklifts, front-end loaders, graders, trains, helicopters, and airplanes;

(18) Diesel fired portable ground support equipment used exclusively to start aircraft or provide temporary power or support service to aircraft prior to start-up;

(19) Plant maintenance and upkeep activities (e.g., grounds-keeping, general repairs, cleaning, painting, welding, plumbing, re-tarring roofs, installing insulation, and paving parking lots), including equipment used to conduct these activities, provided these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and are not otherwise subject to an applicable requirement triggering a permit modification;

(20) Fuel burning equipment which is used in a private dwelling or for space heating, other than internal combustion engines, boilers, or hot furnaces;

(21) Ovens, stoves, or grills used solely for the purpose of preparing food for human consumption operated in private dwellings, restaurants, or stores;

(22) Stacks or vents to prevent escape of sewer gases through plumbing traps;

(23) Air conditioning or ventilating systems not designed to remove air pollutants generated by or released from equipment, and that do not involve the open release or venting of CFC's into the atmosphere;

(24) Woodworking shops with a sawdust collection system; and

(25) Other sources as may be approved by the Administrator.

(f) The owner or operator of a stationary source that becomes subject to the requirements of Part 4 because of a new or amended regulation in this chapter shall submit a complete minor source permit application within six months after the effective date of the new or amended regulation or such other time as approved by the Administrator. The owner or operator of the source may continue to construct or operate and shall not be in violation for failing to have a minor source permit only if the owner or operator has submitted to the Administrator a complete and timely minor source permit application, and any additional information necessary for the processing of the application, including additional information required pursuant to §§ 64(c) and 65.

(g) The Administrator, upon written request and submittal of adequate support information from the owner or operator of a minor source, may provide written approval of the following activities to proceed without prior issuance or amendment of a minor source permit. Under no circumstances will these activities be approved if the activity interferes with any applicable

requirement or the determination of whether a stationary source is subject to any applicable requirement:

(1) Installation of air pollution control devices. The Administrator may allow the installation of an air pollution control device prior to issuing a minor source permit or amendment to a minor source permit if the owner or operator of the source can demonstrate that the control device reduces the amount of emissions previously emitted, does not emit any new air pollutants, and does not adversely affect the ambient air quality impact assessment. The owner or operator of the minor source shall submit with the written request, a complete minor source permit application to install the air pollution control device.

(2) Test burns. The Administrator may allow an owner or operator of a minor source to test alternate fuels not allowed by permit if the following conditions are met:

(A) The test burn period does not exceed one week, unless the Administrator, upon reasonable justification, approves a longer period, not to exceed three months;

(B) The purpose of the test burn is to establish emission rates, to determine if alternate fuels are feasible with the existing minor source facility, or as an investigative measure to research the operational characteristics of a fuel;

(C) A stack performance test, a pre-approved monitoring program, or both, if requested by the Administrator, are conducted during the test burn to record and verify emissions;

(D) The owner or operator of the minor source provides emission estimates of the test burn and if requested by the Administrator, an ambient air quality impact assessment to demonstrate that no violation of the NAAQS and CNMI ambient air quality standards will occur;

(E) The owner or operator of the minor source demonstrates that the use of the alternate fuel is allowed or not restricted by any applicable requirement, other than the permit condition(s) restricting the alternate fuel use; and

(F) If a performance test or monitoring is required, the owner or operator of the minor source provides written test or monitoring results within sixty (60) days of the completion of the test burn or such other time as approved by the Administrator. The results shall include the operational parameters of the minor source at the time of the test burn, and any other significant factors that affected the test or monitoring results. If the Administrator approves the test burn, the Administrator may set operational limitations or other conditions for the test burn. Deviations from those limits or conditions shall be considered a violation of this chapter.

§ 64 Initial minor source permit application. (a) Every application for an initial minor source permit shall be submitted to the Administrator on forms furnished by the Administrator. The applicant shall submit sufficient information to enable the Administrator to make a decision on the application. Application contents are specified in § 141.

(b) The Administrator shall not continue to act upon or consider an incomplete application. An application shall be determined to be complete only when all of the following have been complied with:

(1) All information required or requested pursuant to § 64(a) has been submitted;

(2) All documents requiring certification have been certified pursuant to § 5;

(3) All applicable fees have been submitted;

(4) a public hearing has been held if the Administrator determines one is needed; and

(5) The Administrator has certified that the application is complete.

(c) At any time during the processing of an application, even if the application has been determined or deemed complete, the Administrator may request additional information in writing necessary to evaluate or take final action on the application and set a reasonable time for the response.

(d) A minor source permit application for a new minor source or a modification shall be approved only if the Administrator determines that the construction or operation of the new minor source or modification will be in compliance with all applicable requirements.

§ 65 Duty to supplement or correct permit applications. Any applicant for a minor source permit who fails to submit any relevant facts or who has submitted incorrect information in any permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application, but prior to the issuance of the minor source permit.

§ 66 Compliance plan. A compliance plan shall be submitted with every initial application for a minor source, temporary minor source, and general minor source permit, application for a minor source permit renewal, and application for a modification to a minor source, and at such other times as requested by the Administrator. Compliance plan contents are specified in §§ 146 and 147.

§ 67 Transition into the minor source permit program. (a) The owner or operator of an existing minor source with a permit to construct and operate, issued pursuant to repealed CNMI Air Pollution Control Regulations, 9 Com. Reg. 4861 (Jan. 19, 1987), shall submit a complete initial minor source permit application at least sixty days prior to the expiration of the permit to operate. The owner or operator shall continue to operate according to the provisions of the permit to operate and in accordance with any applicable laws, regulations, and rules in effect at the time the permit to operate was issued, until the minor source permit is issued.

(b) The owner or operator of a minor source who has applied for but has not received an initial permit to construct and operate or a renewal for a permit to operate pursuant to repealed CNMI Air Pollution Control Regulations shall submit to the Administrator in a timely manner, not to exceed sixty days from the effective date of this chapter, a complete initial minor source permit application (less any permit to operate application fee previously submitted). The owner or operator shall continue to operate according to the provisions of the authority to construct or permit to operate, whichever is applicable, and in accordance with any applicable laws, regulations, and rules in effect at the time the authority to construct or permit to operate was issued, until the minor source permit is issued.

(c) In the event a permit to construct and operate expires prior to the issuance of the minor source permit, the owner or operator may continue to construct or operate only if the owner or operator has submitted to the Administrator a complete minor source permit application, and any additional information necessary for the processing of the application. The authority to construct or permit to operate shall continue to be in effect until the minor source permit is issued or denied, provided the owner or operator constructs or operates in accordance with the authority to construct or permit to operate and any applicable laws, regulations, and rules in effect at the time of the authority to construct or permit to operate issuance. Noncompliance with any condition of the authority to construct or permit to operate is considered a violation of this chapter.

(d) All minor source permit applications, compliance plans and filing fees shall be submitted in accordance with §§ 64 and 66, and Part 7.

§ 68 Permit term. (a) A minor source permit shall not be issued for any term exceeding five years.

(b) A minor source permit may be renewed for additional terms not to exceed five years for each renewal.

§ 69 Temporary minor source permits. (a) An owner or operator of a temporary minor source may apply for a temporary minor source permit. The owner or operator of the temporary minor source shall certify its intention to operate at various locations with the same equipment and similar operational methods.

(b) The application and issuance of a temporary minor source permit is subject to the same procedures and requirements for an initial application and issuance of a minor source permit, including requirements of § 64. The initial location of the source shall be specified.

(c) Upon issuance of the temporary minor source permit, the owner or operator shall submit all succeeding location changes to the Administrator for approval at least thirty days or such lesser time as designated and approved by the Administrator, prior to the change in location. The owner or operator shall submit sufficient information to enable the Administrator to assess the air quality impact the temporary minor source may have at the new location. Relocation request contents are specified in § 148.

(d) The Administrator shall not continue to act upon or consider a location change request, unless the following have been submitted:

(A) All required information as identified in § 69(c);

(B) Any additional information as requested by the Administrator; and

(C) Any applicable fee.

(e) Prior to any relocation, the Administrator shall approve, conditionally approve, or deny in writing each location change. If the Administrator denies a location change, the applicant may appeal the decision pursuant to 1 CMC § 9101 et seq.

(f) With the exception of the initial location, if a source remains in any one location for longer than twelve consecutive months, the Administrator may request an ambient air quality impact assessment of the source.

(g) At each of the authorized locations, the owner or operator shall operate in accordance with the temporary minor source permit and all applicable requirements.

§ 70 Minor source general permits. (a) The Administrator, at the Administrator's sole discretion may, after providing for public notice, including the method by which a hearing can be requested, and an opportunity for public comment in accordance with § 73, issue a minor source general permit for similar minor sources. The general minor source permit expiration date shall apply to all sources covered under this permit.

(b) The Administrator shall establish criteria and conditional requirements in the minor source general permit by which minor sources may qualify for the general permit. Minor sources qualifying for a minor source general permit shall, at a minimum, have the same Standard Industrial Classification Code, similar equipment design and air pollution controls, and the same applicable requirements. Under no circumstances shall a general permit be considered for minor sources requiring a case-by-case determination for air pollution control

requirements (e.g. Best Available Control Technology Determination) or for synthetic minor sources. The owner or operator of a minor source shall be subject to enforcement action for operating without a permit if the source is later determined not to qualify for the conditions and terms of the general permit.

(c) The owner or operator of a minor source requesting coverage for some or all of its emission units under the terms and conditions of the minor source general permit must submit an application to the Administrator on forms furnished by the Administrator. The applicant shall submit sufficient information to enable the Administrator to make a decision on the application. Minor source general permit application contents are specified in §§ 141 and 142.

(d) The Administrator shall not continue to act upon or consider any incomplete application. An application shall be determined to be complete only when all of the following have been complied with:

(1) All information required and requested pursuant to § 70(c) has been submitted;

(2) All documents requiring certification have been certified pursuant to § 5;

(3) All applicable fees have been submitted; and

(4) The Administrator has certified that the application is complete.

(e) The Administrator shall notify the applicant in writing whether the application is complete.

(f) At any time during the processing of an application, even if the application has been determined or deemed complete, the Administrator may request additional information in writing necessary to evaluate or take final action on the application and set a reasonable time for the response.

(g) The Administrator, in writing, shall approve, conditionally approve, or deny an application for coverage under a minor source general permit within 21 days after receipt of a complete application.

(h) The Administrator may approve an application for coverage under a minor source general permit without repeating the public participation procedures.

§ 71 Transmission of information to the Administrator. (a) The Administrator may at any time require the owner or operator of a minor source to submit to the USEPA a copy of any minor source permit application, including applications for permit renewal and permit amendment reflecting a proposed modification, compliance plan, or records required to be kept under the minor source permit.

(b) The BECQ shall maintain records on all minor source permit applications, compliance plans, final permits, and other relevant information for a minimum of 10 years.

§ 72 Permit reopening. (a) The Administrator shall reopen and amend a minor source permit if the Administrator determines that any one of the following circumstances exist:

(1) The Administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit; or

(2) The permit must be terminated, suspended, or amended to assure compliance with the applicable requirements.

(b) Procedures to reopen and amend a minor source permit shall be the same as procedures which apply to initial permit issuance in accordance with § 63 and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

(c) The Administrator shall provide written notification to the permittee on the reopening of the permit indicating the basis for reopening at least thirty days prior to the reopening date, except that the Administrator may provide a shorter time period if it is determined that immediate action on the reopening of the permit is required to prevent an imminent peril to public health and safety or the environment.

(d) If requested by the Administrator, the owner or operator of a minor source shall submit a permit application or information related to the basis of the permit reopening or those provisions affected by the reopening within thirty days of receipt of the permit reopening notice. An extension for the application submittal may be granted by the Administrator if the owner or operator can provide adequate written justification for such an extension.

§ 73 Public participation. (a) Except for administrative permit amendments, in considering any application for a minor source permit, the Administrator, at the Administrator's sole discretion, may require the applicant to provide for public notice in a form approved by the Administrator, of the opportunity for public comment, including a request for public hearing, if the Administrator determines that public comment would aid in the Administrator's decision. If a public comment period is provided, any person requesting a public hearing shall do so during the public comment period. Any request from a person for a public comment period, a public hearing, or both shall indicate the person's interest in the permit and the reasons why a public comment period or hearing is warranted.

(b) Procedures for public notice, public comment periods, and public hearings shall be as set forth in § 98.

§ 74 Minor source permit renewal applications. (a) Every application for a minor source permit renewal is subject to the same requirements for an initial application of a minor source permit including the requirements of § 63. Applications shall be submitted to the Administrator on forms furnished by the Administrator. The applicant shall submit sufficient information to enable the Administrator to make a decision on the application. Application contents are specified in § 144.

(b) The Administrator shall not continue to act upon or consider any incomplete application. An application shall be determined to be complete only when all of the following have been complied with:

(1) All information required and requested pursuant to § 74(a) has been submitted;

(2) All documents requiring certification have been certified pursuant to § 5;

(3) All applicable fees have been submitted; and

(4) The Administrator has certified that the application is complete.

(c) At any time during the processing of an application, even if the application has been determined or deemed complete, the Administrator may request additional information in writing necessary to evaluate or take final action on the application and set a reasonable time for the response. As set forth in § 63, the minor source's ability to operate and the validity of the minor source permit shall continue beyond the permit expiration date, until the final permit is issued or denied, provided the applicant submits all additional information within the reasonable deadline specified by the Administrator.

§ 75 Administrative permit amendment. (a) Upon written request from the owner or operator of a minor source or at the Administrator's sole discretion, the Administrator may issue an administrative permit amendment.

(b) Except for a request to consolidate two or more minor source permits into one or to change ownership or operational control, an owner or operator requesting an administrative permit amendment may make the requested change immediately upon submittal of the request.

(c) Within sixty days of receipt of a written request for an administrative permit amendment, the Administrator shall take final action on the request and may amend the permit without providing notice to the public.

§ 76 Applications for modifications. (a) Every application for a modification to a minor source shall be submitted to the Administrator on forms furnished by the Administrator. The applicant shall submit sufficient information to enable the Administrator to make a decision on the application. Application contents are specified in § 145.

(b) The Administrator shall not continue to act upon or consider any incomplete application. An application shall be determined to be complete only when all of the following have been complied with:

(1) All information required and requested pursuant to § 76(a) has been submitted;

(2) All documents requiring certification have been certified pursuant to § 5;

(3) All applicable fees have been submitted; and

(4) The Administrator has certified that the application is complete.

(c) During the processing of an application that has been determined or deemed complete if the Administrator determines that additional information is necessary to evaluate or take final action on the application, the Administrator may request such information in writing and set a reasonable deadline for a response.

(d) An application for modification shall be approved only if the Administrator determines that the modification will be in compliance with all applicable requirements.

§§ 77-80 Reserved.

PART 5

MAJOR SOURCES

§ 81 Definitions. As used in this Part, unless otherwise defined for purposes of a particular section or subsection of this Part:

(a) "Major modification" means the same as defined in 40 CFR 51.21(b) (2).

(b) " Major source" means for the purposes of determining applicability of the Federal Title V program pursuant to 40 CFR Part 71:

(1) For hazardous air pollutants, except radionuclides, a source or a group of stationary sources that is located within a contiguous area under common control that emits or has the potential to emit considering controls and fugitive emissions, any hazardous air pollutant, except radionuclides, in the aggregate of ten tons per year or more or twenty-five tons per year or more of any combination; or

(2) For any other pollutant, a source, or a group of stationary sources that is located within a contiguous area under common control belonging to a single major industrial grouping (i.e., all having the same two-digit Standard Industrial Classification Code) and that emits or has the potential to emit, considering controls, one hundred tons per year or more of any air pollutant. Fugitive emissions from the stationary source shall be considered by the Administrator in determining whether the stationary source is major, if it belongs to one of the following categories of stationary sources:

(A) Coal cleaning plants (with thermal dryers);
(B) Kraft pulp mills;
(C) Portland cement plants;
(D) Primary zinc smelters;
(E) Iron and steel mills;
(F) Primary aluminum ore reduction plants;
(G) Primary copper smelters;
(H) Municipal incinerators capable of charging more than two hundred fifty tons of refuse per day;
(I) Hydrofluoric, sulfuric, or nitric acid plants;
(J) Petroleum refineries;
(K) Lime plants;
(L) Phosphate rock processing plants;
(M) Coke oven batteries;
(N) Sulfur recovery plants;
(O) Carbon black plants (furnace process);
(P) Primary lead smelters;

(Q) Fuel conversion plants;
(R) Sintering plants;
(S) Secondary metal production plants;
(T) Chemical process plants;
(U) Fossil fuel boilers (or combination thereof) totaling more than two hundred fifty million BTU per hour heat input;
(V) Petroleum storage and transfer units with a total storage capacity exceeding three hundred thousand barrels;
(W) Taconite ore processing plants;
(X) Glass fiber processing plants;
(Y) Charcoal production plants;
(Z) Fossil fuel fired steam electric plants of more than two hundred fifty million BTU per hour heat input; and
(AA) All other stationary source categories regulated by a standard promulgated pursuant to §§ 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category.

(3) For radionuclides, a source having the meaning specified by the Administrator by rule.

(4) "Major source" for the purposes of determining whether a physical change or change in the method of operation constitutes a major modification to a major source or major emitting facility means the same as "major stationary source" as defined in 40 CFR 52.21(b).

(5)

(c) "Minor modification at a major source" means a modification at a major source which is not a major modification.

(d) "Modification" means a physical change in or a change in the method of operation of a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted; or every significant change in existing monitoring requirements, and every relaxation of, or significant change in reporting or recordkeeping requirements. Routine maintenance, repair, and replacement of parts shall not be considered a modification. A change in source location shall be considered a modification.

§ 82 Prohibitions. (a) No new major source or major modification at an existing major source shall begin actual construction without first obtaining a PSD permit from the USEPA pursuant to 40 CFR 52.21.

(b) A new major source shall file a complete application to the USEPA to obtain a Title V permit within twelve (12) months after commencing operation, pursuant to 40 CFR Part 71.

(c) No minor modification at a major source shall begin actual construction without first obtaining written approval or a permit from the BECQ. In cases where the USEPA has previously issued a PSD permit to a major source, a PSD permit revision from the USEPA may be necessary prior to beginning actual construction of a minor modification at a major source. Upon commencement of operation following a minor modification at a major source, the major source shall file for a permit modification within twelve (12) months, pursuant to 40 CFR Part 71.

(d) An existing major source requiring a Title V permit shall submit a complete application to the USEPA for a Title V permit, pursuant to 40 CFR Part 71, within six (6) months of receipt of written notice from the Administrator that a Title V permit is required. Failure to submit a Title V application to the USEPA within six months may result in enforcement action.

§ 83 Permit Requirements. In accordance with these regulations, any person with the intent to construct and/or operate as a major source shall obtain a permit from the USEPA pursuant to 40 CFR 52.21 and/or 40 CFR Part 71. As stated above in the prohibition section, a period of six months following written notification from the Administrator is granted for an existing major source to apply for a Title V permit from the USEPA pursuant to 40 CFR Part 71.

§§ 84-90 Reserved.

PART 6
SYNTHETIC MINOR SOURCES

§ 91 Definitions. As used in this Part, unless otherwise defined for purposes of a particular section or subsection of this Part:

(a) "Modification" means a physical change in or a change in the method of operation of a stationary source which increases or decreases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted; or every significant change in existing monitoring requirements, and every relaxation of, or significant change in reporting or recordkeeping requirements. Routine maintenance, repair, and replacement of parts shall not be considered a modification. A change in source location shall be considered a modification.

(b) "Potential to emit" (PTE) means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator.

(c) "Synthetic minor source" means a source that otherwise has the potential to emit regulated air pollutants in amounts that are at or above the thresholds for major sources in 40 CFR 49.167, 40 CFR 52.21 or 40 CFR 71.2, as applicable, but has taken a restriction so that its potential to emit is less than such amounts for major sources. Such restrictions must be enforceable as a practical matter.

§ 92 Purpose. This Part authorizes the owners or operators of specified stationary sources that would otherwise be major sources to request and accept enforceable emission limits sufficient to allow the source to be considered "synthetic minor sources." A synthetic minor source is subject to all applicable BECQ Air Quality rules, regulations, and other requirements.

§ 93 Applicability. All stationary sources considered to be synthetic minor sources shall be subject to all requirements in Part 4 and Part 8 in addition to the following sections.

§ 94 Request for Synthetic Minor Status. (a) A request for designation as a synthetic minor source shall include:

(1) The identification and description of all existing emission units at the source;

(2) The calculation of each emission unit's maximum annual and maximum monthly emissions of regulated air pollutants for all

operating scenarios to be permitted, including all existing enforceable limits established by a mechanism other this rule;

(3) Proposed enforceable conditions which:

(A) Limit source-wide emissions to below applicable major source thresholds; and

(B) Are permanent, quantifiable, and otherwise enforceable as a practical matter;

(4) Proposed enforceable conditions to impose monitoring, record keeping, and reporting requirements sufficient to determine compliance;

(5) Any additional information requested by BECQ;

(6) Certification by a responsible official that the contents of the request are true, accurate, and complete.

(b) The owner or operator of a major source who chooses to request a synthetic minor source permit shall make such a request within the following timeframes:

(1) For any major source that is operating or is scheduled to commence operating on effective date of these regulations, the owner or operator shall request for synthetic minor source status and apply for a synthetic minor source permit no later than 60 days from the effective date of these regulations.

(2) For any major source that commences operating after the effective date of these regulations, the owner or operator shall request synthetic minor source status and apply for a synthetic minor source permit no later than 180 days prior to commencing operation.

(c) BECQ shall determine if the request for synthetic minor status is complete within 30 days of receipt, unless a longer period of time is agreed upon by BECQ and the source's owner or operator.

(d) The enforceable conditions enabling a source to become a synthetic minor source shall be identified as enforceable by BECQ and included in a source's operating permit issued by BECQ, and shall be:

(1) Permanent, quantifiable, and practically enforceable permit conditions, including any operational limitations or conditions, which limit the source's potential to emit below the major source thresholds;

(2) Monitoring, record keeping, and reporting conditions sufficient to determine on-going compliance with the emission limits.

§ 95 Record Keeping. The owner or operator of any facility subject to this section must maintain all required records on-site for a period of five years and make them available to BECQ upon request. BECQ must be granted access to any facility regulated by this section, during normal operating hours, for the purpose of determining compliance with this and any other requirements, regulations, or law.

§ 96 Compliance. (a) On an annual basis, beginning one year after the granting of the enforceable conditions, the permittee and/or authorized representative shall provide a certification to BECQ that the facility has operated all emission units with the limits imposed by the conditions. This certification shall include a brief summary of the emissions subject to the conditions for that time period and a comparison to those threshold levels of a major source.

(b) The emission of a pollutants in exceedance of the applicability thresholds for major sources or conditions in the permit, may be subject to one or a combination of the following actions: enforcement action, permit termination, permit revocation and reissuance, and permit renewal denial.

§ 97 Permit term. (a) A synthetic minor source permit shall not be issued for any term exceeding five years.

(b) A synthetic minor source permit may be renewed for any term not to exceed five years.

(c) A synthetic minor source permit may not be transferable during an existing term of the permit from the current owner or operator to a new owner or operator.

§ 98 Public Participation. (a) In considering any application for designation as a synthetic minor source, the Administrator shall require the applicant to provide for public notice in a form approved by the Administrator. The Administrator shall also provide opportunity for public comment on a draft permit, including the opportunity to request for public hearing. Any person requesting a public hearing shall do so during the public comment period.

§ 99 USEPA Notification. (a) In considering any application for designation as a synthetic minor source, the Administrator shall provide the USEPA, Region 9, with a copy of the public notice and opportunity for comment on a proposed permit.

§§ 100-110 Reserved.

PART 7

FEES FOR, MINOR OR SYNTHETIC MINOR SOURCES, AND AGRICULTURAL BURNING

§ 111 Definitions. As used in this Part:

(a) "Actual emissions" means the actual rate of emissions of a regulated or hazardous air pollutant from a stationary source. Actual emissions for a time period as specified by the Administrator shall equal the average rate in pounds per hour at which the stationary source actually emitted the pollutant during the specified time period, and which is representative of the source's actual operation. The Administrator shall allow the use of a different time period upon a determination that it is more representative of the actual operation of a source. Actual emissions shall be calculated using the source's actual operating hours, production rates, and amounts of materials processed, stored, or combusted during the selected time period. Other parameters may be used in the calculation of actual emissions if approved by the Administrator.

(b) "Air permit application" means a minor source permit application.

(c) "Air permit program" means the program established pursuant to 2 CMC, Division 3, Chapter 1, and this chapter.

(d) "Allowable emission rate" means the quantity of regulated or hazardous air pollutant that may be emitted (per unit of time, tons of production, or other parameter) as established by an air permit limitation or an applicable requirement that establishes an emission limit.

(e) "Annual fee" means the fee imposed on each owner or operator of a stationary source on an annual basis.

(f) "AP-42" means the USEPA's compilation of air pollutant emission factors, Volume 1: Stationary Point and Area Sources (latest edition).

(g) "Application fee" means the fee imposed on an owner or operator of:

(1) A stationary source upon the filing of any air permit application; or

(2) An agricultural operation upon the filing of any agricultural burning permit application.

(h) "Closure fee" means the annual fee that an owner or operator of a stationary source is assessed for the last year a source is in operation before permanent discontinuance.

(i) "Major source permit application" means an application submitted to USEPA for an initial major source permit, a renewal of a major source permit, a

permit amendment for any modification to a major source, or an administrative permit amendment to a major source permit.

(j) "Fee worksheets" means the forms provided by the Administrator to aid the owner or operator of a stationary source in the calculation of annual fees.

(k) "Minor modification" has the same meaning as in § 61.

(l) "Non-toxic pollutant" means any pollutant that is not a toxic pollutant.

(m)"Non-toxic source" means a stationary source that is not a toxic source.

(n) "Minor source permit application" means an application for an initial minor source permit, a renewal of a minor source permit, a permit amendment for any modification to a minor source, or the written request for a change in location of a temporary minor source, or an administrative permit amendment to a minor source permit.

(o) "Toxic pollutant" means any hazardous air pollutant listed pursuant to § 112(b) of the Act, and any other hazardous air pollutant designated by this chapter.

(p) "Toxic source" means a minor source that emits or has the potential to emit two tons but less than 10 tons per year of any hazardous air pollutant or five tons but less than 25 tons per year of any combination of hazardous pollutants.

(q) "Verifiable documentation" means a record, certified pursuant to § 5 that best substantiates the operating characteristic or parameters of a stationary source. Records identified as verifiable documentation may include fuel usage records, production records, or other records that can be substantiated through the use of non-resetting fuel or hour meters, appropriate testing, and other methods or devices, as required or deemed acceptable by the Administrator. Records may be deemed unacceptable by the Administrator if found to be erroneous, incomplete, inaccurate, or inconsistent.

§ 112 General fee provisions for major sources. There shall be no annual or renewal fees due to BECQ for major sources or major modifications. There shall be an application fee due to BECQ for minor modifications at major sources as outlined in § 114, however no subsequent annual or renewal fees will be due to BECQ for minor modifications at major sources. All initial, annual or renewal fees for major sources shall follow the fee schedule set forth in 40 CFR Part 71 and shall be sent to the USEPA.

§ 113 General fee provisions for minor or synthetic minor sources. (a) Every applicant for a minor source permit shall pay an application fee pursuant to § 114.

(b) Every owner or operator of a minor source shall pay an annual fee as set forth in § 115.

(c) All application and annual fees for minor sources required by this chapter shall be submitted by check or money order made payable to the CNMI Treasury/BECQ Program Income Fund, and are not refundable, except for any amount that constitutes an overpayment, as determined by the Administrator.

(d) Checks returned for any reason (e.g., insufficient funds, closed account, etc.) shall be considered a failure to pay. Returned checks are subject to an additional $15 handling charge. If a returned check results in a late payment, the owner or operator shall also be assessed a late payment penalty in accordance with § 116(m).

§ 114 Application fees for minor or synthetic minor sources. (a) An application fee shall be submitted with the minor source permit application and shall not be applied to any subsequent application, except for any amount that constitutes an overpayment, as determined by the Administrator. No minor source permit application shall be deemed complete unless the application fee is paid in full.

(b) The fee schedule for filing a minor source permit application shall be as follows:

(1) Non-toxic sources:

(A)	Initial permit	$ 500
(B)	Renewal	$ 250
(C)	Administrative permit amendment	$ 50
(D)	Modification resulting in an increase of emissions less than forty tpy of any regulated air pollutant other than hazardous air pollutants, or an increase of emissions less than one tpy of any hazardous air pollutant	$ 100
(E)	Modification resulting in an increase of emissions greater than or equal to forty tpy of any regulated air pollutant, other than hazardous air pollutants, or an increase of emissions greater than or equal to one tpy of any hazardous air pollutant	$ 300

(2) Temporary minor sources:

(A)	Initial permit for a non-toxic source	$ 500
(B)	Initial permit for a toxic source	$ 500
(C)	Renewal of a non-toxic source	$ 250
(D)	Renewal of a toxic source	$ 250
(E)	Change in location for a non-toxic source	$ 100
(F)	Change in location for at toxic source	$ 100

(G) Administrative permit amendment $ 50

(H) Modification to a non-toxic source resulting in an increase of emissions less than forty tpy of any regulated air pollutant other than hazardous air pollutants, or an increase of emissions less than one tpy of any hazardous air pollutant $ 150

(I) Modification to a non-toxic source resulting in an increase of emissions greater than or equal to forty tpy of any regulated air pollutant other than hazardous air pollutants, or an increase of emissions greater than or equal to one tpy of any hazardous air pollutant $ 150

(J) Modification to a toxic source resulting in an increase of emissions less than one tpy of any hazardous air pollutant, or an increase of emissions less than forty tpy of any regulated air pollutant other than hazardous air pollutants $ 150

(K) Modification to a toxic source resulting in an increase of emissions greater than or equal to one tpy of any hazardous air pollutant, or an increase of emissions greater than or equal to forty tpy of any regulated air pollutant other than hazardous air pollutants $ 300

(3) Sources seeking coverage under a general minor source permit:

(A) Initial permit for each remaining year before expiration of a general permit at the time of application submittal. Any fraction of a remaining year shall be rounded up to the next full year $ 100

(B) Renewal $ 50

(C) Administrative permit amendment $ 25

(4) Toxic sources:

(A) Initial permit $ 500

(B) Renewal $ 250

(C) Administrative permit amendment $ 50

(D) Modification resulting in an increase of emissions less than one tpy of any hazardous air pollutant, or an increase of emissions less than forty tpy of any regulated air pollutant other than hazardous air pollutants $ 150

(E) Modification resulting in an increase of emissions greater than or equal to one tpy of any hazardous air pollutant, or an increase of emissions greater than or equal to forty tpy of any regulated air pollutant other than hazardous air pollutants $ 300

(c) If a modification changes the classification of a source, the modification fee shall no longer apply. For example, a modification triggering a major source review, the modification application shall go to USEPA. Please refer to Part 5.

(d) An application fee for an administrative permit amendment shall be assessed only if the administrative permit amendment is requested by the owner or operator of the minor source.

§ 115 Annual emission fees for minor or synthetic minor sources. (a) Except as specified in § 115(b), an annual fee shall be paid in full within the first sixty days of each calendar year and a closure fee shall be paid within thirty days after the permanent discontinuance of the minor source.

(b)The Administrator, at the Administrator's sole discretion, or upon written request from the owner or operator of a major or minor source, may extend the annual fee submittal deadline if the Administrator determines that reasonable justification exists for the extension. The owner or operator's written request for an extension shall be submitted at least fifteen days prior to the required submission due date, unless the Administrator with reasonable justification approves a lesser period, and shall include the following information:

(1) Justification for the extension, including a showing that reasonable effort and resources have been and are being utilized in the calculation of annual emissions and the corresponding annual fee as calculated pursuant to this section;

(2) Description of the problems being encountered and reasons for any delays in meeting the annual fee deadline;

(3) The current status of emission calculations; and

(4) The projected date of submitting the annual fee. If the Administrator disapproves an extension for submitting the annual fee, the owner or operator shall pay the required annual fee within thirty days of receipt of the disapproval notice or by the original submittal deadline, whichever is later. If the Administrator approves an extension for submitting the annual fee, the owner or operator shall pay the required annual fee by the extended approved date. Any part of the annual fee that is not paid within the required time shall at once be assessed the late penalty fee pursuant to § 115(m).

(c) An annual fee due within the first sixty days of each calendar year shall be based upon the tons of regulated air pollutants emitted during the prior calendar year.

(d) An annual fee due within the first sixty days of a particular calendar year shall be referred to as the annual fee for that particular year. For example, the 2017 annual fee shall be due within the first sixty days of calendar year 2017 and shall be based on regulated air pollutants emitted in 2016.

(e) An annual fee shall be assessed for each ton of regulated air pollutant emitted by a minor source except for:

(1) Carbon monoxide emissions;

(2) Fugitive emissions if fugitive emissions are not included in the applicable requirements or AP-42;

(3) Each ton of each regulated air pollutant calculated in excess of four thousand tons per year.

The annual fee assessed for each regulated air pollutant shall be determined by multiplying the appropriate dollar per ton charge pursuant to § 115(g) (1) and (2), and by the minor source emissions in tons per year.

(f) The submittal of an additional annual fee determined by the dollar per ton charge pursuant to § 115(g) (1) and (2) for toxic pollutants shall begin as established by rulemaking.

(g) The dollar per ton charge for each regulated air pollutant emitted by a regulated source shall be as follows:

(1) All regulated pollutants (toxic and non-toxic) from a minor source- $13.00 per ton (made payable to the CNMI Treasury/BECQ Program Income Fund);

(2) Toxic pollutant emissions - additional charge to be set by rulemaking specifically for regulated toxic pollutants.

(h) When submitting the annual fee, the owner or operator of a major or minor source shall submit a written report of emissions of all regulated air pollutants (toxic and non-toxic) greater than one ton per year.

(i) The minimum annual fee shall be $500 for each minor source facility in operation or each valid minor source permit held during the prior calendar year, or $42 per month for any fraction of the year the minor source facility was in operation or the minor source permit was valid. For purposes of §115, "minor source facility" means a minor source under common control of the same person or persons that is located on one or more contiguous or adjacent properties.

(j) If any part of the annual fee is not paid within thirty days after the due date, a late payment penalty of five percent of the amount due shall at once accrue and be added thereto. Thereafter, on the first day of each calendar month during which any part of the annual fee or any prior accrued late payment penalty remains unpaid, an additional late payment penalty of five percent of the then unpaid balance shall accrue and be added thereto.

(k) If any annual fee, including the late payment penalty required by this chapter is not paid in full within thirty days after the due date, the Administrator may terminate or suspend any or all of the owner or operator's minor source permits, after providing notice and the opportunity for a hearing in accordance with the CNMI Administrative Procedures Act, 1 CMC §§ 9101, et seq.

(l) The owner or operator of a minor source may at any time request a meeting with the department to discuss the annual fee assessment or the computational methods used to determine the annual fee. If the owner or operator still feels that the annual fee is being miscalculated after meeting with the department, the

owner or operator may request a contested case hearing in accordance with CNMI Administrative Procedures Act, 1 CMC §§ 9101, et seq.

§ 116 Basis of annual fees for minor or synthetic minor sources. (a) For purposes of calculating annual fees for minor sources under § 116, the minor source actual emissions in tons per year shall be determined by using the following parameters:

(1) An emission factor derived from the actual rate of emissions as substantiated through stack test reports, continuous emissions monitoring data, or any other certified record as deemed acceptable by the Administrator;

(2) The actual production, operating hours, amount of materials processed or stored, or fuel usage of the minor source during the prior calendar year the annual fee is due. Other operating parameters of the minor source may be used in the fee calculation if approved by the Administrator; and

(3) If not already included in the emission factor identified in paragraph (1), a percentage reduction factor based upon the efficiency of the air pollution control equipment, as provided by AP-42 or any verifiable documentation demonstrating the actual performance of the air pollution control equipment.

(b) If an actual rate of emissions referenced in § 116(a)(1) cannot be substantiated, the allowable emission rate shall be used to calculate the total annual tonnage of pollutants emitted. If an allowable emission rate is not specified in an air permit or an applicable requirement, the appropriate AP-42 air pollutant emission factor shall be used. If the owner or operator of a minor source cannot provide verifiable documentation on the parameters referenced in § 116(a)(2), the maximum allowable production, operating hours, amount of material processed or stored, or fuel usage shall be used in calculating the total annual tonnage of regulated air pollutants emitted from the minor source.

(c) Any fraction of a ton calculated shall be disregarded for fee purposes. Only the annual tonnage in whole tons of each regulated air pollutant shall constitute the basis of annual fees.

(d) The annual fee shall be calculated on fee worksheets furnished by the Administrator. If a fee worksheet is not available for a particular minor source, the owner or operator of a minor source shall provide their own worksheet showing the method, assumptions, emission factors, and calculations used to obtain the total annual emissions in tons per year, for each regulated air pollutant emitted.

§ 117 Application fees for agricultural burning permits. (a) Every applicant for an agricultural burning permit shall pay an application fee pursuant to this section. The application fee shall be made payable to the CNMI Treasury/BECQ Special Fund, Air Program.

(b) An application fee shall be submitted with the application for an agricultural burning permit and shall not be refunded nor applied to any subsequent application. No application for an agricultural burning permit shall be acted upon or considered unless the application fee is paid in full.

(c) Checks returned for any reason (e.g., insufficient funds, closed account, etc.) shall be considered a failure to pay. Returned checks are subject to an additional $15 handling charge.

(d) From the effective date of this chapter, the fee schedule for filing an agricultural burning permit shall be as follows:

(1) Less than ten acres	$250
(2) Ten to less than one hundred acres	$500
(3) One hundred or more acres	$1,000

The acreage shall be the total acreage designated to be burned or cleared for burning as specified in the permit.

§§ 118-130 Reserved

PART 8

HAZARDOUS AIR POLLUTANT SOURCES

§ 131 Definitions. As used in this Part:

(a) "Carcinogenic hazardous air pollutant" means any hazardous air pollutant recognized as known, probable, or potential human carcinogen by the USEPA's Integrated Risk Information System (IRIS), or other documented studies or information by recognized authorities and approved by the Administrator.

(b) "USEPA risk assessment guidelines" means the U.S. Environmental Protection Agency's Guidelines for Carcinogenic Risk Assessment, 51 FR 33992 (September 24, 1986).

(c) "Hazardous air pollutant" means those air pollutants listed in § 112(b) of the Act and any other air pollutants the Administrator may add to that list by rule.

(d) "Threshold limit value" means the airborne concentration of a substance that, according to the American Conference of Governmental Industrial Hygienists, represents conditions under which nearly all workers may be repeatedly exposed day after day without adverse effects.

(e) "Threshold limit value-time weighted average" means the threshold limit value for a normal eight-hour workday and a forty-hour workweek as specified in the TLV book.

(f) "TLV-TWA" means threshold limit value-time weighted average.

(g) "TLV book" means the "Documentation of the Threshold Limit Value and Biological Exposure Indices," latest edition, published by the American Conference of Governmental Industrial Hygienists, Inc.

§ 132 Applicability. The provisions of this Part are applicable to any stationary source which emits or has the potential to emit any hazardous air pollutant.

§ 133 Permit Requirements. (a) Permit applications for major sources of hazardous air pollutants shall be submitted to the USEPA as set forth in Part 5.

(b) Permit applications for minor sources of hazardous air pollutants shall be submitted to the Administrator in accordance with Parts 4 and 8.

§ 134 Ambient air concentrations of hazardous air pollutants. (a) No person shall emit or cause to emit from any stationary source, hazardous air pollutants in such quantities that result in, or contribute to, an ambient air concentration which endangers human health.

(b) The Administrator shall not approve any application for a permit required by this chapter, for a new minor source of hazardous air pollutants, or for the modification or reconstruction of any minor source of hazardous air pollutants, or for any stationary source that the Administrator has reason to believe that the emissions of hazardous air pollutants from the source may result in an unacceptable ambient air concentration, unless the owner or operator of the source, and except as provided in § 134(d), complies with one or more of the following:

(1) Demonstrate that the emissions of hazardous air pollutants from the source will not result in, or contribute to, any significant ambient air concentrations as defined in § 134(c); or

(2) Demonstrate that the applicable significant ambient air concentration in § 134 (c) is inappropriate for the hazardous air pollutant in question and that the emissions of hazardous air pollutants from the source will not result in, or contribute to, any ambient air concentration which endangers human health. The demonstration shall include documented studies or information by recognized authorities on the specific health effects of such hazardous air pollutants and a detailed analysis, including a risk assessment that demonstrates that the emissions from the sources will not endanger human health.

(c) For purposes of this Part, "significant ambient air concentration of any hazardous air pollutant" shall be defined as follows:

(1) For any non-carcinogenic hazardous air pollutant with a TLV-TWA, and except as provided in § 134(e), any eight-hour average ambient air concentration in excess of 1/100 of the TLV-TWA, and any annual average ambient air concentration in excess of 1/420 of the TLV-TWA;

(2) For any non-carcinogenic hazardous air pollutant not having a TLV-TWA, any ambient air concentration greater than the concentration which the Administrator determines to cause, to have the potential to cause, or to contribute to, the unreasonable endangerment of human health. The determination shall be made on a case-by-case basis, consider documented studies or information by recognized authorities on the specific health effects of such hazardous air pollutants, and include a reasonable margin of safety for the protection of the general public; or

(3) For any carcinogenic hazardous air pollutant, any ambient air concentration that may result in an excess individual lifetime cancer risk of more than ten in one million assuming continuous exposure for seventy years. The ambient air concentration of a carcinogenic hazardous air pollutant shall be determined by performing a risk assessment based on procedures consistent with the USEPA's risk assessment guidelines or other alternative risk assessment procedures approved by the Administrator.

(d) The emission of any hazardous air pollutants from a stationary source shall be exempt from the provisions of § 134 (b) if the total allowable

emissions of the hazardous air pollutant from the stationary source are below 0.1 pounds per hour.

(e) Notwithstanding § 134(c)(1), the Administrator may at any time establish a lower concentration than the significant ambient air concentration specified in § 134(c)(1) if the Administrator determines that such lower concentration is required for the protection of the public health or welfare.

§§ 135-140 Reserved.

PART 9

APPLICATIONS, PERMITS, COMPLIANCE DOCUMENTS AND RELOCATION REQUEST CONTENT

§ 141 Minor source permit application. A minor source permit application shall include a complete application form and the following information:

(a) Name, address, and phone number of:

(1) The company;

(2) The facility, if different from the company;

(3) The owner and owner's agent; and

(4) The plant site manager or other contact;

(b) A description of the nature, location, design capacity, production capacity, production rates, fuels, fuel use, raw materials, and typical operating schedules to the extent needed to determine or regulate emissions; specifications and drawings showing the design of the source and plant layout; a description of all processes and products; and, if reasonably anticipated, a detailed description of alternative operating scenarios;

(c) The potential to emit (PTE), including fugitive emissions, of all regulated and hazardous air pollutants from each emissions unit. Emission rates shall be reported in pounds per hour and tons per year and in such terms necessary to establish compliance consistent with the applicable requirements and standard reference test methods. All supporting emission calculations and assumptions shall also be provided;

(d) Identification and description of all points of emissions, including stack or vent dimensions and flow information;

(e) Identification and detailed description of air pollution control equipment and compliance monitoring devices or activities as planned by the owner or operator of the minor source, and to the extent of available information, an estimate of emissions before and after controls;

(f) Current operational limitations or work practices, or for minor sources that have not yet begun operation, such limitations or practices which the owner or operator of the minor source plans to implement that affect emissions of any regulated or hazardous air pollutants at the source;

(g) A schedule for construction or modification of the minor source, if applicable;

(h) All calculations and assumptions on which the information in paragraphs (b), (d), (e), and (f) is based;

(i) If requested by the Administrator, an assessment of the ambient air quality impact of the minor source or modification. The assessment shall include all supporting data, calculations and assumptions, and a comparison with the NAAQS and CNMI ambient air quality standards;

(j) If requested by the Administrator, a risk assessment of the air quality related impacts caused by the minor source or modification to the surrounding environment;

(k) If requested by the Administrator, results of source emission testing,

(l) If requested by the Administrator, information on other available control technologies;

(m) An explanation of all proposed exemptions from any applicable requirement;

(o) The applicant may propose emission limitations for each affected emissions unit, which may include pollution prevention techniques, air pollution control devices, design standards, equipment standards, work practices, operational standards or a combination thereof.

The applicant may include an explanation of why they believe the proposed emission limitations to be appropriate.

(n) A compliance plan in accordance with § 66; and

(o) Other information:

(1) As required by any applicable requirement or as requested and deemed necessary by the Administrator to make a decision on the application; and

(2) As may be necessary to implement and enforce other applicable requirements of the Act or of this chapter or to determine the applicability of such requirements.

§ 142 Synthetic Minor source permit application. This section lists the information that must be attached to the application form for each requested limitation. The requested limitation(s) must be described for each affected emissions unit (or pollutant generating activity) and pollutant and must be accompanied by the supporting information listed on the form and described below. Note that applicability of many federal Clean Air Act requirements (such as Title V, PSD and MACT) is often based on source-wide emission levels of specific pollutants. In that case, all emissions units at a source and all pollutants regulated by that given rule or regulation must be addressed by this section of the application form. A synthetic minor source permit application shall contain all the information listed in § 141 along with the following information:

(a) The requested limitation and its effect on actual emissions or potential to emit must be presented in enough detail to document how the limitation will limit the source's actual or potential emissions as a legal and practical matter and, if applicable, will allow the source to avoid an otherwise applicable requirement. The information presented must clearly explain how the limitation affects each emission unit and each air pollutant from that emission unit. Use the information provided to explain how the limitation affects emissions before and after the limitation is in effect.

(b) For each requested limitation, the application must include proposed testing, monitoring, recordkeeping and reporting that will be used to demonstrate and assure compliance with the limitation. Testing approaches should incorporate and reference appropriate USEPA reference methods where applicable. Monitoring should describe the emission, control or process parameters that will be relied on and should address frequency, methods, and quality assurance.

(c) The application must include a description and estimated efficiency of air pollution control equipment under present or anticipated operating conditions. For control equipment that is not proposed to be modified to meet the requested limit, simply note that fact; however, for equipment that is proposed to be modified (e.g. improved efficiency) or newly installed to meet the proposed limit, address both current and future descriptions and efficiencies. Include manufacturer specifications and guarantees for each control device.

(d) Any emission estimates submitted to the BECQ must be verifiable using currently accepted engineering criteria. The following procedures are generally acceptable for estimating emissions from air pollution sources:

(1) Source-specific emission tests;

(2) Mass balance calculations;

(3) Published, verifiable emission factors that are applicable to the source. (i.e., manufacturer specifications).

(4) Other engineering calculations; or

(5) Other procedures to estimate emissions specifically approved by the BECQ. Post-Change Allowable Emissions: A source's allowable emissions for a pollutant is

expressed in tpy and generally is calculated by multiplying the allowed hourly emissions rate in pounds per hour (lbs/hr) times allowed hours (which is the number of hours in a year) and dividing by 2,000 (which is the number of pounds in a ton).

(e) New construction projects that have the potential to emit GHG emissions of at least 100,000 tpy CO_2e and 100 or 250 tpy on a mass basis, modifications at existing PSD facilities that increase GHG emissions by at least 75,000 tpy CO_2e and minor sources that increase GHG emissions by at least 100,000 tpy CO_2e and 100 or 250 tpy on a mass basis are subject to PSD permitting requirements, even if they do not significantly increase emissions of any other pollutant. As such, any requested limits to avoid PSD must take into account greenhouse gases. Therefore, please include in your permit application estimates of the potential emissions of the following pollutants:

(1) Carbon dioxide (CO_2)
(2) Methane (CH_4) and its CO_2e
(3) Nitrous oxide (N_2O) and its CO_2
(4) Hydrofluorocarbons (HFCs) and its CO_2e
(5) Perfluorocarbons (PFCs) and its CO_2e
(6) Sulfur hexafluoride (SF_6) and its CO_2e

§ 143 Minor or Synthetic minor source permit. The Administrator shall consider and incorporate the following elements into a minor or synthetic minor source permit as applicable:

(a) Emission limitations and standards, including operational requirements, control technology, and limitations to assure compliance with all applicable requirements at the time of permit issuance. The Administrator may consider any of the following factors in making a case-by-case determination:

(1) Local air quality conditions;
(2) Typical control technology or other emissions reduction measures used by similar sources in surrounding areas;
(3) Anticipated economic growth in the area;
(4) Cost-effective emission reduction alternatives.

(b) The emission limitations may consist of numerical limits on the quantity, rate or concentration of emissions; pollution prevention techniques; design standards; equipment standards; work practices; operational standards; requirements relating to the operation or maintenance of the source or any combination thereof. The emission limitations must assure that each affected emissions unit will comply with all requirements of 40 CFR Parts 60, 61 and 63. The emission limitations required by the reviewing authority must not be affected in a manner by so much of a stack's height as exceeds good engineering practice or by any other dispersion technique.

(c) Permit term pursuant to § 68;

(d) Requirements for the installation of devices, at the expense of the owner or operator, for the measurement or analysis of source emissions or ambient concentrations of air pollutants;

(e) The requirement for source emissions tests or alternative methodology to determine compliance with the terms and conditions of the minor source permit and applicable requirements. Source emission tests conducted or alternative methodology used shall be at the expense of the owner or operator;

(f) Monitoring and related recordkeeping and reporting requirements to assure compliance with all the terms and conditions of the permit, including:

(1) Monitoring results expressed in units, averaging periods, and other statistical conventions consistent with the applicable requirements;

(2) Requirements concerning the use, maintenance, and installation of monitoring equipment. The installation, operation, and maintenance of the monitoring equipment shall be at the expense of the owner or operator;

(3) Appropriate monitoring methods;

(4) Monitoring records including:

(A) Place as defined in the permit, date, and time of sampling or measurements;

(B) Dates the analyses were performed;

(C) The name and address of the company or entity that performed the analyses;

(D) Analytical techniques or methods used;

(E) Analyses results; and

(F) Operating conditions during the time of sampling or measurement;

(5) Other records including support information, such as calibration and maintenance records, original strip chart recordings or computer printouts for continuous monitoring instrumentation, and all other reports required by the Administrator;

(6) A requirement for the retention of records of all required monitoring data and support information for a period of at least three years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit; and

(7) Provisions for the owner or operator to annually report in writing emissions of hazardous air pollutants;

(g) Terms and conditions for reasonably anticipated operating scenarios identified by the source in the minor or synthetic minor source permit application as approved by the Administrator. Such terms and conditions shall include:

(1) A requirement that the owner or operator, contemporaneously with making a change from one operating scenario to another, record in a log at the permitted facility the scenario under which it is operating and, if required by the Administrator, submit written notification to the Administrator; and

(2) Provisions to ensure that the terms and conditions under each alternative scenario meet all applicable requirements;

(h) General provisions including:

(1) A statement that the owner or operator shall comply with all terms and conditions of the minor source permit and that any permit noncompliance constitutes a violation of this chapter, and is grounds for enforcement action; for permit termination, suspension, reopening, or amendment; or for denial of a permit renewal application;

(2) A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portion of the permit;

(3) A statement that it shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity to maintain compliance with the terms and conditions of the permit;

(4) A statement that the permit may be terminated, suspended, reopened, or amended for cause pursuant to §§ 10 and 72. The filing of a request by the permittee for a permit termination, suspension, reopening, or amendment or of a notification of planned changes or anticipated noncompliance does not stay any permit condition;

(5) A statement that the permit does not convey any property rights of any sort, or any exclusive privilege;

(6) A provision that, if construction is not commenced, continued, or completed in accordance with § 9, the minor or synthetic minor source permit for the subject emission unit shall become invalid;

(7) A provision that the owner or operator shall notify the Administrator in writing of the anticipated date of initial start-up for each emission unit of a new minor or synthetic minor source or modification to the source not more than sixty days or less than thirty days prior to such date. The Administrator shall also be notified in writing of the actual date of construction commencement and start-up within fifteen days after such dates;

(8) A requirement pursuant to §§ 16 and 17 for reporting of equipment shutdown and malfunction;

(9) A statement that the owner or operator shall furnish in a timely manner any information or records requested in writing by the department to determine whether cause exists for terminating, suspending, reopening, or amending the permit, or to determine compliance with the permit. Upon request, the permittee shall also furnish to the department copies of records required to be kept by the permit. For information claimed to be confidential, the permittee shall furnish such records to the department with a claim of confidentiality;

(10) A provision for the designation of confidentiality of any records pursuant to § 15;

(11) A requirement that the owner or operator shall submit fees in accordance with Part 7;

(12) Certification requirements pursuant to § 5; and

(13) A requirement that the owner or operator allow the Administrator or an authorized representative, upon presentation of credentials or other documents required by law:

(A) To enter the owner or operator's premises where a source is located or emission-related activity is conducted, or where records must be kept under the conditions of the permit and inspect at reasonable times all

facilities, equipment, including monitoring and air pollution control equipment, practices, operations, or records covered under the terms and conditions of the permit and request copies of records or copy records required by the permit; and

(B) To sample or monitor at reasonable times substances or parameters to assure compliance with the permit or applicable requirements;

(h) Compliance plan submittal requirements pursuant to §§ 66 and 146; and

(i) Any other provision to assure compliance with all applicable requirements.

§ 144 Minor or Synthetic minor source permit renewal application. A permit renewal application shall include a complete application form and the following information:

(a) Name, address, and phone number of:

(1) The company;

(2) The facility, if different from the company;

(3) The owner and owner's agent; and

(4) The plant site manager or other contact;

(b) Statement certifying that no changes have been made in the design or operation of the source as proposed in the initial and any subsequent minor source permit applications. If changes have occurred or are being proposed, the applicant shall provide a description of those changes such as work practices, operations, equipment design, and monitoring procedures;

(c) A compliance plan in accordance with § 66; and

(d) Other information:

(1) As required by any applicable requirement or as requested and deemed necessary by the Administrator to make a decision on the application; and

(2) As may be necessary to implement and enforce other applicable requirements of the Act or of this chapter or to determine the applicability of such requirements.

(e) Each application for permit renewal shall be submitted to the Administrator a minimum of sixty days prior to the date of permit expiration.

§ 145 Minor or Synthetic minor source modification application. A minor source modification application shall include a complete application form and the following information:

(a) The name, address, and phone number of:

(1) The company;

(2) The facility, if different from the company;

(3) The owner and owner's agent; and

(4) The plant site manager or other contact;

(b) A description of the modification, identifying all proposed changes, including any changes to the source operations, work practices, equipment design, source emissions, or any monitoring, recordkeeping, and reporting procedures;

(c) A description of the nature, location, design capacity, production capacity, production rates, fuels, fuel use, raw materials, and typical operating schedules to the extent needed to determine or regulate emissions of any proposed addition or modification of any source of emissions; specifications and drawings showing the design of the source and plant layout; a description of all processes and products; and, if reasonably anticipated, a detailed description of alternative operating scenarios;

(d) The potential to emit (PTE), including fugitive emissions, of all regulated and hazardous air pollutants from each emissions unit. Emission rates shall be reported in pounds per hour and tons per year and in such terms necessary to establish compliance consistent with the applicable requirements and standard reference test methods. All supporting emission calculations and assumptions shall also be provided;

(e) Identification and description of all points of emissions including stack or vent dimensions and flow information;

(f) Identification and detailed description of air pollution control equipment and compliance monitoring devices or activities as planned by the owner or operator of the minor source or modification, and to the extent of available information, an estimate of emissions before and after controls;

(g) Operational limitations or work practices which the owner or operator of the minor source plans to implement that affect emissions of any regulated or hazardous air pollutants at the source;

(h) A schedule for construction or modification of the minor source

(i) All calculations and assumptions on which the information in paragraphs (c), (e), (f), and (g) is based;

(j) If requested by the Administrator, an assessment of the ambient air quality impact of the minor source or modification. The assessment shall include all supporting data, calculations and assumptions, and a comparison with the national and CNMI ambient air quality standards;

(k) If requested by the Administrator, a risk assessment of the air quality related impacts caused by the minor source or modification to the surrounding environment;

(l) If requested by the Administrator, results of source emission testing, ambient air quality monitoring, or both;

(m) If requested by the Administrator, information on other available control technologies;

(n) An explanation of all proposed exemptions from any applicable requirement;

(o) At your option, you may propose emission limitations for each affected emissions unit, which may include pollution prevention techniques, air pollution control devices, design standards, equipment standards, work practices, operational standards or a combination thereof. You may include an explanation of why you believe the proposed emission limitations to be appropriate.

(p) A compliance plan in accordance with § 66; and

(q) Other information:

(1) As requested and deemed necessary by the Administrator to make a decision on the application; and

(2) As may be necessary to implement and enforce other applicable requirements of the Act or of this chapter or to determine the applicability of such requirements.

§ 146 Compliance plan. (a) A compliance plan shall include at a minimum the following information:

(1) A description of the compliance status of the existing minor source or proposed source with respect to all the applicable requirements in the permit; and

(2) The following statement or description and compliance schedule, as applicable:

(A) For applicable requirements with which the source is in compliance, a statement that the source is in compliance and will continue to comply with such requirements;

(B) For applicable requirements which become applicable during the permit term, a statement that the source on a timely basis will meet all such applicable requirements and a detailed schedule if required by the applicable requirement. The statement shall include documentation on the proposed method the owner or operator plans to initiate to obtain compliance; and a compliance schedule demonstrating that the source will meet such applicable requirement by the date specified in the applicable requirement; or

(C) For applicable requirements with which the source is not in compliance, a narrative description of how the source will achieve compliance with all such applicable

requirements; and a detailed compliance schedule containing specific milestones of remedial measures to obtain compliance, allowing for an enforceable sequence of actions. Any compliance schedule shall resemble and shall be at least as stringent as any judicial consent decree or administrative order that applies to the source. The schedule shall not sanction noncompliance with the applicable requirements on which the schedule is based.

(b) If a compliance plan is to remedy a violation, a progress report certified pursuant to § 5 shall be submitted to the Administrator no less frequently than every six months and shall include:

(1) Dates for achieving the activities, milestones, or compliance, and dates when such activities, milestones, or compliance were achieved; and

(2) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

§ 147 Temporary source relocation request. A relocation request shall include at a minimum the following information:

(a) Name, address, and phone number of:

(1) The company;

(2) The facility, if different from the company;

(3) The owner and owner's agent; and

(4) The plant site manager or other contact;

(b) Temporary minor source permit identification number and expiration date;

(c) Location map of the new temporary location, identifying the surrounding commercial, industrial, and residential developments;

(d) Projected dates of operation at the new location;

(e) Identification of any other air pollution source at the new location; and

(f) Certification that no modification will be made to the equipment, and operational methods will remain similar as permitted under the temporary minor source permit at the new location.

§§ 148-160 Reserved.

Commonwealth of the Northern Mariana Islands
COMMONWEALTH CASINO COMMISSION
Juan M. Sablan, Chairman
Commonwealth Casino Commission
P.O. Box 500237
Saipan, MP 96950
Tel. 233-1857

PUBLIC NOTICE OF ADOPTION OF PROPOSED RULES AND REGULATIONS FOR THE COMMONWEALTH CASINO COMMISSION

INTENDED ACTION TO ADOPT THESE PROPOSED RULES AND REGULATIONS: The Commonwealth of the Northern Mariana Islands, Commonwealth Casino Commission ("the Commission") intends to adopt as permanent regulations the attached Proposed Regulations, pursuant to the procedures of the Administrative Procedure Act,1 CMC § 9104(a). The Regulations would become effective 10 days after adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

AUTHORITY: The Commission has the authority to adopt rules and regulations in furtherance of its duties and responsibilities pursuant to Public Laws 18-56 and Public Law 19-24, including but not limited to 4 CMC 2314(b).

THE TERMS AND SUBSTANCE: The attached Rules and Regulations supplement the current regulations that govern and regulate the Casino Gaming Industry on Saipan. The amendments declare unsuitable certain methods of operation that would negatively affect the gaming industry in the CNMI.

THE SUBJECTS AND ISSUES INVOLVED: These rules and regulations:

1. Amend 175-10.1-1805(b) to declare unsuitable the methods described in subsections (1)-(17) (Inclusive) of 175-10.1-1805(b).
2. Add subsection (14) to 175-10.1-1805(b) to declare unsuitable immediately providing requested information to the Commission's members, agents or employees.
3. Add subsection (15) to 175-10.1-1805(b) (15) to declare unsuitable failing to honor a contractual obligation owed to a service provider, vendor, employee or other person without sufficient (in the discretion of the Executive Director) legal or equitable justification.
4. Add subsection (16) to 175-10.1-1805(b) (15) to declare unsuitable failing to timely honor a contractual obligation owed to a service provider, vendor, employee or other person without sufficient (in the discretion of the Executive Director) legal or equitable justification.
5. Add subsection (17) to 175-10.1-1805(b) (15) to declare unsuitable failing the operation any game or conducting any gaming activity in a manner not approved by the Commission or in a manner violative of an applicable law, regulation, internal control or rule of the game.

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each Senatorial district; the notice shall be both in English and in the principal vernacular. (1 CMC § 9104(a)(1)).

TO PROVIDE COMMENTS: Send or deliver your comments to Commonwealth Casino Commission, *Attn: New Casino Commission Rules and Regulations*, at the above mailing address, fax or email address, with the subject line "New Casino Commission Rules and Regulations". Comments are due within 30 days from the date of publication of this notice. Please submit your data, comments, views or arguments. (1 CMC § 9104(a)(2))

The Commonwealth Casino Commission approved the attached Regulations on August 25, 2017.

Submitted by: _____ Sept. 20, 2017
JUAN M. SABLAN — Date
Chairman of the Commission

Concurred by: _____ 21 SEP 2017
HON. RALPH DLG TORRES — Date
Governor

Filed and
Recorded by: _____ 09.28.2017
ESTHER SN NESBITT — Date
Commonwealth Register

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

Dated the 28 day of September, 2017.

_____
HON. EDWARD MANIBUSAN
Attorney General

Commonwealth gi Sangkattan na Islas Mariånas
COMMONWEALTH CASINO COMMISSION
Siñot Juan M. Sablan, Chairman
Commonwealth Casino Commission
P.O. Box 500237
Saipan, MP 96950
Tel. 233-1857

NUTISIAN PUPBLIKU POT I ADÅPTASION POT I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA PARA I COMMONWEALTH CASINO COMMISSION.

I AKSION NI MA INTENSIONA NI PARA U'MA ADÅPTA ESTI SIHA I MANMAPROPONI NA AREKLAMENTU YAN REGULASION SIHA: I Commonwealth gi Sangkattan na Islas Mariånas siha, Commonwealth Casino Commission (" I Kumision") ha intensiona para u'ma adåpta tåt kumu petmanienti i regulasion siha ni mañechettun i manmaproponi na Regulasion siha. Sigun nu i procedures para i Åktun Administrative Procedure, 1 CMC § 9104 (a). I Regulasion siha siempre mu ifektibu gi hålum dies (10) dihas dispues i adåptasion yan pupblikasion gi hålum i Rehistran Commonwealth. (1 CMC § 9105(b))

ATURIDÅT: I kumision guaha aturidåtña ni para u adåpta i areklamentu yan regulasion siha gi atbansa nu i che'chu yan risponsibilidåt siha sigun i Public Laws 18-56 yan Public Law 19-24, iniñgklusi lao ti limitåt para 4 CMC 2314 (b).

I TEMA YAN SUSTÅNSIA I PALÅBRA SIHA: I mañechettun na Areklamentu yan Regulasion siha ma daña'i i prisenti na regulasion siha ayu i gumube'betna yan regulåt i Casino Gaming Industry giya Saipan. I amendasion siha ha diklåra i timanfitmi siha na sistema ni mu afekta i gaming industry giya i CNMI.

I SUHETU NI MASUMÅRIA YAN ASUNTU NI MANTINEKKA:

1. Ma amenda 175-10.1-1805(b) para u'ma diklåra ti fitmi i sistema siha i ma difina gi subsections (1)-(17)(Iningklusi) i 175-10.1-1805(b).
2. Ma dañayi subsection (14) para 175-10.1-1805(b) para u'ma diklåra insigidas ti fitmi i munånå'i i ginagagao na infotmasion para i membru kumision siha,abensia yan impliåo siha.
3. Na dåñayi subsection (15) para 175-10.1-1805(b) (15) para u'ma diklåra ti fitmi difektu para u onra i obligasion kontråta i madidibi para i munåna'i setbisiu, vendor, impliåo pat ottru petsona sin sufisienti (gi discretion i Executive Director) ligåt pat rasionåt na justification.
4. Ma dañayi (16) para 175-10.1-1805(b) (15) para u'ma diklåra ti fitmi difektu para u onra propiu i obligasion kontråta i madidibi para i munånå'i setbisiu, vendor, implia'o pat ottru petsona sin sufisienti (gi discretion i Executive Director) ligåt pat rasionåt na justification.
5. Ma dañayi (17)-10.1-1805(b) (15) para u'ma diklåra ti fitmi difektun i operasion maseha håfa na huegu pat i mu kundudukta maseha håfa na aktibidåt huegu gi manera ti ma aprueba ginen i

kumision pat gi manera i yuma'mak i man propiu na lai, regulasion, internal control pat areklamentun i huegu.

DIREKSION PARA U'MA POLU YAN MAPUPBLIKA: Esti i manmaproponi na Regulasion siha debi na u'ma pupblika gi hålum i Rehistran Commonwealth gi hålum i seksiona ni manmaproponi yan i nuebu na ma adåpta na regulasion siha (1 CMC § 9102(a)(1)) yan u'ma pega gi hålum i man kumbieni na lugåt siha giya i civic center yan gi hålum ufisinan gubietnu siha gi kada distritun Senadot; i nutisia debi parehu English yan gi lengguåhi natibu. (1 CMC § 9104(a)(1)).

PARA U MAPRIBENIYI UPIÑON SIHA: Na hånao pat pe'ga i upiñon mu guatu para i Commonwealth Casino Commission, Atensiona: Nuebu na Casino Commission Areklamentu yan Regulasion siha, gi sanhilu na mailing address, fax pat email address, yan i råyan suhetu "Nuebu na Casino Commission Areklamentu yan Regulasion siha". I upiñon ma ekspekta gi hålum trenta (30) dihas ginen i fetcha i pupblikasion nu esti na nutisia. Pot fabot na hålum i infotmasion, upiñon, rinibisa pat agumentu siha. (1 CMC § 9104(a)(2))

I Commonwealth Casino Commission ha' aprueba i mañechettun na Regulasion siha gi Agustu 25, 2017.

Nina hålum as: _____ Sept. 20, 2017
JUAN M. SABLAN — Fetcha
Kabusiyu nu i kumision

Ina'prueba as: _____ 21 SEP 2017
HON. RALPH DLG. TORRES — Fetcha
Gubietnu

Pine'lu yan
Ninota as: _____ 09-28-2017
ESTHER SN NESBITT — Fetcha
Rehistran Commonwealth

Sigun i 1 CMC § 2153(e), AG inaprueban i regulasion siha ni para u'ma cho'gue kumu fotma, yan 1 CMC 9104(a)(3), hinentan inaprueba Abugådu Hinerât, i manmaproponi na regulasion siha ni mañechettun guihi ni maribisa yan ma'aprueba kumu fotma yan sufisienti ligåt ginen i Abugådu Hinirât i CNMI yan debi na'u mapupblika sigun i 1 CMC § 2153(f), pupblikasion nu i areklamentu yan regulasion siha.

Ma'fetcha 28 gi diha September, 2017.

HON. EDWARD MANIBUSAN
Abugådu Hinerât

Commonwealth Téél Falúw kka Efáng llól Marianas
COMMONWEALTH CASINO COMMISSION
Juan M. Sablan, Chairman
Commonwealth Casino Commission
P. O. Box 500237
Saipan, MP 96950
Tel. 233-1857

ARONGORONGOL TOULAP REEL POMMWOL ALLÉGH ME MWÓGHUTUGHUT IYE RE ADÓPTÁÁLI NGÁLI COMMONWEALTH CASINO COMMISSION

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI POMMWOL ALLÉGH ME MWÓGHUT: Commonwealth Téél Falúw kka Efáng llól Marianas, Commonwealth Casino Commission ("Commission") re mángemángil rebwe adóptááli bwe ebwe llégh1ó mwóghut ikka e appasch bwe Pommwol Mwóghutughut, sángi Administrative Procedure Act, 1 CMC § 9104(a). Ebwe bwunguló mwóghut kkal llól seigh (10) ráál mwiril aar adóptááli me arongowow me llól Commonwealth Register. (1 CMC §9105(b))

BWÁNGIL: Eyoor bwángil Commission bwe rebwe adóptáálil allégh me mwóghutugh reel angaangil me lemelemil sángi Alléghúl Toulap 18-56 me Alléghúl Toulap 19-24, ebwal toolong nge ese mwútch ngáli 4 CMC 2314(b).

KKAPASAL ME WEEWEL: Allégh me Mwóghutughut ikka e appasch nge e ayoorai ngáli mwóghut ikka e lo bwe e lemeli me aghatchú Casino Gaming Industry wóól Seipél. Liiwel kkal me aa arongowow bwe eseffil mwóghutughutúl gaming industry llól CNMI.

KKAPASAL ME ÓUTOL: Allégh me Mwóghutughut kkal:

1. Siiweli 175-10.1-1805(b) ebwe arongowow bwe eseffil mwóghut iye e lo llól subsection (1)-(17) (llól alongal) reel 175-10.1-1805(b).
2. Aschuulong subsection seigh me faawu (14) ngáli 175-10.1-1805(b) ebwe arongowow bwe eseffil nge rebwe ayoorai arongowowul ngáli membrool Commission, agents ngáre schóól angaang.
3. Aschuulong subsection (15) ngáli 175-10.1-1805(b) (15) ebwe arongowow bwe eseffil reel igha ussu mwareiti ppwol iye e isiis ngáli aramas iye alisi escháy, vendor, schóól angaang ngáre iyo aramas iye esóór (llól discretion sángi executive Director) legal ngáre equitable justification.
4. Aschuulong subsection (16) ngáli 175-10.1-1805(b) (15) ebwe arongowow bwe eseffil reel igha rese attabweey ngáli ooral ngáre contractual obligation ngáli aramas iye e alisi Escháy, vendor, schóól angaang ngáre aramas iye esóór (llól discretion sángi Executive Director) legal ngáre equitable justification.

5. Aschuulong subsection (17) ngáli 175-10.1-1805(b) (15) ebwe arongowow bwe eseffil bwe ebwe mwóghut inamwo meta iye reel game ngáre rebwe yáali nge ese átirow sángi Commission ngáre ese weel ngáli alléghúl faleey me rese areepiya ngáliir Commission, mwóghutughutúl, lemelil ngáre alléghúl ukkur (game).

AFAL REEL AMMWELIL ME ARONGOWOWUL: Ebwe akkatééwow Pommwol Mwóghutughut kkal me llól Commonwealth register llól tálil reel pommwol mwóghutughut ikka ra adóptáálil ikka e ffé (1 CMC § 9102(a)(1)) me ebwe appaschetá llól bwuleey ikka e ffil reel civic center me bwal llól bwulasiyol gobetnameento llól senatorial district; ebwe toowow arongorong yeel fengál reel kkasal English me mwáliyaasch. (1 CMC § 9104(a)(1)).

ISIISILONGOL KKAPAS: Afanga ngáre bwughiló yóómw iischil mángemáng ngáli Commonwealth Casino Commission, *Atten: New Casino Commission Rules and regulations,* reel mailing address iye e lo weiláng, ngáre email address, nge e bwe lo wóól subject line bwe "New Casino Commission Rules and Regulations". Isiisilongol mángemáng ebwe toolong llól eliigh (30) ráál mwiiril arongowowul. Isiisilong yóómw data, kkapas, views ngáre angiingi. (1 CMC § 9104(a)(2))

Commonwealth Casino Commission re átirow reel Mwóghutughut ikka e appasch wóól Agusto 25, 2017.

Isáliyalong: _____ Sept. 20, 2017
JUAN M. SABLAN — Ráál
Chairman of the Commission

E lléghló Sángi: _____ 21 SEP 2017
HON. RALPH DLG. TORRES — Ráál
Gobenno

Ammwelil: _____ 09.28.2017
ESTHER SN. NESBITT — Ráál
Commonwealth Register

Sángi 1 CMC § 2153(e), *ebwe bwunguló sángi AG bwe e fil reel ffééról*, me 1 CMC § 9104(a)(3), *mwiir sángi aal lléghló sángi AG*, reel pommwol mwóghutughut ikka e appasch bwe ra takkal amwuri fiischiy me átirowa bwe aa lléghló ffééról me legal sufficiency sángi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow sángi 1 CMC §2153(f), *arongowowul allégh me mwóghut.*

Aghikkilátiw wóól 28 ráálil September, 2017.

HON. EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap

Proposed amendments to 175-10.1-1805(b)

(b) Without limiting the generality of the foregoing, the following acts or omissions, in addition to any other act or omission deemed an unsuitable method by the Commission, ~~may be determined to be~~ are unsuitable methods of operation:

(1) Failure to exercise discretion and sound judgment to prevent incidents which might reflect on the repute of the Commonwealth and act as a detriment to the development of the industry.

(2) Permitting persons who are visibly intoxicated to participate in gaming activity.

(3) Complimentary service of intoxicating beverages in the casino area to persons who are visibly intoxicated.

(4) Failure to conduct advertising and public relations activities in accordance with decency, dignity, good taste, honesty and inoffensiveness, including, but not limited to, advertising that is false or materially misleading.

(5) Catering to, assisting, employing or associating with, either socially or in business affairs, persons of notorious or unsavory reputation or who have extensive police records, or persons who have defied congressional investigative committees, or other officially constituted bodies acting on behalf of the United States, or any state, or commonwealth or territory, or persons who are associated with or support subversive movements, or the employing either directly or through a contract, or any other means, of any firm or individual in any capacity where the repute of the Commonwealth or the gaming industry is liable to be damaged because of the unsuitability of the firm or individual or because of the unethical methods of operation of the firm or individual.

(6) Employing in a position for which the individual could be required to be licensed as a key employee pursuant to the provisions of these regulations, any person who has been denied a Commonwealth gaming license on the grounds of unsuitability or who has failed or refused to apply for licensing as a key employee when so requested by the Commission.

(7) Employing in any gaming operation any person whom the Commission or any court has found guilty of cheating or using any improper device in connection with any game, whether as a licensee, dealer, or player at a licensed game or device; as well as any person whose conduct of a licensed game as a dealer or other employee of a licensee resulted in revocation or suspension of the license of such licensee.

(8) Failure to comply with or make provision for compliance with all federal, Commonwealth, state and local laws and regulations and with all Commission approved conditions and limitations pertaining to the operations of a licensed establishment including, without limiting the generality of the foregoing, payment of all license fees, withholding any payroll taxes, liquor and entertainment taxes. The Commission in the exercise of its sound discretion can make its own determination of whether or not the licensee has failed to

comply with the aforementioned, but any such determination shall make use of the established precedents in interpreting the language of the applicable statutes. Nothing in this section shall be deemed to affect any right to judicial review.

(9)(i) Possessing or permitting to remain in or upon any licensed premises any cards, dice, mechanical device or any cheating device whatever, the use of which is prohibited by statute or regulation, or

(ii) Conducting, carrying on, operating or dealing any cheating or thieving game or device on the premises, either knowingly or unknowingly, which may have in any manner been marked, tampered with or otherwise placed in a condition, or operated in a manner, which tends to deceive the public or which might make the game more liable to win or lose, or which tends to alter the normal random selection of criteria which determine the results of the game.

(10) Failure to conduct gaming operations in accordance with proper standards of custom, decorum and decency, or permit any type of conduct in the gaming establishment which reflects or tends to reflect on the repute of the Commonwealth and act as a detriment to the gaming industry.

(11) Issuing credit to a patron to enable the patron to satisfy a debt owed to another licensee or person, including an affiliate of the licensee.

(12) Whenever a licensed game, machine or gaming activity is available for play by the public, failing to have a licensed employee of the licensee present on the premises to supervise the operation of the game, machine or activity;

(13) Denying any Commission member or agent, upon proper and lawful demand, access to, inspection or disclosure of any portion or aspect of a gaming establishment as authorized by applicable statutes and regulation.

(14) Failure to immediately provide information when requested or demanded by an employee, agent or Member of the Commonwealth Casino Commission.

(15) Failure to honor a contractual obligation owed to a service provider, vendor, employee or other person without sufficient (in the discretion of the Executive Director) legal or equitable justification.

(16) Failure to timely honor a contractual obligation owed to a service provider, vendor, employee or other person without sufficient (in the discretion of the Executive Director) legal or equitable justification.

(17) Operating any game or conducting any gaming activity in a manner not approved by the Commission or in a manner violative of an applicable law, regulation, internal control or rule of the game.

Commonwealth of the Northern Mariana Islands
OFFICE OF THE GOVERNOR
Bureau of Environmental and Coastal Quality
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Ralph DLG. Torres
Governor

Victor B. Hocog
Lt. Governor

Frank M. Rabauliman
Administrator

Ray S. Masga
Director, DEQ

Janice E. Castro
Acting Director, DCRM

PROPOSED AMENDMENT OF THE CNMI DIVISION OF COASTAL RESOURCES MANAGEMENT REGULATIONS

INTENDED ACTION TO AMEND THE REGULATIONS: The Commonwealth of the Northern Mariana Islands Coastal Resource Management Regulatory Agencies intend to amend the Coastal Resources Management Regulations (CRM Regulations), pursuant to the procedures of the Administrative Procedure Act,1 CMC § 9104(a). The CRM Regulations would become effective 10 days after compliance with 1 CMC §§ 9102 and 9104 (a). 1 CMC § 9105(b).

AUTHORITY: The Coastal Resource Management Regulatory Agencies are jointly empowered by the Legislature to adopt rules and regulations for the administration and enforcement of the Commonwealth Coastal Resources Management Act. 2 CMC § 1531(c).

THE TERMS AND SUBSTANCE: In addition to minor grammar and punctuation updates, the proposed amendments add clarifying terms and reflect updated policies to the Coastal Resources Management Regulations. Proposed changes aim to streamline regulations and further resource management objectives by amending sections on authority (NMIAC sec. 15-10-005), definitions (NMIAC sec. 15-10-020), jurisdiction from "high tide line" instead of "mean high water mark" (NMIAC sec. 15-10-025, NMIAC sec. 15-10-335), permit requirements (Chapter NMIAC sec. 15-10 Part 100), permit process and fees (NMIAC Chapter 15-10 Part 200), permit review standards and Areas of Particular Concern (APC) guidelines (NMIAC Chapter 15-10 Part 300 through 500), major siting review procedures (NMIAC Chapter 15-10 Part 500), permit extension and amendment fees (NMIAC Chapter 15-10 Part 600 through 700), enforcement actions (NMIAC Chapter 15-10 Part 800 through 900) and federal consistency language (NMIAC Chapter 15-10 Part 1500).

THE SUBJECTS AND ISSUES INVOLVED:

1. Clarifies authority and updated "Division" status (NMIAC sec. 15-10-005) and definitions (NMIAC sec. 15-10-020);
2. Provides permit fee reductions for "de minimis" APC projects (NMIAC sec. 15-10-105(g)) and better operations and development practices (NMIAC secs. 15-10-205(j - k));
3. Clarifies permit application signatories, authorized representatives, and attachments (NMIAC sec. 15-10-205), creating new section for major siting applications (NMIAC sec. 15-10-206);
4. Articulates policy requiring complete submission of materials, avoiding piecemeal development, and applying the independent utility test (NMIAC sec.

15-10-225);

5. Refines standards for CRM permit issuance by detailing scope of review of cumulative impacts and provide for buffers for sensitive areas (NMIAC sec. 15-10-305);
6. Supports development of mitigation guidance (NMIAC sec. 15-10-311);
7. Distinguishes between seagrass and seaweed for Lagoon and Reef management (NMIAC sec. 15-10-3NMIAC sec. 15) and provide for restoration or mitigation projects in the Coral Reef Area of Particular Concern (APC)(NMIAC sec. 15-10-325);
8. Updates the "wetland" APC definition using U.S. Army Corps of Engineers guidance with the exception of the "federal nexus" requirement and codify buffer guidance policies (NMIAC sec. 15-10-330);
9. Updates "shoreline" boundary from mean high water to high tide line and encourage soft stabilization measures before shoreline hardening is considered (NMIAC sec. 15-10-335);
10. Clarifies coastal hazard APC as FEMA designated "V" and "VE" high hazard flood zones and support conservation and enhancement of natural shoreline vegetation and processes (NMIAC sec. 15-10-345);
11. Reduces mandatory APC designation or change review period from 30 days to 45 days (NMIAC sec. 15-10-405);
12. Adopts policy of initial permit assessment occurring in DCRM offices upon submission of full project proposal that considers and avoids significant direct and cumulative impacts (NMIAC secs. 15-10-501 & 505);
13. Removes mandatory permit condition requiring 50% additional permit fee for permit extensions (NMIAC sec. 15-10-610), raises amendment threshold from $5,000 to $50,000, and clarifies amendment fee structure (NMIAC sec. 15-10-701);
14. Allows for more flexible enforcement actions with discretionary warnings and the option of supplemental environmental projects for enforcement settlements (NMIAC secs. 15-10-805, 810, 815, & 830);
15. Increases document retention from eight to nine years for consistency throughout BECQ and clarifies public information requests (NMIAC secs. 15-10-1201 and1205,); and
16. Updates terminology for federal consistency for uniform application of Section 307 of the Coastal Zone Management Act of 1972 and its implementing regulations (NMIAC sec. 15-10-1500).

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular 1 CMC § 9104(a)(1).

TO PROVIDE COMMENTS: Send or deliver your comments to Erin M. Derrington, Permit Branch Manager, *Re: 2017 Regulation Revisions*, at the above address or to the above fax number or email erinderrington@becq.gov.mp. Comments are due within 30 days from the date of publication of this notice. Please submit your data, views, or arguments 1 CMC § 9104(a)(2).

These proposed regulations were approved by the CRM Regulatory Agencies in a public meeting on September 13, 2017, and the Acting CRM Director was authorized to promulgate these regulations on behalf of the CRM Regulatory Agencies.

Submitted by: _____ 9/25/17
JANICE E. CASTRO Date
Acting Director
Division of ~~Coastal~~ Resources Management

Received by: _____ 09/26/17
SHIRLEY P. CAMACHO-OGUMORO Date
Governor's Special Assistant
for Administration

Filed and
Recorded by: _____ 09.28.2017
ESTHER SN. NESBITT Date
Commonwealth Register

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

Dated this 28 day of September, 2017.

_____
EDWARD MANIBUSAN
Attorney General

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Ralph DLG. Torres
Governor

Victor B. Hocog
Lt. Governor

Frank M. Rabauliman
Administrator

Ray S. Masga
Director, DEQ

Janice E. Castro
Acting Director, DCRM

FÉÉRÉL AWEEWE ME CNMI DIVISION OF COASTAL RESOURCES MANAGEMENT REGULATION

FÉÉRÉL AWEEWE IYE RE BWE ATTABWEEY: Commonwealth of the Northern Mariana Islands, Coastal Resource Management Regulatory Agencies re bwe fééri mille Coastal Resources Management Regulations (CRM Regulations), fengál me aweewe me lóll Administrative Procedure Act,1 CMC §§ 9102 and 9104(a). Bwe CRM Regulations nge ebwe bweletá lóll 10 rál ngare e bwúng sángi 1 CMC §§ 9102 and 9104(a). 1 CMC § 9105(b).

ATORIDAD: Coastal Resource Management Regulatory Agencies nge re schuu me schóól legislature yaal ebwe lemelem me re adóptáli aweewe bwe ii e yoor yaal lemelem sángi Commonwealth Coastal Resources Management Act. 2 CMC § 1531(c).

IYA TOOL ME AWEEWEL ÓWTOL: Aweewel igha re bwal affata ówtol aweewe kkaal nge rebwe liwelil me affata iya tool me milikka rebwe affata rebwe féériI aweewel Coastal Resources Management Regulations. Aweewe kka rebwe liwelil nge rebwe aweewey me apwó-fengál me aweewel kkela e lo me (NMIAC sec. 15-10-005), faal (NMIAC sec. 15-10-020), aweewel iya tool sáát "high tide line" igha ebwuur-long nge saabw"mean high water mark" (NMIAC sec. 15-10-025, NMIAC sec. 15-10-335), tool langal sáát nge permit rebwe fééri (Chapter NMIAC sec. 15-10 Part 100), féériI permit me abwós (NMIAC Chapter 15-10 Part 200), permit rebwe arághi yaal standards me iya Areas of Particular Concern (APC) rebwe attabwey (NMIAC Chapter 15-10 Part 300 through 500), yaal major siting me arághi aweewel (NMIAC Chapter 15-10 Part 500), permit kka akkáw me milikka raa fééri seféli aweewel abwós (NMIAC Chapter 15-10 Part 600 through 700), me meeta rebwe fééri ngáre rese attabwey (NMIAC Chapter 15-10 Part 800 through 900) iye e tooto me federal e affata kkepasal (NMIAC Chapter 15-10 Part 1500).

ÓWTOL ME MEETA FÉÉRÉL:

1. Affata tool atoridad ighila yaal "Division" mwóghut (NMIAC sec. 15-10-005) me meeta aweewel (NMIAC sec. 15-10-020);
2. Fééri abwóssul permit ebwe ghitighititiw ighus reel ngáli "de minimis" APC projects (NMIAC sec. 15-10-105(g))
3. Affata aplicationul permit yaar fitméli, iyo re ówtorisai ebwe representáli me meeta kka eyoor. (NMIAC sec. 15-10-205), Fééri ló éew mili ffé malle yaal application (NMIAC sec. 15-10-206);
4. Reepiya fischiiy aweewe kka aa bwungoló fengál me peirághil, essóbw yoor ighus me ighus, nge uwa fééri ngáli utility test (NMIAC sec. 15-10-225);

5. Aghatchúló yaal standards reel CRM permit bwe rebwe affatatiw meeta ówtol me meeta ebwe fééri me rebwe yáali ngáli igha rebwe yáayá iye (NMIAC sec. 15-10-305);
6. Sapottáli yaar fééri ghatchúw ló mille rebwe attabwey (NMIAC sec. 15-10-311);
7. Affata ifa fitilil sáát me alótól sáát me leelómw me ngare wúluwosch Lagoon and Reef management (NMIAC sec. 15-10-3NMIAC sec. 15) me ayoora mille ebwe melaw sefál project me wóól Coral Reef Area of Particular Concern (APC)(NMIAC sec. 15-10-325);
8. Affata meeta aweewel meschór "wetland" APC meeta faal igha U.S. Army Corps of Engineers re attabwe ngáli lóll "federal nexus" bwe rebwe attabwey yaal aweewe policy (NMIAC sec. 15-10-330);
9. Affata iya tool mwóschengái-sát sángi igha eghal sowaaló iye ngáre e bwuur-sát me igha rebwe mwarakáli iya tool igha ese-gholalong iye (NMIAC sec. 15-10-335);
10. Affata igha e lo ngáschel sáát e hazard APC sángi FEMA e mwaketiw "V" me "VE" e high hazard ngare eghal bwuuwow schaal me wele falúw me ese ghatch ngáli walawal bwe ebwe malaw iye (NMIAC sec. 15-10-345);
11. Aghitighitátiw meeta APC fefferil me ngare liweli ráálil atol ngáre 30 rál mwetá 45 rál (NMIAC sec. 15-10-405);
12. Adóptáli aweewe permit iye re fééritiw lóll bwulasiyo DCRM igha re isóllong project proposal bwe rebwe konsideráli me essóbw yóór meeta ebwal weires reel aweewe (NMIAC secs. 15-10-501 & 505);
13. Asúúw-ló permit we e ira bwe 50% rebwe bwal atéwetá abwósúl ngare rebwe extendiiló permidil (NMIAC sec. 15-10-610), téétá yaar liwililó ngáli $5,000 mwetá $50,000 me rebwe affata meeta ówtol abwós iye e mwáketiw me (NMIAC sec. 15-10-701);
14. Fééri me atolongow meeta mwutta iye rese attabweey me warning ngare rese fééri sángi meeta project iye re kke feeri ngali NMIAC secs. 15-10-805, 810, 815, & 830);
15. Atomwoghátá dokumentol kontorata igha re bwe tarabwaagoli ngare waluw ráágh mwetá tiwow ráágh sángi BECQ me ebwe affat wów ngalir towlap ngare re tingór (NMIAC secs. 15-10-1201 and1205,); me
16. Affatatiw kkapasal sángi federal consistency bwe e bwe weewe me application of Section 307 of the Coastal Zone Management Act of 1972 me re ayoora regulationul (NMIAC sec. 15-10-1500).

FÉÉRIL EBWE AMWÉLA FISCHIY ME EBWE ABWÁRI NGÁLIR TOWLAP: Alongal Proposed Amended Regulations nge rebwe atemalighatchúw-long llól Commonwealth Register llól peighil sóbwol Proposed and Newly Adopted Regulations (1 CMC § 9102(a)(1)) me rebwe appaschá-fetáley igha aramas towlap reghal schú iye me alongal bwulasiyol gobieno me alongal sóóbw llól senatorial district, sángi English me i me ruwow mwaliyer falúw ngare Refalúwasch me Remaralis. 1 CMC § 9104(a)(1)

REEL ATOOTOLONG AWEEWE: Afangátiw yóómw mángámáng ngáli Erin M. Derrington, Permit Branch Manager, Re: 2017 Regulations Revision, reel address iye elo weiláng me ngare fax ngali me ngare email erinderrington@becq.gov.mp. Alongal ffériI aweewe kkaal nge re aprebáli sángi CRM Regulatory Agencies me lóll mwiischil toowplap wóól Septembre 13 2017 me bwal Acting CRM Director igha e atorisáli yaar rebwe fééri aweewe kkaal sángi CRM Regulatory Agencies.

Isiis me reel: _____ 9/25/17
JANICE E. CASTRO Rál
Acting Director
Division of Coastal Resources Management

Bwughi me reel: _____ 09/26/17
SHIRLEY P. CAMACHO-OGUMORO Rál
Governor's Special Assistant
for Administration

Fayeli me Rekodili: _____ 09-28-2017
ESTHER SN. NESBITT Rál
Commonwealth Register

Sángi ówtol 1 CMC § 2153(e) (AG e aprebáli regulations rebwe fééri) me aléghúw féériI me 1 CMC § 9104(a)(3) (AG e amweschúl lúghúw appreba kkaal) reel proposed regulations kka e appasch bwe ra árághil me aweewel me apprebáli bwe legal me e allégh sángi CNM Attorney General bwe ebwe atowowul bwe aramas towlap rebwe repiyálil (1 CMC § 2153(f)(publication of rules and regulations).

Sángi lóll 28 rál wool Septembre, 2017

EDWARD MANIBUSAN
Attorney General

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MAPROPONIN TINILAIKA NA AREKGLAMENTUN I KUETPUN "COASTAL RESOURCES MANAGEMENT" PUT FENGKAS I TASITA GI URIYAN TANO'TA

MA INTENSIONA NA AKSION PARA I MAPROPONI NA TINILAIKAN AREKGLAMENTU: I katkuet na kuetpu siha gi Gubietnamentun Islan Sangkattan na Marianas, Ofisinan i Maga'låhi, ni manenkatgåo umarekgla yan umadahi asuntun salud yan ginasgas i tano'ta, i tasita, yan i airi para enteru i pupbliku, ma hasayaihun osino ma intensiona para umaproponi tinilaikan arekglu siha gi presenti na arekglamentun inadahin fengkas tano'ta yan tasita gi uriyan Marianas (Coastal Resources Management Regulations) sigun i ginagagåo gi "Administrative Procedure Act (APA), 1 CMC §§9104 (a)". Esti siha na arekglamentu para u ifektibu osino aplikåpbli dies (10) dihas dispues di makumpli i "1 CMC §§ 9102" yan i "9104 (a)", yan lokkui' i "1 CMC § 9105 (b)".

ATTURIDÅT: I Lehislatura ha nå'i i katkuet na kuetpu siha ni manenkatgåo umarekgla yan umadahi asuntun salud yan ginasgas i tano'ta, i tasita, yan i airi para enteru pupbliku era i "Coastal Resource Management Regulatory Agencies" pudet ni para u aprueba i arekglamentu osino regulasion siha para i ma-atministra yan i ma-enfuetsan i "Commonwealth Coastal Resources Management Act", 2 CMC § 1531(c)".

I ALIMENTU YAN I SUSTÅNSIAN AREKGLAMENTU: I manmamaproponi na tinilaikan arekglamentu siha lå'yiyi macho'gui kosaki uma-attisa yan uma-na'gof klåru i arekglu siha sigun i ginagagåo gi "Coastal Resources Management Regulations" fuera di put para uma-na'fandinanchi katkuet siha na dinilitreha gi enteru arekglamentu. I manmaproponi na tinilaika siha para u na'mås laksi' yan antåo i arekglamentu siha yan uma-atbånsa mås sånu mo'na i inadahi yan minanehan i salud i tano'ta ya eyu mina' sigidu uma tulaika palu seksiona put atturidåt ("NMIAC Sec. 15-10-005"), put håfa kumeke ilekña katkuet siha na palabra ("definitions") gi ("NMIAC Sec. 15-10-020"), attoridåt put råyan hinafnu' ("high tide line") enlugåt di binekka' i tasi ("mean high water mark") sigun gi ("NMIAC Sec. 15-10-025, NMIAC Sec. 15-10-335"), ginagagåo gi aplikasion siha ("Chapter NMIAC Sec. 15-10, Part 100"), fina'pus i chachalanña i petmisu yan i katkuet na kuenta siha ni debi manma apåsi hålum ("NMIAC Chapter 15-10, Part 200"), arekglun manera ni ma-ilåo yan ma-aprueban aplikasion yan "Areas of Particular Concern (APC) (NMIAC Chapter 15-10 Part 300 through 500)", ginagagåo siha put man-ilåon man dångkulu na inesotbun salud na aplikasion ("NMIAC Chapter 15-10 Part 500"), ma-umentan tiempun aplikasion yan kuenta siha ni debi manma-apåsi ("NMIAC Chapter 15-10 Part 600-700"), cho'chu' osino aksion man-enfuetsa siha ("NMIAC Chapter 15-10 Part 800 through 900"), yan put para u-afagcha' yan u-alapåt i lingguåhin arekglamentu yan i arekglun Fiderål giya Amerika ("NMIAC Chapter 15-10 Part 1500").

I MAÑÅSÅONÅO SIHA NA ASUNTU:

1. Ana'klåru i attoridåt yan eståon i Kuetpun "Coastal Resources Management" ("NMIAC Sec. 15-10-005) yan katkuet kumeke-ilekña na palabra siha ("NMIAC Sec. 15-10-020");
2. Aprubiniyi rinibåhån kuentan man-apåsi halum para "de minimis APC projects (NMIAC Sec. 15-10-105(g)") yan más sånu yan måolik na midida put asuntun minanehan prugråma (NMIAC Secs. 15-10-205(j-k)");
3. Ana'klåru håyi manmanfitma ni aplikasion siha, håyi manma-attorisa na riprisintånti ginin katkuet mañåsåonåo na kuetpu, yan nina'chettun siha ("attachments") gi aplikasion ("NMIAC Sec. 15-10-205"), fina'tinas nuebu na seksiona para man dångkulu na inestotbun salud na aplikasion siha ("NMIAC Sec. 15-10-206");
4. Alåba klåru yan dibuenamenti sin håfa na dinida i kabålis na infutmasion gi aplikasion, na'metgut i arekglu kontra che'chu' adumididi' enlugåt di enteru na "project", yan inaplikan "independent utility test" ("NMIAC Sec. 15-10-225");
5. Ana'sånu yan antåo i arekglu siha kosaki klåru i ma-ilåon aplikasion pot ma-asiguran dititminasion kontra i salud yan hinemlu' i tano'ta yan tåotåota yan ma-asiguran inadahi kontra man dilikåo na lugåt siha ("NMIAC Sec. 15-10-305");
6. Sinupottan mididasion kontra yan para u ribåha dinistrosun tano'ta ("NMIAC Sec. 15-10-311");
7. Distinggi "seagrass" (osino chå'guan tåsi) kontra "seaweed" para minanehan enteru tasita esta huyung mattingan ("NMIAC Sec. 15-10-3) yan prubiniyi inadahi kontra dinistrosun i guinahan i tasi gi "Coral Reef Area of Particular Concern" ("APC") ("NMIAC Sec. 15-10-325");
8. Attisa yan na'klåru "wetland" APC definition" sigun i ginihan i "U.S. Army Corps of Engineers" fuera di "exception of the federal nexus" yan na'hålum kumu pått i "buffer guidance policies" ("NMIAC Sec. 15-10-330");
9. Attisa yan na'klåru i linderun chopchup tåsi ginin bekka' i tasi ("mean high water") esta hinafnu' i tasi ("high tide line") ya u soyu' rasonåpbli na mididasion yan kunsiderasion put esti na klasin aplikasion sigun i tinilaikan i chepchup tåsi ("NMIAC Sec. 15-10-335");
10. Ana'klåru i piniligrun kåntun tåsi ("coastal hazard APC") sigun i dinisignan "FEMA" kumu "V" yan "VE" high hazard flood zones" yan supotta rasonåpbli na manera siha ni para u-adahi yan u-na'gåtbu i nina'dokku' tinanum siha ("NMIAC Sec. 15-10-345");
11. Ribåha i "mandatory APC designation" pat tulaika i tiempu man ina aplikasion ginin trenta dihas ("30 days") esta kuarentai sinku dihas ("45 days") ("NMIAC Sec. 15-10-405");
12. Adåpta i inakumprendi gi entalu' i mañåsåonåo na kuetpu siha na i fine'na na ininan aplikasion era gi Kuetpun "Coastal Resources Management" ("CRM") yanggin kabålis i nina'halum aplikasion ni ha tuka' más menus na inestotbu yan dinistrosun i tano'ta enteramenti ("NMIAC Sec. 15-10-501 & 505");
13. Ana'suha opbligåo ("mandatory") na kundision put "50%" más na kuentan åpas ("permit fee") para ma-umentan tiempu ("permit extension") ("NMIAC Sec. 15-10-610"), subri osino håtsa i "threshold" ginin $5,000 esta $50,000, yan na'klåru i katkuet na kuentan åpas siha ("NMIAC Sec. 15-10-701");
14. A sedi rasonåpbli na aksion man-enfuetsa siha desdi "discretionary warnings" esta nigosiu para ma-asigura más i inadahin tano'ta kontra ti man kunbieni na dinistrosu osino

estotbu ("NMIAC Secs. 15-10-805, 810, 815, & 830");

15. Umenta i tiempu ni mago'tin dokumentu siha ginin ochu esta nuebi åñus para u parehu gi papa' i Kuetpun "BECQ" yan ana'klåru i finaisin infutmasion ginin i pupbliku ("NMIAC Secs. 15-10-1201 and 1205"); yan
16. Attisa i kumekeilekña i katkuet siha na palabra para u-afagcha' yan alapåt yan i Fideråt gi Seksiona 307 gi "Coastal Zone Management Act of 1972" yan i arekglamentunñiha ("NMIAC Sec. 15-10-1500").

AREKGLAMENTU POT "FILING" YAN "PUBLICATION": Esti i manmaproponi na tinilaikan arekglamentu siha debi umapupblika gi "Commonwealth Register" gi sesksiona put manmaproponi yan nuebu namanma adåpta na arekglamentu (1 CMC § 9102(a)(1)) yan u fanma pega gi katkuet na sagan pupbliku gi kada' Isla gi finu' CHamoru, Refaluwaasch, pat English (1 CMC § 9104(a)(1)).

PARA MANNA'HÅLUM FINIHU: Na'hånåo pat na'hålum finihu guattu as Erin M. Derrington, Permit Branch Manager, *Re: 2017 Regulation Revisions*, gi sanhilu' na "address" pat i sanhilu' na "Fax number" guini pat "Email gi: errinderrington@becq.gov.mp. Todu finihu debi ufanhålum gi hålum trenta dias (30 days) ginin i fecha ni mapupblika esti na nutisia (1 CMC § 9104(a)(2)).

Esti na priniponin tinilaika na arekglamentu inaprueba ni "CRM Regulatory Agencies" gi inetnun inekkunguk pupbliku gi Septembri 13, 2017, ya i "Acting CRM Director" ma-attorisa para u namacho'gui yan adåpta esti na arekglamentu enkuenta i "CRM Regulatory Agencies."

Nina'hålum as:

JANICE E. CASTRO
Acting Director
Division of Coastal Resources Management

9/25/17
Date

Rinisibi as:

SHIRLEY P. CAMACHO-OGUMORO
Governor's Special Assistant
for Administration

09/26/17
Date

"Filed and
Recorded by":

ESTHER SN. NESBITT
Commonwealth Register

09.28.2017
Date

Sigun i 1 CMC § 2153 (e) (inaprueban Abugådu Hineråt ni regulasion siha na para u macho'gui kumu fotma) yan 1 CMC § 9104 (a) (3) (inahentan maprueban Abugådu Hineråt) i manmaproponi na regulasion siha guini ni mantinilaika yan manmaaprueba kumu futmåt yan sufisiente ligåt ginin i CNMI Abugådu Hineråt yan debi na umapupblika, 1 CMC § 2153 (f) (pupblikasion arekglamentu yan regulasion siha).

Ma fecha gi 28 Septembri na diha, 2017.

EDWARD MANIBUSAN
Attorney General

Part 001 - General Provisions

§15-10-001 Short Title

This chapter shall be cited as the Coastal Resources Rules and Regulations.

§

§15-10-005 Authority

~~Pursuant to~~ The Coastal Resources Management Office (CRMO) was established pursuant to the authority of CNMI Public Law 3-47, §§8(d) and 9(c) ~~((~~2 CMC §§1531(d) and ~~),~~1532(c)), and 1 CMC §9115, and was reorganized as the Division of Coastal Resources Management (DCRM) under the Bureau of Environmental and Coastal Quality under the Governor's Executive Order 2013-24. Pursuant to 2 CMC §§ 1531(d) and 1532(c), and 1 CMC § 9115, the Coastal Resources Management Agencies establish, the following rules and regulations ~~are hereby established.~~ for the Coastal Resources Management Program. They shall apply to all areas designated by ~~CNMI PL 3-47, § 7 (),~~2 CMC §1513, as subject to the jurisdiction of the Coastal Resources Management (CRM) program.

§

§15-10-010 Purpose

This chapter governs practice and procedure within the federally approved CRM program and sets standards for the CRM program in implementing its responsibilities, as approved by the Office ~~of~~for Coastal Resources Management, U.S. Department of Commerce. Provisions of this chapter are not intended to negate or otherwise limit the authority of any agency of the Commonwealth government with respect to coastal resources, provided that actions by agencies shall be consistent with provisions contained herein. This chapter shall be consistent with the Federal Coastal Zone Management Act (CZMA) and applicable rules and regulations. The DCRM shall act as the administrator of the permitting process, and the Director shall act as the chairperson in the leading CRM board meetings.

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§15-10-015 Construction

This chapter shall be construed to secure the just and efficient administration of the CRM program and the just and efficient determination of the CRM permit process. In any conflict between a general rule or provision and a particular rule or provision, the particular shall control over the general. The interpretation of this chapter shall be consistent with the Federal Coastal

Zone Management Act (CZMA) (16 USC §§1451-1466) and applicable rules and regulations (15 CFR §§923.1-923.135).

§

§15-10-020 Definitions

(a) ~~(a)~~ "Adjacent property" means real property within 300 feet of the lot or site on which a proposed project will be located, regardless of whether there is a shared boundary or not.

(b) ~~(b)~~ "Adjacent property owner" means a person, business, corporation, or entity who currently holds valid ownership or lease of an adjacent property.

(c) "Adverse impacts" includes, but is not limited to any of the following:

(1) Alteration of chemical or physical properties of coastal or marine waters that would impair or prevent the existence of the natural biological habitats and communities;

(2) Accumulation of toxins, carcinogens, or pathogens which could potentially threaten the health or safety of humans or aquatic organisms;

(3) Disruption of ecological balance in coastal systems and marine waters that support natural biological communities;

(4) Addition of man- made substances foreign to the coastal and marine environment for which organisms have had no opportunity for adaptation and whose impacts are largely known;

(5) Disruption or burial of bottom communities; ~~or~~

(6) Interference with traditional fishing activities~~.~~;

(7) Development or activities which pose unreasonable risks to the health, safety, or welfare of the people of the Commonwealth or conflict with applicable federal or local laws intended to protect public health, safety, and welfare or ecological integrity of sensitive ecosystems; or

(8) Impacts to air quality, scenic views, safe transportation, areas of cultural significance, or any other effect(s) as listed in 2 CMC 1511.

(d) "Affected person" means any person who can demonstrate to the Director the actual or potential bias or conflict of interest of a CRM ~~agency official.~~ Agency Official.

(e) "Agency ~~officials~~Officials" means ~~any official of the Coastal Resources Management Office or any~~ designated officials of any CRM agency as set forth in 2 CMC § 1531(a).

(f) "Aggrieved person" means, with respect to a particular project, the following:

(1) An applicant or person who has been adversely affected by the decision of the coastal resources management regulatory agencies or by the decision of the DCRM~~;~~, or

(2) A person who has been negatively affected by a decision of the CRM regulatory agencies or by a decision of the DCRM and can demonstrate that she/he participated in the DCRM hearing process either by submitting written comments or making oral statements during any hearing held on the project and that these comments were not adequately addressed by the final permit decision, and that the failure to adequately address the comments or statements had a material effect on the final permit decision.

~~(g)~~

(g) "Alternative" means reasonable possible actions that could substitute or replace the proposed action and fulfil the same or a similar purpose. Only a reasonable range of alternatives must be discussed, analyzed, and compared in an environmental impact statement. What constitutes a reasonable range of alternatives depends on the nature of the proposal and the facts in each case.

(h) "Appeals Board" means the appeals board for the CRM as described in 2 CMC § 1541.

~~(h)~~

(i) "Area of Particular Concern" or "APC" means ~~a delineated geographic~~an area included within CRM jurisdiction that is subject to special management because of its unique and important environmental properties, and is subject to specific criteria permit evaluations under part 300 of these regulations.

~~(i)~~

(j) "APC permit" means a permit for any ~~minor~~ development ~~or for any development greater in scope and effect on the environment than a minor development that is~~ within, partially within, or with potential to have significant adverse impact on an APC ~~or affects an APC and which is~~that does not ~~a~~meet the criteria for a CRM major siting.

~~(j)~~

(k) "Aquaculture" or "mariculture facility" means a facility, either land or water based, for the propagation and rearing of aquatic organisms (both marine and freshwater) in controlled or selected aquatic environments for any commercial, recreational, scientific, or public purpose.
~~(k)~~

(l) "Authorized Representative" means the individual or individuals duly designated by an applicant for a permit or a permittee to represent the permit holder in binding decision-making and correspondence. As specified in § 15-10-205(c) a representative is duly authorized when (i) authorization is made in writing by a permit applicant (ii) specifying either an individual or position having responsibility for the overall submission of a proposal or operations of a project and (iii) written authorization signed by the permittee is submitted to the Director. If an authorization is no longer accurate because a different individual or position has responsibility for overall permit execution for the permit holder, the permit applicant or permittee must submit a new authorization. Authorized representatives are jointly responsible for the certification of the veracity of submitted permitting documents. Authorized representatives are assumed to have the ability to accept service of administrative orders concerning compliance with these regulations and permits issued under the Coastal Resources Management Program.

(m) "Beach" means an accumulation of unconsolidated deposits along the shore with their seaward boundary being at the low tide or reef flat platform level and extending in a landward direction to the strand vegetation or first change in physiographic relief to topographic shoreline.
~~(l)~~

(n) "Best Management Practices" or "BMP" means a measure, facility, activity, practice, structural or non-structural device, or combination of practices that are determined to be the most effective and practicable (including technological, economic, and institutional considerations) means ~~of controlling point and nonpoint pollutants at levels compatible with~~achieving environmental quality goals~~ to achieve storm water management control objectives~~.
~~(m)~~

(o) "Coastal Advisory Council" means the council described in 2 CMC § 1521.
~~(n)~~

(p) "Coastal High Hazard Area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to

high velocity wave action from storms or seismic sources. The coastal high hazard area is identified by FEMA's FIRM maps as Zone V and VE.

(q) "Coastal land" means all lands and the resources thereon, therein, and thereunder located within the territorial jurisdiction of the CRM program, as specified by ~~section 7 of PL 3-47~~ 2 CMC § 1513.

~~(o)~~

(r) "Coastal resources" means all coastal lands and waters and the resources therein located within the territorial jurisdiction of the CRM program, as specified by ~~section 7 of PL 3-47~~ 2 CMC § 1513.

~~(p)~~

(s) "Coastal Resources Management Agencies" or "CRM Agency Board" or "CRM Agency Officials" means the ~~entity~~entities described in 2 CMC §1531.

~~(q)~~

(t) "Coastal Resources Management program" or "CRM program" means the Coastal Resources Management Program established by ~~CNMI PL 3-47 (~~,2 CMC § 1501, et seq~~.).~~.

~~(r)~~

(u) "Coastal resources management program boundaries" means ~~the edge of the~~ area subject to CRM program territorial jurisdiction, as specified in ~~section 7 of PL 3-47~~ 2 CMC § 1513.

~~(s)~~

(v) "Coastal waters" means all waters ~~and the submerged lands~~ under the marine resources subject to the territorial jurisdiction boundaries of the coastal resources management program as specified in ~~section 7 of PL 3-47~~ 2 CMC § 1513.

~~(t) "Coastal zone" means all of the lands of the CNMI and territorial waters.~~

~~(u)~~

(w) "Conclusion of law" means a legal decision of a government agency regarding a legal question or controversy made by applying relevant statutes, regulations, rules, or other legal principles to the facts of the case.

~~(v)~~

(x) "Cumulative Effect" or "Cumulative Impact" means the incremental environmental impact or effect of the proposed action, together with impacts of past, present, and reasonably foreseeable future actions, regardless of what person or agency (Federal or non-Federal) undertakes such other actions. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

(y) "Degradation" means a diminution or reduction of strength, efficacy, value, or magnitude.

~~(w)~~

(z) "Development" means any of the following:

(1) The placement or erection of any solid material or structure;

(2) Discharge or disposal of any dredge materials or of any gaseous, liquid, solid, or thermal waste;

(3) The grading, removing, dredging, mining, or extraction of any materials;

(4) A change in the density or intensity of use of land including, but not limited to, subdivision of land and any other division of land including lot parceling;

(5) A change in the intensity of use of water, the ecology related thereto, or the access thereto;

(6) A construction or reconstruction, demolition, or alteration of any structure, including any facility of any private or public utility; or

(7) The removal of a significant amount of vegetation, whether native or non-native.

~~(x)~~

(aa) "Direct and significant impact" means the ~~impact~~ result of an action which is ~~casually~~causally related to or derives as a consequence of a proposed project, use, development, activity, or structure which contributes to a material change or alteration in the ~~natural~~ecological or ~~social~~socio-economic characteristics of any coastal resource.

~~(y~~

(bb) "Director" means the Director of ~~DCRM~~the Division of Coastal Resources Management appointed pursuant to EO 2013-24.

~~(z)~~

(cc) "Division of Coastal Resources Management" or "DCRM" means the entity described in 2 CMC §1512.

~~(aa)~~

(dd) "Effect" or "effects" mean (i) direct effects, which are caused by the action and occur at the same time and place, and (ii) indirect effects, which are caused by the action and are later in time or farther removed in distance but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems including ecosystems and ecosystem services. Effects and impacts are synonymous for the proposes of these regulations and required environmental impact assessment reviews. Effects include ecological (such as the effects of natural resources and on the components, structures, and functioning of affected ecosystem(s)), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects.

(ee) "Endangered or threatened wildlife" means species of plants or animals that are designated as endangered or threatened by the U.S. ~~Department of the Interior's~~ Fish and Wildlife Service, the National Marine Fisheries Service, or by the ~~Commonwealth~~Commonwealth's Division of Fish and Wildlife.

(ff) "Environmental Impact Assessment" (EIA) means a detailed written statement including attachments required in § 15-10-206. As required for Major Siting applications, this report shall include analysis of the proposed action, consideration of adverse effects of the project that cannot be avoided, meaningful discussion of alternatives, consideration of short-term uses of the environment versus the maintenance and enhancement of long-term productivity, and any irreversible and irretrievable commitment of resources.

(gg~~(bb)~~) "Federally excluded lands" means those federally owned lands excluded from the territorial jurisdiction of the CRM program as specified by 2 CMC § 1513, 16 U.S.C. § 1453(1), and 15 C.F.R. § 923.33.

~~(cc)~~

(hh) "Findings of fact" means determinations of fact by way of reasonable interpretation of evidence.

(ii) ~~(dd)~~ "Fluid" means any material or substance which flows or moves, whether in a semisolid, liquid, sludge, gas, or any other form or state.

~~(ee~~

(jj) "Green Infrastructure" means infrastructure that incorporates best management practices that protect, restore, or mimic natural processes, including water cycles and coastal dynamics, that typically use "soft" or "natural" design elements.

(kk) "Hazardous material" means any item or agent (biological, chemical, physical) which has the potential to cause harm to humans, animals, or the environment, either by itself or through interaction with other factors, when improperly treated, stored, transported, disposed of, or otherwise managed.

~~(ff)~~

(ll) "High tide line" means a line or mark left upon tide flats, beach, or along shore objects indicating the elevation of the intrusion of high water. The mark may be a line of oil or scum on along shore objects, or a more or less continuous deposit of fine shell or debris on the fore shore or berm. This mark is physical evidence of the general height reached by wave run up at recent high waters.

(mm) "Impact" means any modification in an element of the environment, including modification as to quality, quantity, ~~aesthetics, or human or natural use thereof.~~ or aesthetics. "Impacts" are the direct result of an action which occurs at the same time and place; or an indirect result of an action which occurs later in time or in a different place and is reasonably foreseeable; or

the cumulative results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Also see "effect."

(nn) "Improvement" means changes to structures, infrastructure, or land intended to enhance quality, quantity, or aesthetics of the property and/or reduce identified impacts.

(oo

~~(gg)~~ "Infrastructure" means those structures, support systems~~,~~ and appurtenances necessary to provide the public with such utilities as are required for economic development, including but not limited to systems providing water, sewerage, transportation~~,~~ and energy.

~~(hh)~~

(pp) "Infrastructure corridors" means a strip~~,~~ or strips of land, not including highways, forming passageways which carry infrastructure.

~~(ii)~~

(qq) "LEED" refers to the "Leadership in Energy and Environmental Design" criteria and Guiding Principles established by the United States Green Building Council.

(rr) "LEED certifiable" means that project proposal meets or exceeds current standardized rating systems for "Leadership in Energy and Environmental Design" (LEED) criteria and Guiding Principles established by the United States Green Building Council as assessed by application of the LEED v4 Building Design and Construction Checklist.

(ss) "Living shoreline(s)" means a shoreline management practice that provides erosion control benefits; protects, restores, or enhances natural shoreline habitat; and maintains coastal processes through the strategic placement of plants, stone, sand fill, and other structural organic materials (e.g. biologs, etc.).

(tt) "Littoral drift" means the movement of sedimentary material within the near-shore zone under the influence of tides, waves~~,~~ and currents.

~~(jj)~~

(uu) "Major siting" means any proposed project which has the potential to directly and significantly impact coastal resources, as provided for in § 15-10-501 of this chapter. The phrase includes, but is not limited to, any of the following if there is a significant potential that the development or project may cause detrimental impacts to coastal resources:

(1) Energy related facilities, wastewater treatment ~~facility~~facilities and associated pipelines or outfalls, transportation facilities, surface water control ~~project~~projects, and harbor structures;

(2) Sanitary landfills, disposal of dredged materials, mining activities, quarries, basalt or other mineral extraction, incinerator projects;

(3) Dredging and filling in marine or fresh waters, point source discharge of water or air pollutants, shoreline modification, ocean dumping, large-scale artificial reef construction~~;~~ greater than 300 linear feet or 0.5 acre in area;

(4) Proposed projects with potential for significant adverse effects on submerged lands, groundwater recharge areas, cultural areas, historic or archeological sites and properties, designated conservation and pristine areas, or uninhabited islands, sparsely populated islands, mangroves, reefs, wetlands, beaches and lakes, areas of scientific interest, recreational areas, limestone, volcanic and cocos forest, and endangered or threatened species or marine mammal habitats;

(5) Major recreational developments and major urban or government developments;

(6) Construction and major repair of highways and infrastructure development;

(7) Aquaculture or mariculture facilities, and silviculture or timbering operations;

(8) Any project with the potential for affecting coastal resources which requires a federal license, permit~~,~~ or other authorization from any regulatory agency of the U.S. government;

(9) Any project, or proposed project, that may cause underground injection of hazardous wastes, of fluids used for extraction of minerals, oil and energy, and of certain other fluids with potential to contaminate ground water. Any such project, or proposed project, shall be primarily governed by the CNMI Underground Injection Control Regulations ((NMIAC, title 65, chapter 90) and supplemented by this chapter;

(10) Any proposed project having a daily demand of 3,500 gallons of water, and/ or a peak demand of ~~500 kilowatts~~500kilowatts, as established by CUC demand rates for particular types of projects;

(11) Any proposed project that modifies areas that are particularly susceptible to erosion and sediment loss;

(12) Proposed projects that would modify areas that provide important water quality benefits and/or are necessary to maintain riparian and aquatic biota and/or necessary to maintain the natural integrity of water bodies and natural drainage systems~~;~~.

(13) ~~Any proposed project or plan that would result in the~~Land clearing of more than 10 acres of vegetation; and

(14) Any other proposed project that has the potential for causing a direct and significant impact on coastal resources as determined by the Director or a ~~consensus~~majority vote of the CRM ~~agency officials~~Agency Officials.

~~(kk)~~

(vv) "Management measures" are economically achievable measures to control the addition of pollutants to surface and ground waters, which reflect the greatest degree of pollutant reduction achievable through the application of the best available nonpoint pollution control practices, technologies, processes, siting criteria, operating methods, or other alternatives.

~~(ll)~~

(ww) "Marine resources" means those resources found in or near the coastal waters of the Commonwealth such as fish, other aquatic biota, dissolved minerals, and other resources.

~~(mm)~~

(xx) "Minor development" ~~means~~includes but is not limited to any of the following developments or projects within an APC:

(1) Normal maintenance and repair activities for existing structures or developments which cause only minimal adverse environmental impact;

(2) Normal maintenance and repair of the following: existing rights of way; underground utility lines, including water, sewer, power, and telephone; minor appurtenant structures to such; pad mounted transformers and sewer pump stations, provided that normal maintenance and repair shall not include the extension or expansion of existing lines, structures or right of way;

(3) Construction of temporary structures, not to exist for more than six months, for fund raising, carnival or cultural activities;

(4) Construction of *pala-palas*, picnic tables and/or barbecue pits;

(5) Construction of non-concrete volleyball or tennis courts;

(6) Temporary structures and constructions for photographic activities (such as advertising sets) which are demonstrated by the applicant to have an insignificant impact on coastal resources;

(7) Public landscaping and beautification projects;

(8) Memorial and monument projects covering ten square meters or less;

(9) Security fencing which does not impede public access;

(10) Placement of swimming, navigation or temporary or small boat mooring buoys, if such placement does not require a license, permit, or other authorization from any U.S. federal regulatory agency;

(11) Single family residential construction or expansion including sewer connections within shoreline APC;

(12) Archeological and related scientific research approved by the ~~Historical~~Historic Preservation Office (HPO), evaluated on a case-by-case basis, and found by DCRM to cause no significant adverse environmental impacts;

(13) Agricultural activities;

(14) Debris incineration, if only vegetative matter is to be incinerated;

(15) Repair of existing drainage channels and storm drains;

(16) Strip clearing for survey sighting activities, except in wetland APC;

(17) Construction of bus stop shelters;

(18) Construction of an accessory building incidental to an existing acceptable activity in the port and industrial APC; or

(19) ~~Temporary storage~~ Storage of hazardous or nuisance materials including but not limited to construction chemicals, used oil, automotive fluids, batteries, paints, solvents, unregistered or unlicensed vehicles, accumulation of trash, garbage, or other refuse.

~~(nn)~~

(yy) "Mitigation" is the effort to reduce negative impacts on natural and cultural resources and public infrastructure. In the context of the environmental impact assessment, mitigation means planning actions taken to avoid an impact altogether to minimize the degree or magnitude of the impact, reduce the impact over time, rectify the impact, or compensate for the impact.

(zz) "Nonpoint source" or "NPS" means any source of water pollution that does not fall under the ~~legal~~ definition of "point source" as defined at § 15-10-020(fff).

(~~oo~~) aaa) "Nonpoint source pollution" or "NPS pollution" means ~~nonpoint source~~ pollution or contamination that comes from many diffuse sources rather than from a specific point, such as an outfall pipe, including pollutants contained in runoff and groundwater that do not meet the legal definition of point source in section 502(14) of the Federal Clean Water Act.

~~(pp)~~

(bbb) "Party" means a person, legal or natural, or any department of government, organization or other entity that is a CRM permit applicant or a successor in interest.

(~~qq~~ccc) "Permit" or "CRM permit" means a permit that is issued by CRM ~~agency officials~~Agency Officials or the DCRM for a proposed project that is subject to CRM program jurisdiction.

~~(rr)~~

(ddd) "Permittee" or "Permit holder" means a person or entity that holds the beneficial interest in a CRM permit and may be either a CRM permit applicant, a successor in interest if the project site has been sold, leased or otherwise transferred, or a real party in interest if the benefit of the CRM permit is for one other than the applicant or a successor in interest.

~~(ss)~~

(eee) "Person" means the ~~government of the United States of America~~governments or any agency or department thereof; or the government of the Commonwealth or any agency or department or any municipality thereof; any sovereign state or nation; a public or private institution; a public or private corporation, association, partnership, or joint venture, or lessee or other occupant of property, or individual, acting singly or as a group as defined in 16 U.S.C. § 1453 and 2 CMC § 1513.

~~(tt)~~

(fff) "Point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged, or any source as defined in the Federal Clean Water Act, section 502(14), 33 U.S.C. § 1362(14). This term does not include agricultural ~~storm water~~stormwater discharges and return flows from irrigated agriculture.

~~(uu)~~

(ggg) "Project" means any structure, or use~~, development, or other activity~~ subject to CRM program territorial jurisdiction as specified by 2 CMC § 1513.

~~(vv)~~

(hhh) "Resources" means natural advantages and products including, but not limited to, marine biota, vegetation, minerals, and scenic, aesthetic, cultural and historic resources subject to the territorial jurisdiction of the CRM program.

(iii) ~~(ww)~~ "Riparian" means pertaining to the banks and other adjacent, terrestrial (as opposed to aquatic) environs of freshwater bodies, watercourses, and surface-emergent aquifers (e.g., springs, seeps), whose imported waters provide soil moisture significantly in excess of that otherwise available through local precipitation.

~~(xx)~~

(jjj) "Seagrass habitat" means seagrass bed(s) or meadow(s) where flowering plants known as "seagrasses" grow in shallow and sheltered coastal marine waters. Seagrasses are flowering plants that grow in shallow and sheltered coastal marine waters with a rhizome root system that anchors them in soft sediments such as sand and mud. The three main species of seagrass found in the CNMI are *Halodule uninervis*, *Enhalus acoroides*, and *Halophila minor*. Seagrass beds may consist of one or more species of seagrass.

(kkk) "Seaweed" means marine macroalgae in general. The term may refer to red, green, brown, or blue-green (cyanobacteria) algae. Seaweeds may attach to hard substrate or other organisms with holdfasts, but they lack a true root system and are free-living (i.e. unattached). Seaweeds may grow in monospecific stands or mixed species assemblages and are often found interspersed within seagrass beds and on coral reefs.

(lll) "Significant" or "significance" of an impact or action is assessed on a case by case basis as defined in 40 CFR § 1508.27, considering two variables: "context" and "intensity." "Context" means the significance of an action must be analyzed in its current and proposed short- and long-term effects on the whole of a given resource (e.g. affected area or region) and "Intensity" refers to the severity of the effect.

(mmm) "Sustainable" means the ability to be sustained, supported, upheld, or confirmed. This describes the desired state of a resource or system such that it can be used in a way that is not being harmful to the environment or posing threats of depleting or degradation of natural resources, and supporting long-term ecological balance.

(nnn) "Underground injection" means ~~a "~~well injection.~~"~~ as further defined and regulated under NMIAC, Title 65, Chapter 90.

~~(yy)~~

(ooo) "Under penalty of perjury" means any statement, oral ~~or,~~ written, certified as true and correct under penalty of perjury, pursuant to CNMI PL 3-48, 6 CMC § 3306, and which precludes the necessity of a notarized affidavit for written statements, as in the following example:

I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on (date~~),~~) , at _____, _____, CNMI.

_____

_____

_____(Signature)

~~(zz~~

(ppp) "View corridor" refers to the line-of-sight and viewshed from a specific physical location.

(qqq) "View corridor plan" means a visual representation of how a proposed project is expected to impact the existing line-of-sight and viewshed with respect to the shoreline and reflects efforts to mitigate these impacts if necessary.

(rrr) "Water-dependent use" means a use that needs a waterfront location for its physical function. Such uses include, but are not limited to, seaports, boat launching ramps, and other similar facilities.

~~(aaa)~~

(sss) "Water-oriented use" means a use that takes place near the shoreline or waterfront and derives an economic benefit from such a location, but does not require a location directly on the

shoreline or waterfront. Such uses include, but are not limited, to restaurants, hotels and residential developments.

~~(bbb)~~

(ttt) "Water-related use" means a use that requires water itself as a resource, but does not require a waterfront location; including most industries requiring cooling water, or industries that receive raw material via navigable waters for manufacture or processing. Such uses must have adequate setbacks, as required by ~~the CRM Office~~DCRM.

~~(ccc)~~

(uuu) "Watershed" means all land and water within the confines of a drainage divide.

~~(ddd~~

(vvv) "Water sports" or "marine sports" means commercial water -based recreational activities which take place in CRM regulated waters for which a CRM permit is required. Examples of such water sports are scuba diving, parasailing, jet-skiing, etc.

~~(eee~~

(www) "Water ~~sports~~Sports permit" or "Marine Sports permit" means the permit required for any entity to engage in a commercial business related to water sports~~.~~ within CRM's territorial jurisdiction. This includes motorized and non-motorized marine sports activities such as but not limited to towed floatation, "underwater breathing apparatus" (UBA), towed floatation, and non-self-propelled devices.

~~(fff)~~

(xxx) "Well" means a bored, drilled or driven shaft, or a dug hole whose depth is greater than the largest surface dimension.

~~(ggg)~~

(yyy) "Well injection" means the subsurface emplacement of fluids through a well.

(zzz) "Wetland" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. The presence or absence of these three criteria (soils, plants, and hydrology) is considered when assessing the presence and value of wetland systems by applying the 1987 U.S. Army Corps of Engineers Wetland Delineation Manual and Regional Supplement to the Corps of Engineers Wetland

Delineation Manual: Hawaii and Pacific Islands Region, except that no "federal nexus" is required. Wetlands include swamps, marshes, mangroves, lakes, natural ponds, surface springs, streams, estuaries, and similar areas in the Northern Mariana Islands chain.§

§15-10-025 Conflicts with ~~Regulations~~regulations of ~~Other~~other CNMI ~~Government Agencies~~government agencies

(a) Conflicts with zoning requirements. Where, in regards to any project or proposed project, zoning standards, having the force of law pursuant to the Zoning Code of the Commonwealth of the Northern Mariana Islands, –2 CMC §§ 7201-7255, overlap and conflict with CRM regulations, as set forth in the Saipan Zoning Law of 2013, the CRM regulations shall supersede the zoning requirements for any project or proposed project from the ~~median~~ high tide line to 150 -feet inland from the ~~median~~ high tide line. For projects and proposed projects more than 150 -feet from the ~~median~~ high tide line, the zoning standards shall supersede the CRM regulations where the requirements overlap and conflict with one another. In the event that a project or proposed project straddles the 150 -foot boundary, the portion of the project or proposed project within 150 -feet of the ~~median~~ high tide line must conform to CRM regulations, and the portion of the project outside the 150 -foot limit must conform to applicable zoning requirements, unless the Zoning agency and the CRM agencies agree otherwise.

(b) Nothing in this section shall be interpreted to prohibit CRM from imposing an additional buffer zone to protect environmentally sensitive resources as appropriate, regardless of any zoning or building regulations pertaining to setbacks and buffer zones.

Part 100 - CRM Permit Requirement

§15-10-101 Types of CRM ~~Permits~~permits and ~~When Permits~~when permits are ~~Required~~required

(a) Types of permits. There shall be three types of CRM permits: temporary permits for emergency repairs, permits for major sitings, and APC permits.

(b) When permits are required. Prior to the commencement of a proposed ~~project~~development or activity wholly or partially within an APC which has or is more likely than not to have an adverse impact on an APC unless mitigated, or which constitutes a major siting under §15-10-501 herein, ~~or which has a significant adverse impact on an APC~~, the party responsible for initiating the proposed project shall obtain the appropriate CRM permit.

~~§~~

(c) Early action for flood zone risk reduction.

i. When a major siting proposal falls within a coastal hazard APC or a FEMA designated AE / AO flood zone, the applicant and DCRM shall coordinate with the Zoning Office and Department of Public Works at the earliest possible time to ensure relevant flood hazard reduction standards are met.

ii. "Soft measures" such as living shorelines, planting native beach vegetation, maintaining or establishing vegetative buffers, or building green swales for water collection and the like must be considered as alternatives to hard structures, such as sea walls, to limit coastal erosion. If "hard structures" are proposed, application must explain what "soft measures" were considered and why they were determined to be inappropriate.

iii. Implementation of green infrastructure elements such as permeable paving and roof top gardens and related best management practices must be considered for development projects in listed high priority watersheds with designated conservation management plans including Garapan, Laolao, and Talakaya. If development in these watersheds is less than one acre such that impervious cover greater than 75% may be allowed, the applicant must explain how potential impacts to the watershed have been minimized, what "green infrastructure" interventions were considered, and, if not chosen for implementation, why they were determined to be inappropriate.

§15-10-105 APC Permits for Minor and Other Developments

(a) ~~Applications for~~ APC permits may be for minor ~~developments~~ development or standard APC activities. Applications for APC permits shall be expeditiously processed so as to enable their promptest feasible disposition~~.~~; minor permit applications shall be processed within ten (10)

working days and standard permit applications shall be processed within twenty-one (21) days of receiving a complete application. Where applications are incomplete or additional information is needed, the project applicant shall be informed in writing of this request and the review clock shall be stopped until such time that the required information is received.

(b) Applications for APC permits on Saipan will be received at the DCRM Office and the ~~DCRM~~ Director will review and make a determination on the application based on ~~PL 3-47 (~~2 CMC §§1501, et seq~~.)~~. and this chapter.

(c) Applications for APC permits on Tinian or Rota will be received by the Tinian or Rota Coastal Coordinators, respectively, who will review and make a determination on the application based on PL 3-47 ~~(~~(2 CMC §§1501, et seq.) and this chapter.

(d) The office that receives the application for an APC permit, whether the ~~CRM~~DCRM Office, the Tinian Coastal Coordinator, or the Rota Coastal Coordinator, shall ~~determine that~~make an initial determination as to whether the project that is the subject of the APC permit is not a major siting ~~if it is clear that it is such~~ based on the definitions in ~~However, if~~§15-10-020. If there is any question regarding whether the project constitutes a major siting, the ~~relevant DCRM office~~Director shall forward the application to the CRM agencies with a recommendation on whether the project should be considered a major siting. If no ~~agency~~CRM Agency Official disagrees with the ~~office's~~Director's recommendation, then the permit process shall move forward as recommended ~~by the relevant DCRM Office.~~. If ~~an agency~~a CRM Agency Official does disagree with the recommendation, then the CRM ~~agencies~~Agencies shall decide on how to proceed based on ~~consensus, or~~ majority~~, decision.~~ vote.

(e) Failure to approve or deny an application for a minor development as defined in § 15-10-020(xx) within ten working days from receipt of a complete application by the appropriate office shall be treated as approval of the application, provided that the ~~DCRM~~ Director may extend the deadline by not more than an additional ten days where deemed necessary. The relevant DCRM office shall process APC permits other than those for minor developments within 21 days of receiving a complete application.

(f) ~~CRM~~ DCRM APC permit applications will involve a full evaluation of ~~individual~~direct and cumulative impacts and include ~~an~~a completed application ~~review,~~form and site inspection~~, and~~ report including location and assessment of relevant impacts as well as proposed mitigation measures. Based on this information, an APC permit may be granted with the issuance of a standard permit ~~(~~with appropriate conditions~~).~~. The conditions to be attached to the APC permit will be based on a case-by-case evaluation of each particular project and will be applied in order to avoid, minimize, and mitigate potentially negative direct and/or cumulative immediate or future impacts of the proposed development.

~~(g) Except when specifically made applicable to APC permits, all other permit regulations pertaining to permit applications and the permitting process are not applicable to APC permits. Additional information required for APC development permits are listed at~~

~~§~~

§15-10-110 Temporary Permits for Emergency Repairs

The DCRM Director may issue a temporary permit for emergency repair during or immediately after an environmentally destructive~~*~~. Such events include, but are not limited to typhoons, tsunamis, storms, earthquakes, shipwrecks, or oil or other hazardous material spills.

(a) ~~(a)~~ The ~~DCRM~~ Director may issue a temporary permit for emergency repairs only if he or she finds that the proposed repair or cleanup is necessary to prevent immediate damage or injury to people, structures, vessels, or the environment.

(b) ~~(b)~~ The holder of a temporary permit shall file a CRM permit application within twenty days of the issuance of the temporary permit. The temporary permit shall be valid for up to six months, or until another appropriate CRM permit is issued or denied, whichever occurs first.

(c) ~~(c)~~ A repair permitted under this section shall be limited to the replacement or repair of existing structures.

(d) ~~(d)~~ Except when specifically made applicable to temporary permits for emergency repairs, all other permit regulations pertaining to permit applications and the permitting process are not applicable to temporary permits for emergency repairs.

(e) ~~(e)~~ Application process for temporary permit for emergency repairs: The provisions of §15-10-205 shall apply to the process for applying for a temporary permit for emergency repairs, except for those procedures exempted for such a permit. Additional information required for temporary permits for emergency repairs can be found at §15-10-206(c).

~~* So in original.~~

~~§~~

§15-10-115 APC, Multiple APC, and Major Siting Permits

All developments as defined in §15-10-020 within an APC, or which have ~~a significant~~ or are more likely than not to have an adverse impact on an APC unless mitigated, must be permitted by ~~CRM.~~DCRM. If a proposed project is to be located in more than one APC, CRM permit standards and policies for each applicable APC shall be evaluated in a single CRM permit decision. Where a project constitutes a major siting as defined in §15-10-020(uu), the applicant must obtain a CRM major siting permit, regardless of whether the project is located within an APC.

§

§15-10-120 Exceptions ~~to~~from CRM Permit Requirements

(a) Excluded Federal Land. Notwithstanding the language of §15-10-101 and §15-10-115, a CRM permit shall not be required for proposed projects on federally excluded lands~~.~~ provided that all activities on federally-excluded lands which have a direct and significant impact on areas subject to CRM program, as specified in 2 CMC § 1513, 16 U.S.C. § 1453(1), and 15 C.F.R. § 923.33, shall be consistent with these rules and regulations and applicable Federal and Commonwealth laws. While a CRM permit may not be required, a federal consistency determination will be triggered by federal actions under the Coastal Zone Management Act 16 U.S.C. § 1456.

(b) Exceptions from CRM Permit Requirements

(1) A permit is not required for the following types of projects if they do not have a direct and significant negative impact on coastal resources. Any relief from permit requirements does not remove a project proponent's responsibility to comply with CRM program goals and policies, nor does it exempt a project from any other Commonwealth regulatory authority.

(i) A proposed project situated completely outside of any APC that does not have or present a high likelihood to have a significant adverse impact on an APC and which does not require a major siting permit;

(ii) Agricultural activities on lands which have been historically used for such activities;

(iii) Cutting of trees and branches by hand tools, not driven by power or gas;

(iv) Hunting, fishing, and/or trapping; or

(v) The preservation of scenic, historic, and ~~scientific~~conservation areas including wildlife preserves which do not require any development.

(2) The ~~DCRM~~ Director may not authorize a permit exemption if he or she determines that a proposed project or expansion, that is otherwise eligible for exemption as described in section § 15-10-120(b) above, may have a direct and significant negative impact on coastal resources.

(3) Should it be found that a particular proposed project exempted by subsection (b)(1) above may or does have a direct and significant impact on coastal resources, the ~~CRM~~DCRM Office or its designee ~~may~~shall conduct such investigation(s) as may be appropriate to ascertain the facts and may require the person(s) applying for or conducting such proposed project(s) to provide all of the necessary information regarding the project in order that a determination may be made as to whether the proposed project requires a coastal permit.

Part 200 - CRM Permit Process

§15-10-201 Introduction

All persons proposing any activity, project, or development requiring any CRM permit~~, or proposing to conduct any activity requiring any CRM permit,~~ must apply for the necessary permit~~ and for major siting permits, and may request a pre-application conference.~~. A pre-application conference shall be conducted for a major siting permit at the earliest opportunity and shall to the extent possible involve the Office of Zoning. DCRM promotes a policy of early coordination through a joint pre-application meeting with ~~applicant by a CRM~~technical staff ~~person at a designated time.~~from relevant agencies, including, where applicable, the CRM Board Agencies. At the request of the applicant or DCRM, a pre-application conference also may be held with CRM ~~agency officials.~~ Agency Officials so long as public notice is executed in compliance with the Open Government Act (1 CMC §§ 9901 – 9916).). The pre-application conference shall be held to discuss the proposed activity to provide the applicant with information pertaining to the CRM program goals, policies~~,~~ and requirements and to answer questions the applicant may have regarding the CRM program and its requirements. The following permit process shall govern all coastal permit applications except as provided in 15-10-105 for APC permits, unless stated otherwise.

~~§~~

§15-10-205 Permit Application Procedures

CRM permit application forms, including APC permits and temporary permits for emergency repairs, shall be maintained at the ~~CRM Office~~DCRM office on Saipan. ~~Copies~~ For activities proposed on Rota or Tinian, copies of the application form shall also be maintained at ~~CRM~~DCRM Branch Offices on Rota and Tinian. These permit applications shall also available and can be tracked through the DCRM Online Permitting System. CRM permit applicants shall complete and file an application for each proposed APC permit, temporary permit for emergency repair, or major siting permit. The following conditions shall apply to all CRM permit applications:

(a) Filing and Copies. The applicant shall file ~~an original~~a CRM permit application with exhibits and attachments ~~and~~as a digital submission online or as a hard copy with eight copies thereof~~.~~ at the receiving permitting office along with a digital copy of the application file (PDF or Word-readable format) via email, thumb drive, or on a CD with the application package.

(b) Filing location. CRM major siting permit applications shall be filed online or at the CRM Office in Saipan~~, though filing~~. APC permit applications may be filed at the CRM Branch Office on Rota or Tinian~~,~~ if the proposed project is to be on either of those islands. Digitally submitted applications shall be considered received at the office or offices in which the use or activity is proposed.

~~(c) Certification.~~

(c) Signatories to permit application. All CRM permit applications must be submitted and signed by the project proponent as follows:

(1) For an individual applicant, signature as the permit applicant is required; or

(2) For a corporation. Signature must be executed by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

(i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or

(ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. Note that DCRM does not require specific assignments or delegations of authority to responsible corporate officers identified herein. The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or

delegation to applicable corporate positions rather than to specific individuals; or

(3) For a limited liability corporation (LLC). Signature must be executed by LLC manager or managing member; or

(4) For a partnership or sole proprietorship. Signature must be executed by a general partner or the proprietor, respectively; or

(5) For a municipality, CNMI, Federal, or other public agency. By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:

(i) The chief executive officer of the agency, or

(ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(6) Permit applications may be submitted by a duly authorized representative as defined in NMIAC § 15-10-020(l) as described below however no more than one duly authorized representative may be the primary point of contact for permit applications. Communications and/or supplemental information requests regarding permit processing must occur between the permit signatory or the duly authorized representative or must include these parties via electronic or carbon copy.

A person is a duly authorized representative only if:

(i) The authorization is made in writing by a person described in § 15-10-020(l) ;

(ii) The authorization specifies either an individual or position having responsibility for the overall submission of a proposal and operations of a project (a duly authorized representative may thus be either a named individual or any individual occupying a named position) and;

(iii) The written authorization is submitted to the Director.

(d) Receipt of service. Permit applicant / permittee and duly authorized representative must acknowledge that they will accept receipt of service of any and all administrative orders or other communications from DCRM in relation to the project for which they are the permit applicant, permittee, or authorized representative.

(e) Changes to authorization. If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the above requirements must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

(f) Signatories to permit report(s). All reports required by permits, and other information requested by the Director shall be signed by a person described in paragraph § 15-10-205(b) of this section, or by a duly authorized representative of that person.

(g) Certification. CRM permit applications shall be certified by the applicant that the information supplied in the application and its exhibits and attachments ~~are~~is true. The certification shall be by affidavit or declaration under the penalty of perjury. Certification shall include the following testament:

~~(d) Attachments.~~

~~(1) CRM permit applications shall, to the extent necessary, contain attachments and necessary supporting materials including statements, drawings, maps, etc., which are relevant to the CRM permit application.~~

~~(2) Except for APC permit applications, CRM shall require the applicant to submit evidence establishing that the project will not have any significant adverse impacts on the coastal environment or its resources. Adverse impacts are defined at~~

~~(e) Management measures. CRM major siting permit applications shall include a description and design of proposed management measures which will avoid, or minimize nonpoint source pollution contributed by the proposed project.~~ I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. The information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine up to $10,000 per day per violation.

(h)

~~(f)~~Fees. CRM permit applications shall be accompanied by a non-refundable CRM permit application and administrative fee in accordance with the following fee schedule, by check made payable to CNMI Treasurer.

(1) ~~(1)~~ No fee for government agencies engaging in government projects.

(2) ~~(2)~~ $25.00 fee for ~~emergency~~temporary permits~~.~~ unless waived by the Director.

(3) ~~(3)~~ $200.00 fee for APC development permits. As provided below, a "De Minimis APC Waiver" may be requested and a minor APC permit fee reduction may be granted at the discretion of the Director.

~~(4)~~

(i) "De Minimis Fee Waiver" Requests. When an applicant for a Minor APC permit has substantial evidence that the proposed activity or action will have no direct or cumulative impact on coastal resources, a "De Minimis APC Fee Waiver" may be requested in writing through the permitting office. This request must clearly state the reason(s) why the proposed activity will be "*de minimis*" in nature, and include a request for a reduction of up to 50% of APC permitting fees for commercial actions and 100% of APC permitting fees for mitigation, restoration, or non-commercial actions.

(ii) Review of "De Minimis Fee Waiver" Requests. Such requests must be submitted to the Director with the Permit Manager copied. Permitting staff will review such requests to ensure accurate environmental information has been provided, and the Permit Manager will submit a recommendation to the Director to approve or deny the waiver request within ten working days of receipt of the request at the Saipan DCRM Office. The Director may deny or grant the waiver request, or grant the request with restrictions, conditions, or modifications at their discretion. If a waiver is granted, the Director shall issue a letter to the applicant detailing what, if any, restrictions the waiver is conditioned upon, and a copy of this letter will be retained in the permit file. Any deviation of scope or activities of the subject project will be treated as unpermitted for the purposes of enforcement action, if necessary, as detailed in § 15-10-900. Submission of a "De Minimis APC Fee

Waiver" request shall stop the clock on review of the submitted APC permit. If the waiver request is denied, the review period will be restarted upon the date of the issuance of the denial letter.

(4) $1,000.00 initial fee and $750.00 renewal fee for jet ski and motorized commercial water sports ~~or~~and $200 for non-motorized commercial marine sports operating permits. One application or renewal fee will cover multiple proposed uses and concurrent operations for up to two licensed and listed boats or six jet skis so long as activities are compliant with any and all permit restrictions. Marine Sports Operators ("MSO") shall be permitted on a set bi-annual schedule, starting May 30, 2018. Permittees holding permits that expire after May 30, 2018 will pay a prorated fee to extend their permit to May 30, 2019. Permit renewals shall be due on May 30 every year, or, if this date falls on a weekend, the following business day.

(i) Discounted MSO fees for qualifying "green" and "sustainable eco-tour" certifications are available as follows:

MSO Tier 1 Reduction	Membership of the Marine Sports Association in good standing	10% fee reduction
MSO Tier 2 Reduction	Members of the Marine Sports Association in good standing with no reported violations for at least one year	15% fee reduction
MSO Tier 3 Reduction	Members of the Marine Sports Association in good standing with no reported violations for at least one year and completion of qualifying "ecotour" training and / or certification	25% fee reduction

~~(5) All other fees for~~

(ii) Qualifying for Discounted MSO permit fee. To qualify for the tiered permit fee reductions listed above, MSO permit applicants must request discount in writing at the

time of permit renewal or new permit application. Required documentation includes proof of membership in an active Marine Sports Association and certification of completion of a DCRM-approved "ecotour training" and/or certification program.

(5) Fees for Major Siting projects shall be based upon appraisal of construction costs ~~for structures affixed to the ground~~.

FEE AMOUNT	COST OF PROJECT OR PERMIT AMENDMENT
$200	less than or equal to $ 50,000
$400	value between $ 50,001 and $ 100,000
$1,000	value between $ 100,001 and $500,000
$2,000	value between $ 500,001 and $ 1,000,000
$2,000	For every $1,000,000.00 cost increment exceeding one million dollars.

(i) Discounted fees for qualifying "green" and/or "low impact development" projects. Discounts may be applied for application and administrative fees at the recommendation of the Permit Manager and approval of the Director. Discretionary guidance for tier permit reductions are as provided in subparts (1 & 2) below.

(1) Tiered permit discounts for qualifying "Energy Star" rated or "LEED certifiable" projects are available as follows:

Tier 1 Reduction	Building design and construction are "LEED Certifiable", scoring between 40-49 points on the LEED v4 Building Design and Construction Checklist	10% fee reduction
Tier 2 Reduction	Building design and construction are "LEED Silver Certifiable", scoring between 50-59 points on the LEED v4 Building Design and Construction Checklist	15% fee reduction
Tier 3 Reduction	Building design and construction are "LEED Gold Certifiable", scoring between 60-79	20% fee reduction

	points on the LEED v4 Building Design and Construction Checklist	
Tier 4 Reduction	Building design and construction are "LEED Platinum Certifiable", scoring between 80-110 points on the LEED v4 Building Design and Construction Checklist	25% fee reduction

(2) Tiered permitting for building redevelopment and best practices are available as follows:

Tier 1 BMP Reduction	- Permittee or its operators implements and maintains on-site recycling and composting programs to reduce 50% or more of the waste stream; AND/OR - Project installs, utilizes, and maintains "Energy Star" rated high efficiency / LED lighting and appliances	5% fee reduction
Tier 2 BMP Reduction	Applicant redevelops or rehabilitates 15% - 25% of the existing building	10% reduction
Tier 3 BMP Reduction	Applicant redevelops or rehabilitates 26% - 50% of the existing building	20% reduction
Tier 4 BMP Reduction	Applicant redevelops or rehabilitates 51% - 74% of the existing building	30% reduction
Tier 5 BMP Reduction	Applicant redevelops or rehabilitates over 75% of the existing building	50% reduction

(ii) Qualifying for Discounted Major Siting permit fee. To qualify for the tiered permit fee reductions listed above, major siting applicants must request discount in writing at least thirty days prior to submitting a major siting application. Applicants are encouraged to discuss proposed fee reduction in advance with Director and Permitting staff to

identify any required documentation to support discounted permit fee request. The DCRM Director shall respond to permit fee reduction requests in writing and state whether the request is granted in full, granted in part, or denied and the reasons therefore within thirty days of receiving the request and all required supporting documentation. If no response is received within thirty days of the submission of the request, the request will be considered denied by the DCRM Director. If reduction is approved, agreed upon project implementation will be included as conditions of the major siting permit.

(iii)

~~(g)~~ Forfeiture of applied permit discount. At the DCRM Director's discretion, a violation of major siting permit conditions or engaging in unpermitted activity with a nexus to the permit discount received by the permit applicant or failure to implement improvements for which the discount was granted may result in forfeiture of applied permit discount, and any outstanding balance may become due at the time of the issuance of a Notice of Violation.

(l) Performance bond requirements. A performance bond or equivalent surety may be required by the CRM program if failure to comply with terms of the application or permit ~~will result in environmental damage.~~may result in environmental damage. For projects with construction costs over $5 million, there shall be a rebuttable presumption that a bond is required. For projects with constructions costs in excess of $20 million, a bond shall be required. In the event that the project cannot be completed as permitted, the applicant shall forfeit the bond or surety equivalent or portion thereof needed to mitigate any damage caused by such failure of performance. Any monies obtained from the bond on surety may be used to complete the site preparation and infrastructure requirements, restore the natural appearance and biological character of the project site and its impacts on adjacent properties, or correct any significant adverse impacts to the environment.

§ 15-10-206 Permit Application Contents

The following information and attachments must be included with a permit application submission in order for the application to be received by the DCRM Permitting Section.

(a) Submission of complete application. Details requested in the CRM permit application must be provided unless information is not applicable, in which case "not applicable" shall be indicated in the response. If response to a question is "see attached", a specific document and page number citation is required to support timely review.

(b) Information and Attachments. CRM permit applications shall, to the extent necessary, contain attachments and necessary supporting materials including statements, drawings, maps, etc., which are relevant to the CRM permit application, as outlined below, as well as any other information requested by the DCRM Director to support meaningful review of project proposal. If the Director requests such supplemental information, applicant must provide the information requested and the clock shall be stopped on permit review until such time that the Director's supplemental information request is satisfied. All permit applications shall be submitted in English units and all dimensions shall be stated in English units (i.e. inches and feet).

(c) ~~(h) Information. CRM permit applications shall include all of the following for review by the CRM Office:~~

For all applications. All DCRM applications must include the following information and attachments for review:

(1) Applicant's name. Applicant must be the legal entity that owns or is otherwise responsible for the project~~.~~;

(2) Applicant's representative (if any~~).~~), indicated through written notification addressed to the DCRM Director. Applicants must specify no more than one primary point of contact to serve as the duly authorized "representative";

(3) Owner ~~of any~~and proof of valid legal interest in the real property such as Land Title or lease agreement of any real property or properties at the project site~~.~~ ;

(4) ~~Lessee of any real property at the project site.~~

~~(5)~~ Project name~~.~~ and brief summary including project description and size; and

(~~6~~5) The following construction plans:

(i) Master site plan including~~:~~ architectural features in conceptual form, major infrastructure, and major amenities ~~(~~in schematic or single line form~~)~~;;

(ii) Typical floor plans in conceptual format for all structures and major infrastructure; and

(iii) ~~View corridor plan;~~

~~(iv)~~ Site coverage plan ~~B~~ displaying lot density including buildings~~:~~, infrastructure, amenities, parking area, road networking, and open space~~:~~.

~~(v) Existing conditions map.~~

~~(7~~

(d) For all APC applications. All APC applications must include the following additional information and attachments for DCRM review:

(1) Title documents to all real property and submerged lands including leases or lease applications from the appropriate parties;

(2) Copies of CNMI and federal permit(s) including business license, Zoning permit and supporting attachments, and other necessary permits or licenses;

(3) Estimated costs for all improvements affixed to the property;

(4) Estimates of daily peak demand for utilities including water and electricity and projected usage of utilities and other infrastructure and basis for stated estimates;

(5) The application shall include the names of the persons responsible for the creation of the plans listed ~~above at subsection (6),~~in 15-10-206(b)(5) as well as the professional certification or licensure of those persons, if ~~they have any. If they have no such professional certification or licensure, that information shall be provided as well.~~any; and

~~(8) The following conceptual erosion control and drainage plans:~~

~~(i) Slope and elevation map;~~

~~(ii) Watershed and drainage map;~~

~~(iii) Preliminary drainage~~(6) Affidavit or declaration made under penalty of perjury that the application is a statement of truth by the principal or authorized agent.

(e) For major siting applications. If the project meets the definition of a major siting at § 15-10-020(uu), as found by the DCRM Director or CRM Agency Board, or if the DCRM Director deems applicable to APC permits, the applicant shall provide the following information, plans, and details in a report accompanying the permit application. All "major siting applications" must include the submissions listed in parts (b) and (c) above, in addition to the following environmental impact assessment information and supporting attachments:

Project summary, justification, and ~~erosion control map;~~size, including map of property lines and

~~(iv) Preliminary storm water nonpoint source management plan.~~

(1) ~~(9) A map showing the~~ distance ~~of all proposed structures from all nearby APCs,~~to APC(s) verified by on- the ground delineation, if applicable~~.~~;

~~(10) Estimated costs for all improvements affixed to the property.~~

~~(11) Copies of CNMI and federal permits or permit including business license, submerged lands lease, and other necessary permits.~~

(2) ~~(12) Names~~Adjacent property description(s) with names of adjacent property owners, as defined at § 15-10-020(a) & (b), and copies of letters sent to them notifying them of the proposed project.

(i) Alternative adjacent property owner notification. The application may request an exemption ~~of this~~for the adjacent property notification requirement above where notification of every adjacent property owner would not be practical or would create an undue burden. This exemption is intended to be limited to projects such as infrastructure corridors, where the path of the corridor or project may be adjacent to a large number of properties. If the exemption is granted by

DCRM Director or a majority vote by the CRM Agency Officials, the applicant must complete an alternative notification as follows. The applicant would be required to publish public notice of the proposed project in a newspaper of general circulation in the CNMI at least ~~four~~twice over a twenty-one-day period prior to further processing of the application. If members of the public request a public hearing during this time under § 15-10-220(a)(4), the applicant must publish notice of the proposed day and time of the scheduled public hearing and location two times at least one week prior to the public hearing on the proposed project. The public notice shall include the permit number, name of project, name of applicant, map of the proposed project area as approved by DCRM, as well as date, time and place of the public hearing if one has been requested, DCRM contact numbers, and description of the proposed project. The applicant is responsible for all public notice fees and printing~~.~~, and must submit copies of the published public notice(s) to the DCRM Permitting section for inclusion in the permit file.

~~(13) Adjacent property description.~~

~~(14) Estimates of daily peak demand for utilities including water and electricity and projected usage of utilities and other infrastructure.~~

~~(15) Map of the vicinity.~~

~~(16) Topographic survey map with ten foot contour.~~

~~(17) Elevation plans of the project including a side profile of the project.~~

~~(18) Title documents to all real property and submerged lands including leases or lease applications from appropriate parties.~~

~~(19) Affidavit or declaration made under penalty of perjury that the application is a statement of truth by the principal or authorized agent.~~

~~(20) If the project meets the definition of a major siting at as found by the Director, the applicant shall provide an environmental assessment, which shall include all of the following:~~

~~(i) Project summary, justification, and size;~~