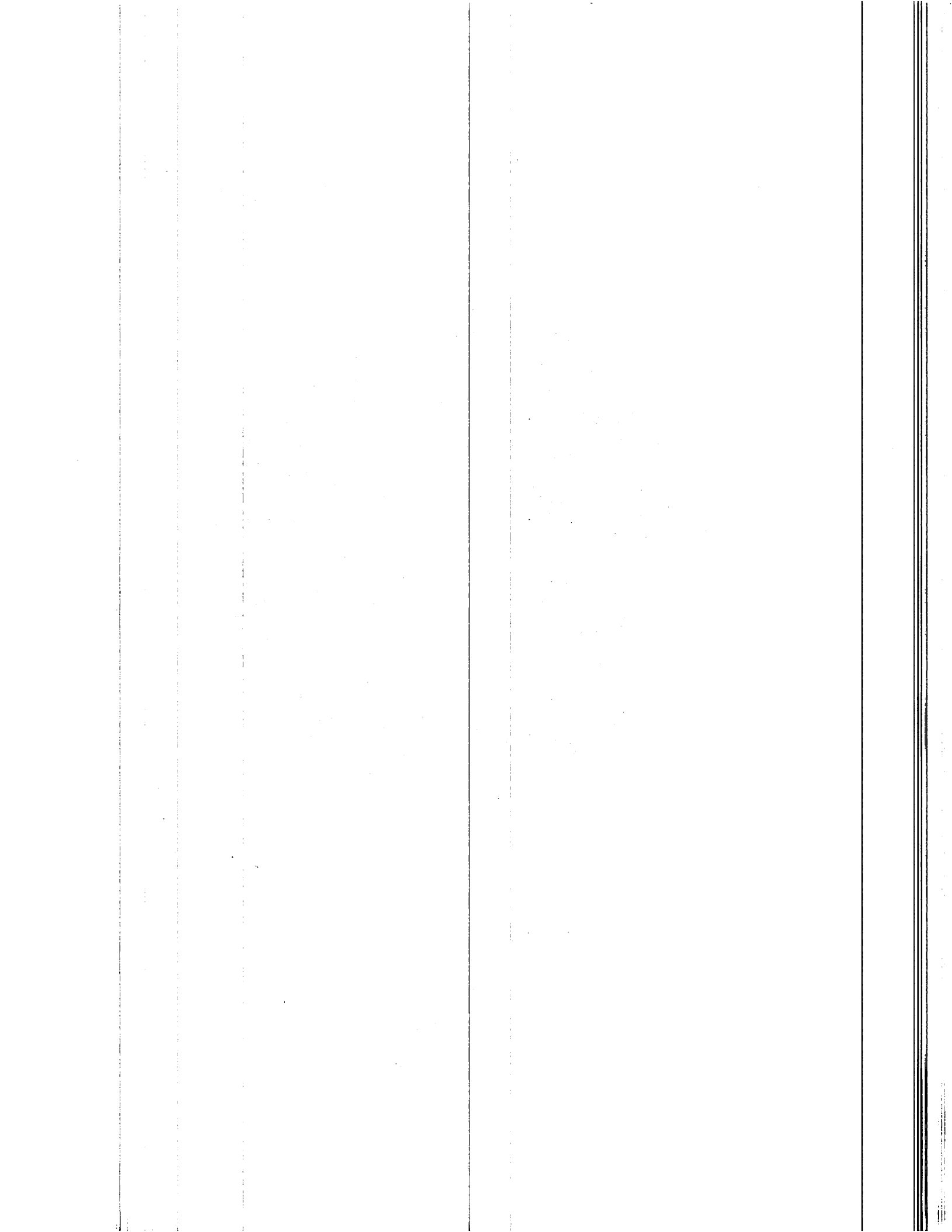


**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
SAIPAN, TINIAN, ROTA and NORTHERN ISLANDS**



COMMONWEALTH REGISTER

**VOLUME 46
NUMBER 07
JULY 15, 2024**



COMMONWEALTH REGISTER
VOLUME 46
NUMBER 07
JULY 15, 2024

PROPOSED

Public Notice of Proposed Amendment to NMIAC Chapter 15-20
To Increase the Maximum Number of Parasailing Permits to be
Issued For Saipan from 12 to 20 Per Fiscal Year
Bureau of Environmental & Coastal Quality
Office of the Governor 051140

Public Notice of Proposed Amendments to the Public Purpose
Land Exchange Rules and Regulations
Department of Public Lands
Office of the Governor 051147

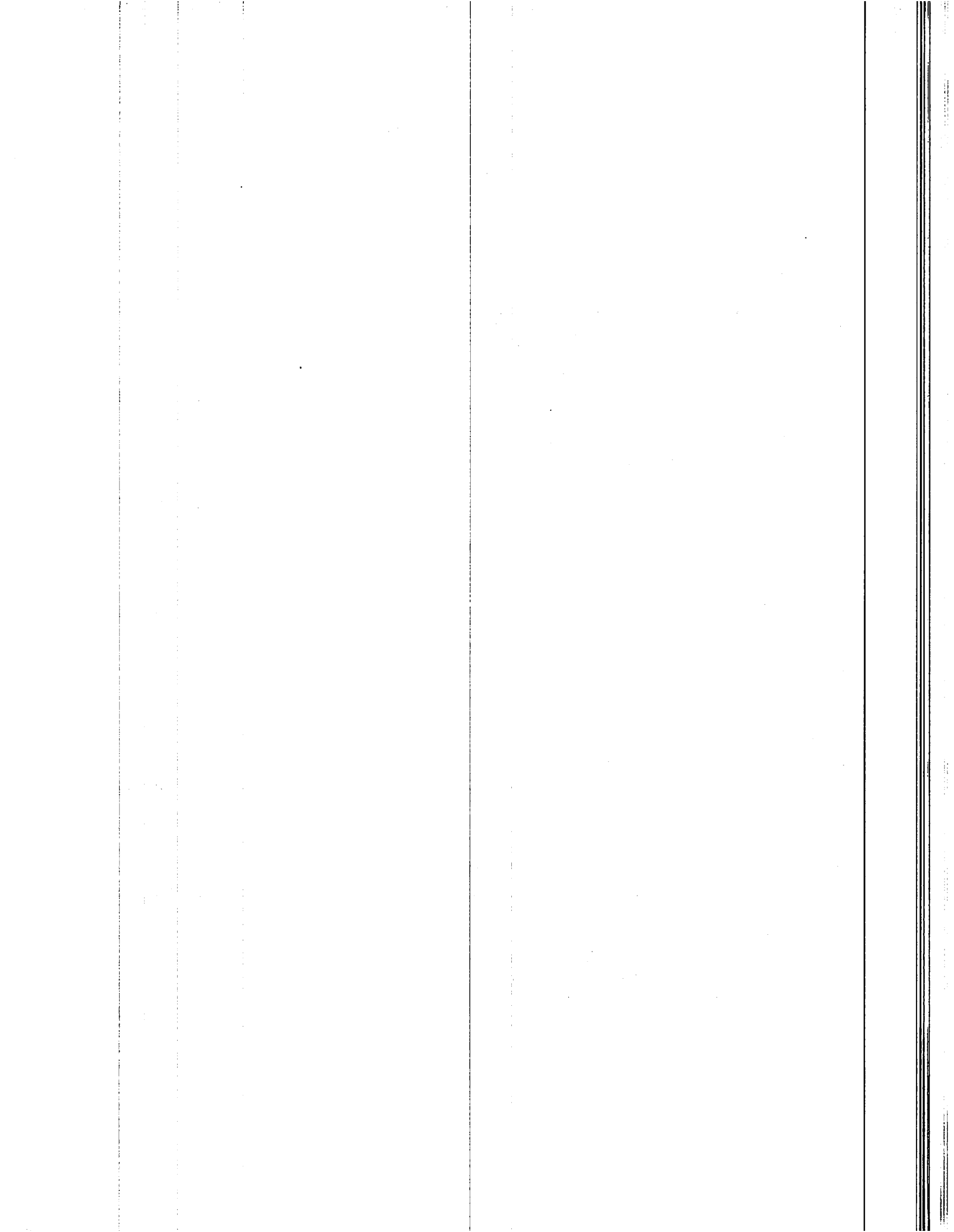
Public Notice of Proposed Amendments to the Commercial Use of
Managaha Islands Rules and Regulations
Department of Public Lands
Office of the Governor 051154

ORDERS

PUA Case No. 23-0246
Subject: Administrative Decision
In the Matter of: Rico Yumul v. CNMI DOL
Department of Labor: 051162

PUA Case No. 23-0247
Subject: Administrative Decision
In the Matter of: Mayleen Aguon v. CNMI DOL
Department of Labor: 051170

PUA Case No. 23-0250
Subject: Administrative Decision Granting
Appellant's Request for Dismissal
In the Matter of: Jose T. Reyes v. CNMI DOL
Department of Labor: 051178



Pua Case No. 24-0275
Subject: Administrative Order
In the Matter of: Frank Sablan v. CNMI DOL
Department of Labor: **051180**

PUA Case No. 24-0279
Subject: Administrative Decision Granting
Appellant's Request for Dismissal
In the Matter of: Kiho Tajima v. CNMI DOL
Department of Labor: **051188**

PUA Case No. 24-0284
Subject: Administrative Decision Granting
Appellant's Request for Dismissal
In the Matter of: Bobison Prado v. CNMI DOL
Department of Labor: **051189**



Eli D. Cabrera
Administrator

Commonwealth of the Northern Mariana Islands
OFFICE OF THE GOVERNOR
Bureau of Environmental and Coastal Quality

Division of Coastal Resources Management
P.O. Box 501304, Saipan, MP 96950
Tel: (670) 664-8300; Fax: (670) 664-8315
www.dcrm.gov.mp



Richard V. Salas
Director, DCRM

**PUBLIC NOTICE OF PROPOSED AMENDMENT TO NMIAC CHAPTER 15-20,
TO INCREASE THE MAXIMUM NUMBER OF PARASAILING PERMITS TO BE
ISSUED FOR SAIPAN FROM 12 TO 20 PER FISCAL YEAR**

NOTICE OF INTENDED ACTION: The Commonwealth of the Northern Mariana Islands, Office of the Governor, Coastal Resources Management (CRM) Regulatory Agencies intend to amend NMIAC Chapter 15-20, to increase the maximum number of parasailing permits to be issued from twelve (12) to twenty (20) per fiscal year on Saipan.

AUTHORITY: These amendments are promulgated under the authority of the CRM Regulatory Agencies to adopt new regulations under 1 CMC § 1531(d). These proposed regulations were approved by the CRM Regulatory Agencies in a public meeting on June 6, 2024.

TERMS AND SUBSTANCE: This proposed amendment seeks to increase the number of parasailing permits allowed to be issued per fiscal year from 12 to 20 for Saipan.

CITATION OF RELATED AND/OR AFFECTED STATUTES, RULES, AND REGULATIONS: The proposed amendments affect NMIAC Chapter 15-20 by amending the following provisions:

- §15-20-115(a)(i) Maximum Number of Permits on Saipan

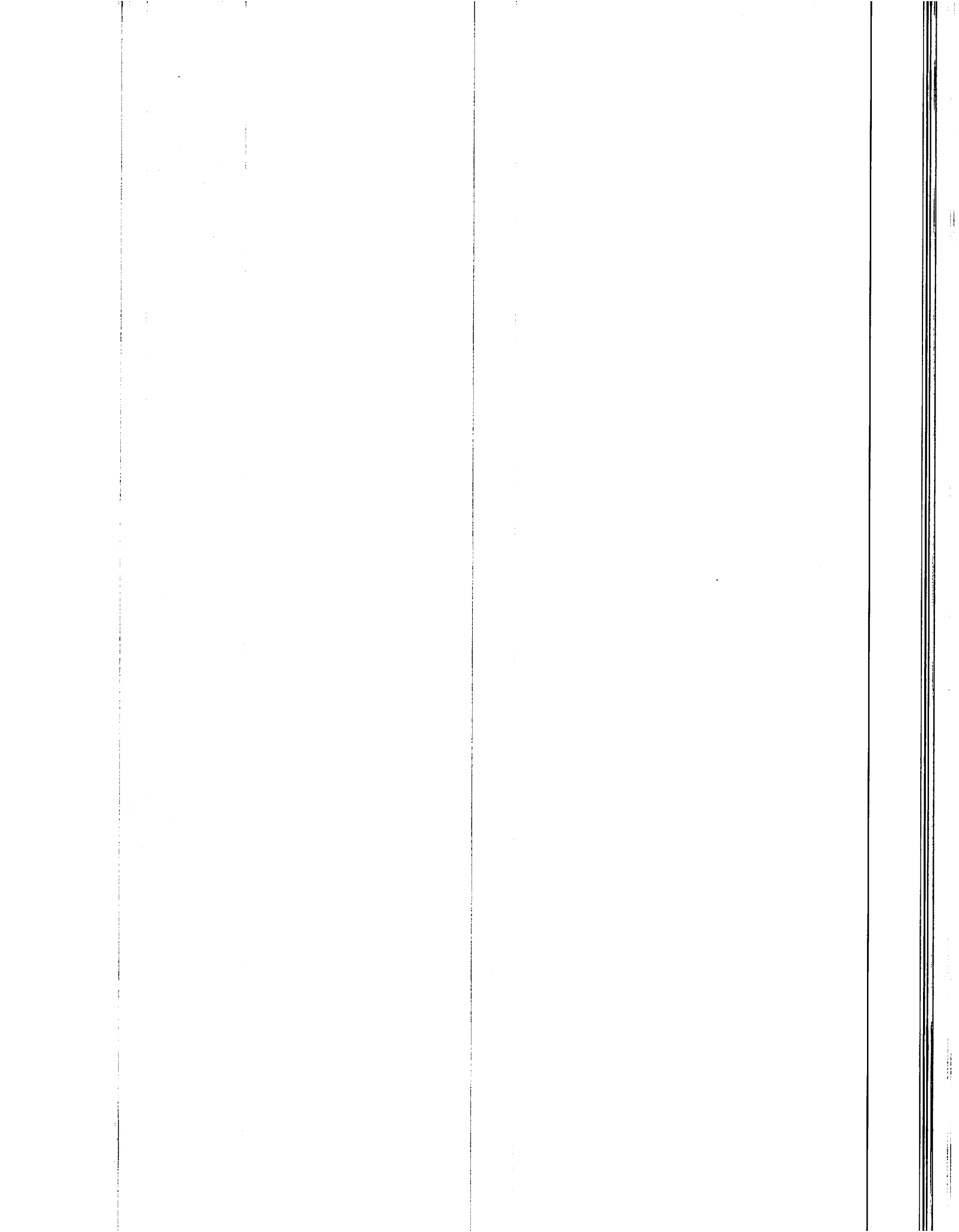
DIRECTIONS FOR FILING AND PUBLICATION: The proposed amendments shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9201(a)(1)) and posted in convenient places in the civic center and in local governmental offices in each senatorial district, both in English and in the principal vernacular (1 CMC § 9104(a)(1)).

COMMENTS: Interested parties may submit written comments on the proposed amendments to Ms. Sam Sablan, DCRM Permit Branch Manager, to the following address, fax, or email address, with the subject line "Proposed Maximum Number of Parasailing Permits from 12 to 20"

**BUREAU OF ENVIRONMENTAL AND COASTAL QUALITY
DIVISION OF COASTAL RESOURCES MANAGEMENT**

PO Box 501304
Saipan, MP 96950
Fax: (670) 664-8540
Email: ssablan@dcrm.gov.mp

Comments are due within thirty (30) calendar days from the date of publication of this notice.
1 CMC § 9104(a)(2).



Submitted by:

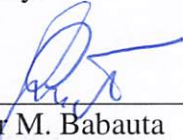


Richard V. Salas
Director, Division of Coastal Resources Management

6/17/24

Date

Received by:



Mr. Oscar M. Babauta
Special Assistant for Administration

6/27/24

Date

Filed and Recorded by:

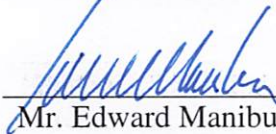


Ms. Esther R.M. San Nicolas
Commonwealth Registrar

6.27.2024

Date

I certify, pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3), that I have reviewed and approved these regulations as to form and legal sufficiency.



Mr. Edward Manibusan
Attorney General

6/25/2024

Date

Chapter 15-20 Water Sports and Recreational Activities Rules and Regulations

§ 15-20-115 Maximum Number of Permits

(a) The maximum number of Water Sports Permits that DCRM may issue for the various Water Sports and Recreational Activities is as follows:

i. Saipan

- Water-Jet Craft 14
- Parasailing ~~1220~~
- Towed Floatation 24
- Non-Motorized Activities no limit

ii. Rota

- Water-Jet Craft 6
- Parasailing 4
- Towed Floatation 10
- Non-Motorized Activities no limit

iii. Tinian

- Water-Jet Craft 4
- Parasailing 2
- Towed Floatation 6
- Non-Motorized Activities no limit



Eli D. Cabrera
Administrator

Commonwealth of the Northern Mariana Islands
OFFICE OF THE GOVERNOR
Bureau of Environmental and Coastal Quality

Division of Coastal Resources Management
P.O. Box 501304, Saipan, MP 96950
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www.dcrm.gov.mp



Richard V. Salas
Director, DCRM

NUTISIAN I MANMAPROPONI NA AMENDASION I NMIAC CHAPTER 15-20, POT PARA HUMAHATSA MAS I NUMERON LISENSIA PARA I PARASAILING GI ISLAN SAIPAN

NUTISIAN INTENSION NA AKSION SIHA: I Gobietnamenton i Sankattan na Islan Marianas, i Ofisinan i Maga'lahi, i CRM Regulatory Agencies, siempre uma amenda i NMIAC Chapter 15-20 pot para huma-hatsa mas i numeron lisensia para i parasailing gi islan Saipan.

ATTURIDAT: Esti siha na amendasion, manmadeklara sigun i atturidat i Ofisialis i Kuetpon CRM na para huma-adopta i neubo na regulasion siha sigun i CMC § 1531(d). Esti siha ni maproponi na regulasion, manma apreba esta ginen i CRM Regulatory Agencies gi halom i mitting i publiko gi Hunio dia Sais, Dos Mit Benti Kwarto.

ALIMENTON YAN I SUSTANSIAN I AREKGLAMENTO: Esti na amendasion ni maproponi pot para humahatsa mas i numeron lisensia para I parasailing gi island Saipan.

SITTASION I ASOSIAT YAN/PAT I MAN NINAFEKTA SIHA NA LAI, AREKGLAMENTO YAN I REGULASION: I amendasion siha ni maproponi, siempre inafekta i NMIAC Chapter 15-10 na inamemmenda i mantinatyi siha na probision:

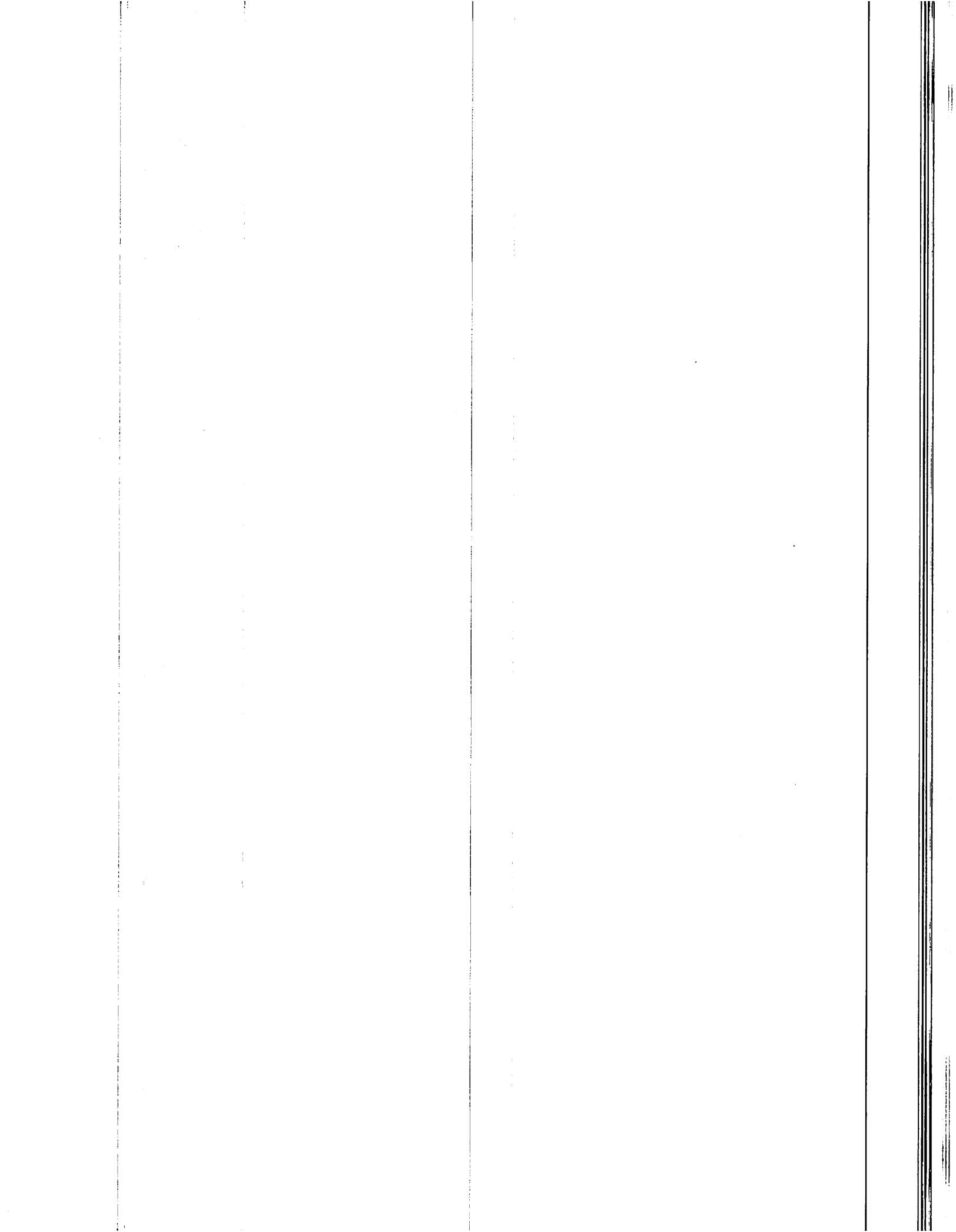
- § 15-20-115(a)(i) I mas takilu na numeron lisensia gi islan Saipan

DIREKSION NI PARA MUNA'HA'LOM YAN PUBLIKASION: Esti siha na amendasion ni manmaproposi debidi uma publika gi "Commonwealth Register" gi seksionña pot manmaproponi yan nuebu namanma adopta siha na regulasion (1 CMC § 9201(a)(1)) yan hufanma pega gi katkuet siha na lugat gi halom i civic center yan i ofisinan i kuetpon gobietnamentu siha gi kada distriton senadot, parehu Englis yan prinsipat na lingguahin natibu (1 CMC § 9104(a)(1)).

I FINIHU SIHA: I hayi malagu muna'ha'lom katta pot esti i manmaproponi siha natinalaika, debidi unahalom i katta guato gi as Señora Sam Sablan, DCRM Permit Manager, gi esti na Address, pat i fax, hossono i email, yan humatugi gi hilo'ña - "MANMAPROPONI SIHA NATINILAIKA GI REGULASION DCRM POT MAHATSA MAS I NUMERON LISENSIA PARA I PARASAILING GI ISLAN SAIPAN":


BUREAU OF ENVIRONMENTAL AND COASTAL QUALITY
DIVISION OF COASTAL RESOURCES MANAGEMENT

PO Box 501304
Saipan, MP 96950
Fax: (670) 664-8540
Email: ssablan@dcrm.gov.mp



Todu finihu siha, debidi humanafanhålom gi hålom trenta (30) dias gi calendario ginen i fecha ni mapublika esti na nutisia (1 CMC § 9104(a)(2).

Ninahålom as Siñot:

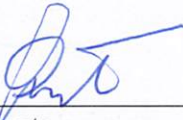


Richard V. Salas
Direktot i Dibusion i Minanehan Fenkas Konton Tasi

6/17/24

Date

Rinisibe as Señot:

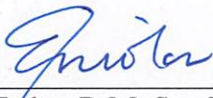


Oscar Babauta
Espisiât na Ayudãnti para i Administradot

6/21/24

Date

Pine'lu yan Ninota as Señora:



Esther R.M. San Nicolas
Rehistran i Commonwealth

6.27.2024

Date

Guaho, i Abugádo Henerát, hu'fotma na hu'taitai yan hu'aprueba esti siha na regulasion na sufisienti yan dinanchi sigun i 1 CMC § 2153(e) and 1 CMC § 9104(a)(3).



As Siñot Edward Manibusan
Abugádo Henerát para i Sankattan na Islan Marianas

6/25/2024

Date



Eli D. Cabrera
Administrator

Commonwealth of the Northern Mariana Islands
OFFICE OF THE GOVERNOR
Bureau of Environmental and Coastal Quality

Division of Coastal Resources Management
P.O. Box 501304, Saipan, MP 96950
Tel: (670) 664-8300; Fax: (670) 664-8315
www.dcrm.gov.mp



Richard V. Salas
Director, DCRM

Arongorongol Toulap reel Pommwol Siiwel ngáli NMIAC Chapter 15-20 reel ebwe lapaló llapal Parasailing Permit iye rebwe isáliiwow me Seipél mereel (12) seigh me ruwoow ngáli (20) ruweigh llól eew ráágh.

ARONGORONGOL POMMWOL MWÓGHUTUGHUT: The Commonwealth of the Northern Mariana Islands, Office of the Governor, Coastal Resource Management (CRM) Regulatory Agencies siweli NMIAC Chapter 15-20, ebwe lapaló llapal Parasailing Permits kka ebwe isáliiwow mereel (12) seigh me ruwoow ngáli (20) ruweigh llól eew ráágh me Seipél.

BWINGIL NGERE MAMAWAL BWULASIYO: Siwel kkaal nge e mweitingeliir Regulatory Agencies faal 1 CMC § 1531(d). Reghal aweewei meeta aweewe kka rebwe ayoora ngere siweliló nge toulap raa toolong rebwe asseling bwe re bwal ghulei meeta mengemengiir.

KKAPASAL ME AWEWE: Pommwol siiwel yeel ekke amweri ebwe lapaló llapal Parasailing Permits kka rebwe ayoora bwe rebwe isáliiwow llól eew ráágh mereel (12) seigh me ruwoow ngáli (20) ruweigh me Seipél.

TIPETCHOWUL MWÓGHUTUGHUT: Pommwol siiwel kkaal nge e mwir sáangi NMIAC Chapter 15-20 igha e siweli:

- §15-20-115(a)(i) tomwóghol llapal permits wóól Seipél.

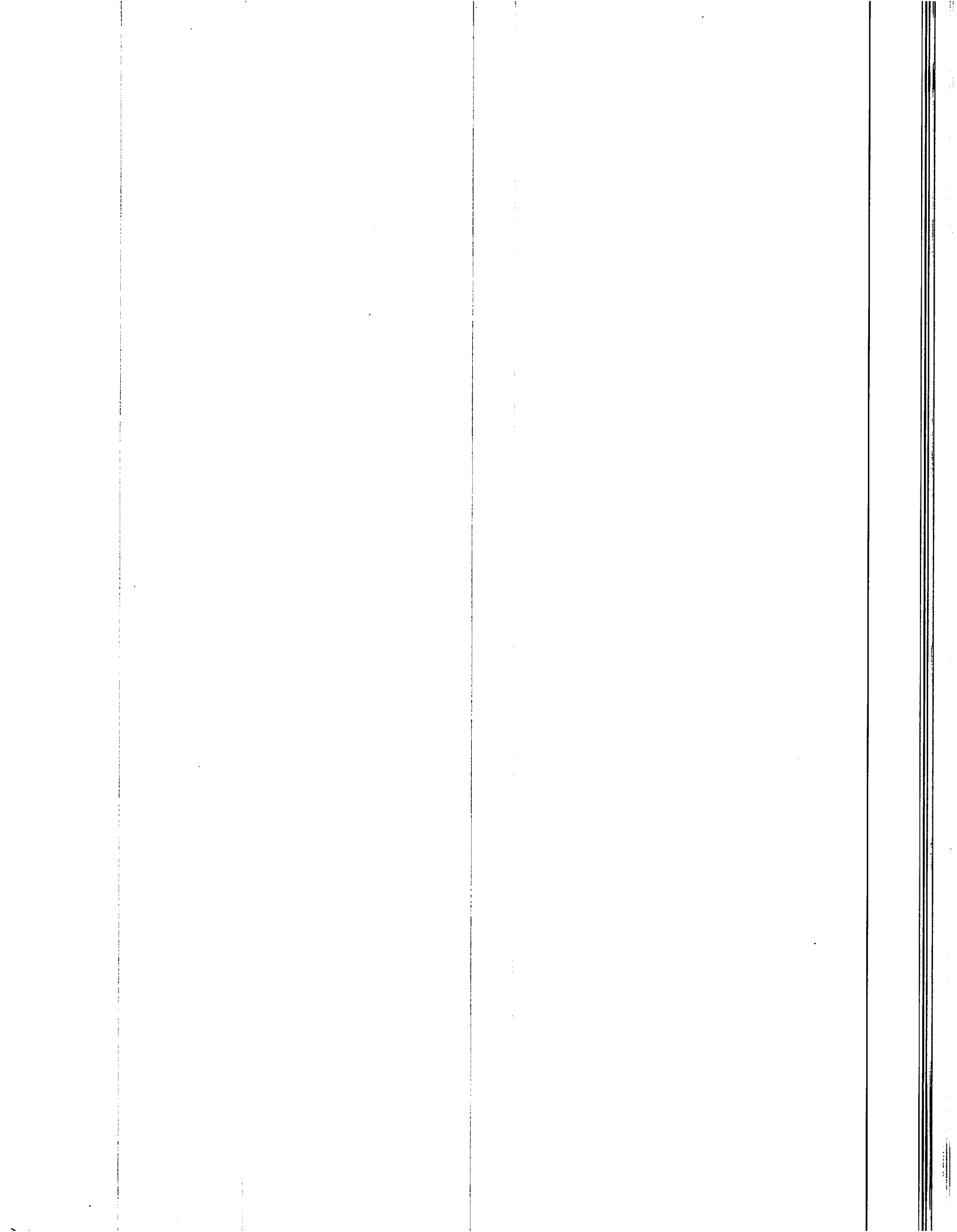
AFAL REEL AMMWELIL ME AKKATÉEWOWUL: Pommwol liiwel kkal nge ebwe akkatééwow loll Commonwealth Register 1161 táilil pommwol me ffél mwóghutughút kka ra adóptáali (1 CMC § 9102(a)(1)) me ebwe apaschetá loll civic center me loll gobetnamento loll senatorial district, fengál reel kkasal English me mwáliyaasch (1 CMC § 9104(a)(1)).

REEL ISIISILONGOL KKAPAS: Afanga ngáre bwughiiló yóómw ischil kkapas reel pommwol mwóghutughut kkaal ngáli Sam Sablan, DCRM Permit Manager reel address, fax ngáre email address reel "Pommwol tomwóghol llapal Parasailing Permits mereel (12) seigh me ruwoow ngáli (20) reweigh.":


BUREAU OF ENVIRONMENTAL AND COASTAL QUALITY
DIVISION OF COASTAL RESOURCES MANAGEMENT

PO Box 501304
Saipan, MP 96950
Fax: (670) 664-8540
Email: ssablan@dcrm.gov.mp

Isiisilongol mángemáng ebwe toolong lóll eligh (30) ráál mwiril aal akkatééwow arongorong yeel 1 CMC § 9104(a)(2).



Isáliyalong:

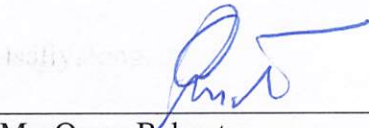


Mr. Richard V. Salas
Director, Division of Coastal Resources Management

6/17/24

Date

Bwughiyal:



Mr. Oscar Babauta
Special Assistant ngáli Administration

6/21/24

Date

Ammwelil:

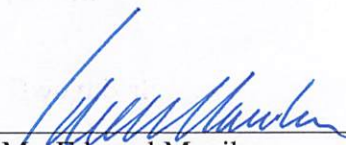


Ms. Esther R.M. San Nicolas
Commonwealth Registrar

6-27-2024

Date

I apilúghúlúghúw reel 1 CMC § 2153(e) me 1 CMC § 9104 (a)(3), bwe yaa takkal amweri fischiy me aa lléghéló reel fféérúl me aal legal sufficiency.



Mr. Edward Manibusan
Soulemelemil Allégh Lapalap

6/25/2024

Date



Commonwealth of the Northern Mariana Islands
Office of the Governor
DEPARTMENT OF PUBLIC LANDS



**PUBLIC NOTICE OF PROPOSED AMENDMENTS
TO THE PUBLIC PURPOSE LAND EXCHANGE RULES AND REGULATIONS**

NOTICE OF INTENDED ACTION: The Commonwealth of the Northern Mariana Islands, Office of the Governor, Department of Public Lands (DPL) intends to amend the Public Purpose Land Exchange Rules and Regulations pursuant to the procedures of the Administrative Procedure Act (APA), 1 CMC § 9104(a) to allow private land which has an area of less than 700 square meters to be acquired through a land exchange provided that the value of the private land is \$5,000 or greater.

AUTHORITY: These amendments are promulgated under the authority of the Department of Public Lands pursuant to 1 CMC § 2806 to develop administrative policies, procedures, and controls related to public land.

TERMS AND SUBSTANCE: DPL's Public Purpose Land Exchange Rules and Regulation currently allow private land to be acquired through a land exchange only when the value of the private land is \$5,000 or greater and the private land is 700 square meters or greater in size. The purpose of this regulation is to ensure a certain minimum size of the public land used as compensation. However, NMIAC § 145-50-140 requires the fair market value of the land to be the basis for the ratio for exchange, so the size of the private land to be acquired should not control whether a land exchange may proceed. Revising the regulation will allow more private land to be acquired through land exchange.

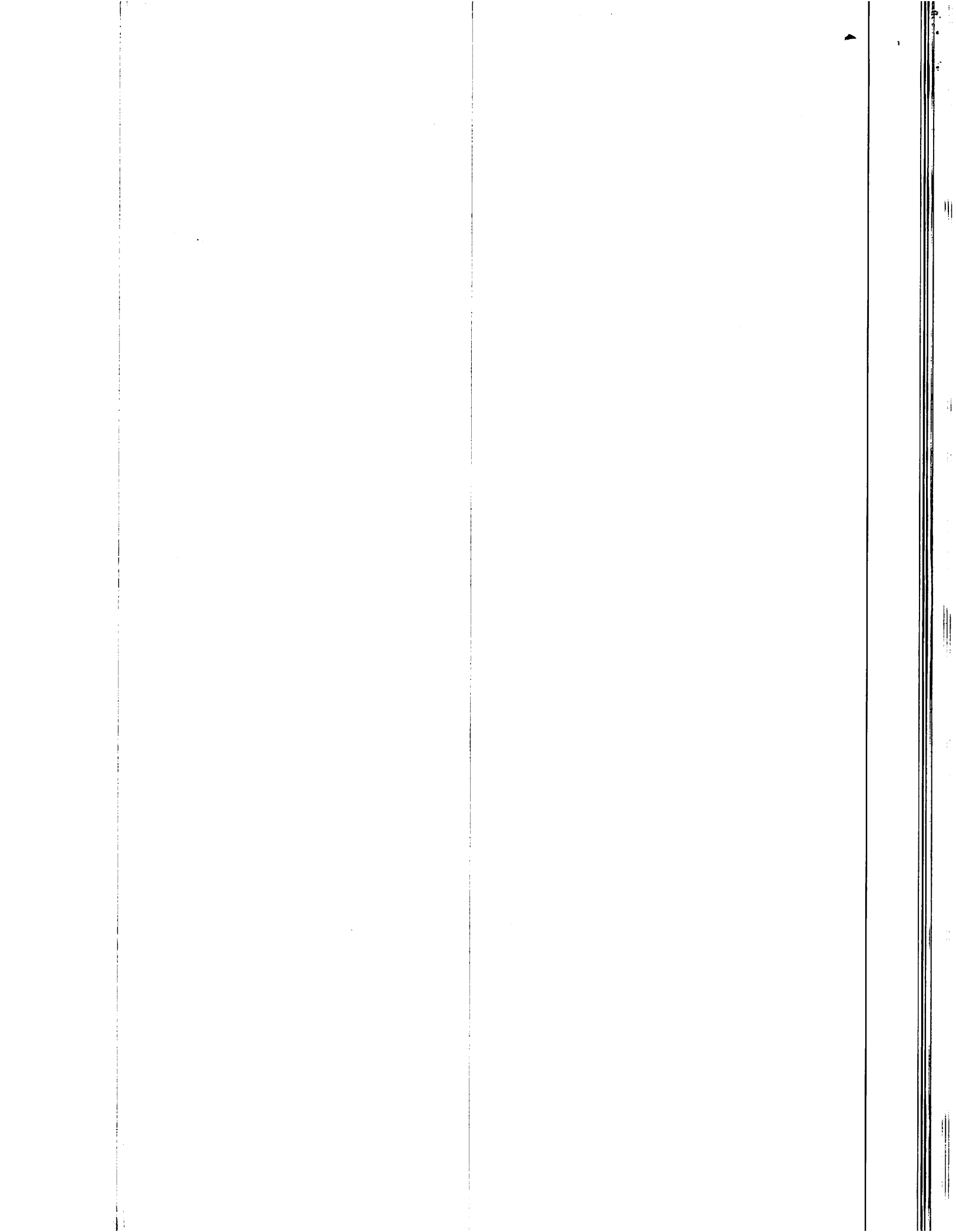
CITATION OF AFFECTED REGULATIONS: The proposed amendment will revise existing regulatory language in the following regulation:

NMIAC § 145-50-155 Size and Value Limitations

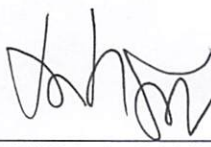
DIRECTIONS FOR FILING AND PUBLICATION: The proposed amendment shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9201(a)(1)) and posted in convenient places in the civic center and in local governmental offices in each senatorial district, both in English and in the principal vernacular (1 CMC § 9104(a)(1)).

COMMENTS: Interested parties may submit written comments on the proposed amendments to Teresita A. Santos, Department of Public Lands Secretary, to the following address, fax, or email address, with the subject line "Proposed Amendment to the Public Purpose Land Exchange Rules and Regulations":


DEPARTMENT OF PUBLIC LANDS
PO Box 500380, Saipan, MP 96950
Fax: (670) 234-3755
Email: dpl@dpl.gov.mp



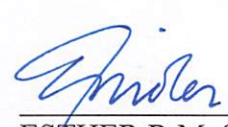
Comments are due within thirty (30) calendar days from the date of publication of this notice. 1 CMC § 9104(a)(2).

Submitted by: 
TERESITA A. SANTOS
Secretary, DPL

6/21/2024
Date


Received by: 
OSCAR M. BABAUTA
Special Assistant for Administration

6/24/24
Date

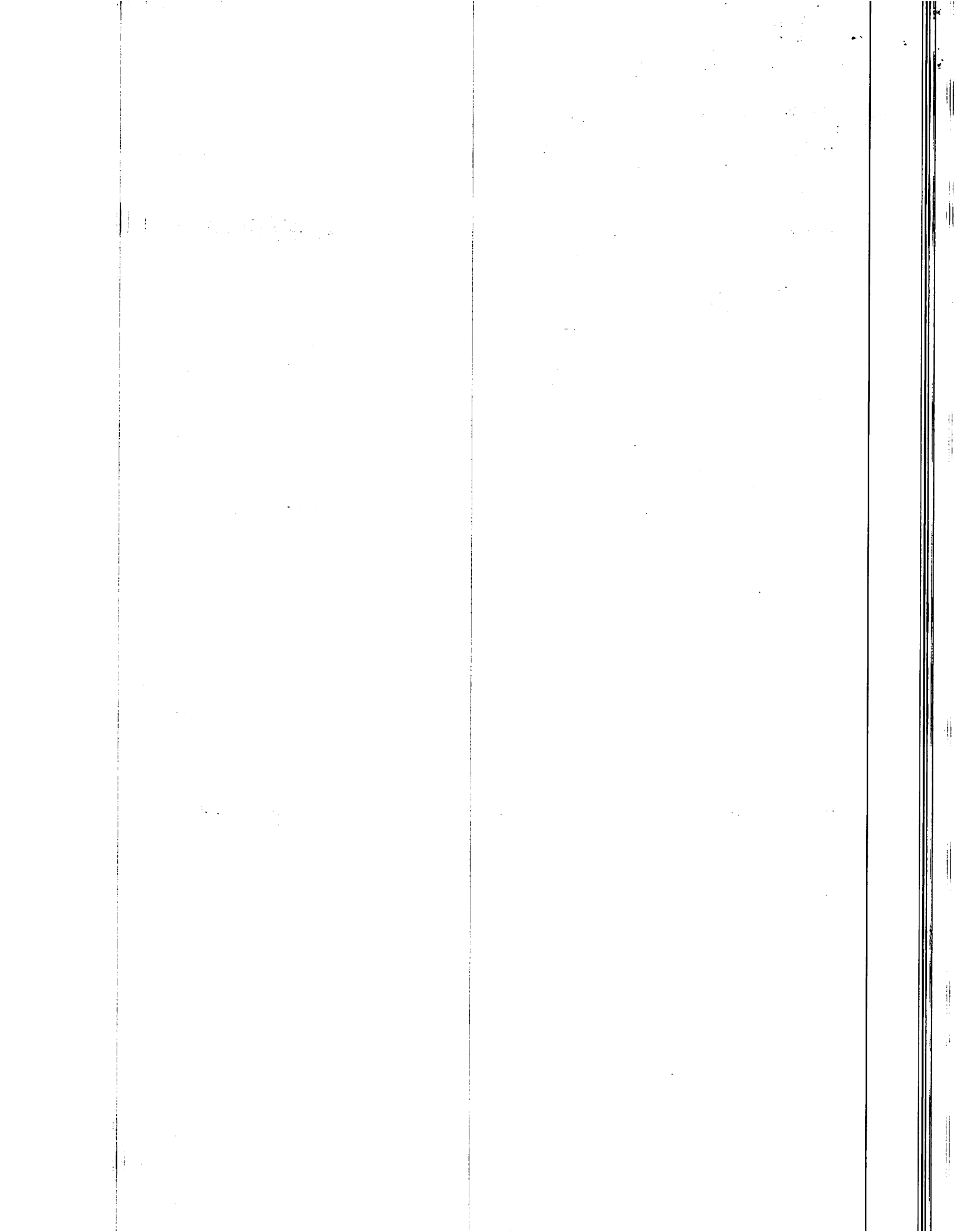
Filed and Recorded by: 
ESTHER R.M. SAN NICOLAS
Commonwealth Registrar

6.27.2024
Date

Pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3), the proposed Amendments to the Administrative Hearing Procedure Rules and 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).


EDWARD MANIBUSAN
Attorney General

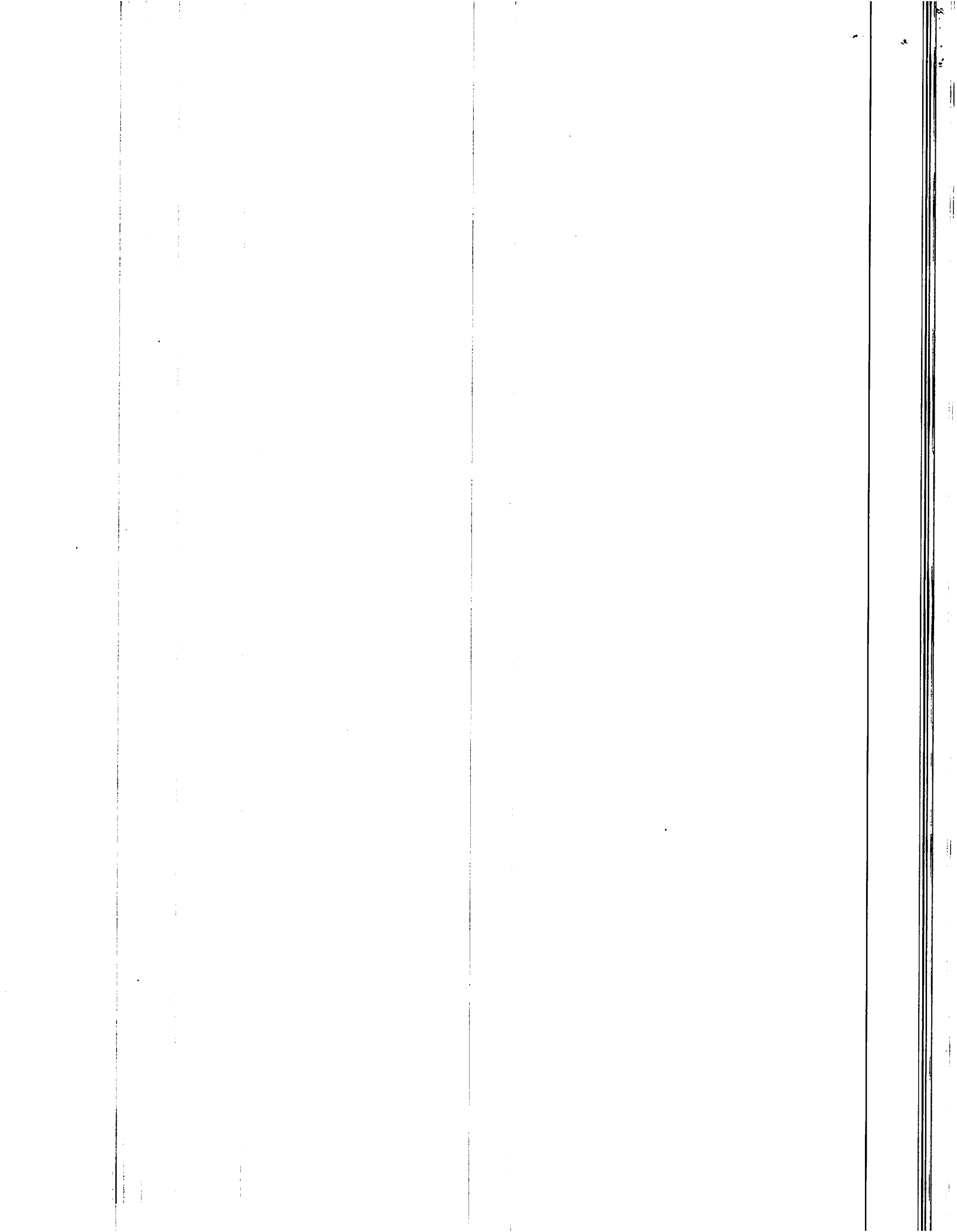
6/24/2024
Date



Part 100 – Basic Acquisition Policies

§ 145-50-155 Size and Value Limitations

Private land which has a fair market value of less than \$5,000 ~~or an area of less than 700 square meters~~ shall not be acquired through a land exchange.





Commonwealth gi Sangkattan na Islas Mariñas
Ufisinan Gubietnu
DIPATTAMENTUN TANU' PUPBLIKU



NUTISIAN PUPBLIKU PUT I MANMAPROPONI NA AMENDA SIHA GI AREKLAMENTU YAN REGULASIÓN I INATULAIKAN TANU' MINITU'N PUPBLIKU

NUTISIAN I AKSIÓN NI MA'INTENSIONA: I Dipattamentun Tanu' Publiku gi pápa' i Ufisinan Gubietnu giya Commonwealth gi Sangkattan na Islas Mariñas ha intensiona para u amenda i Areklamentu yan Regulasi3n i Inatulaikan Tanu' Minitu'n Publiku sigun gi maneran i Akton Administrative Procedure (APA), 1 CMC § 9104(a), para u sedi i "private" na tãnu' ni guaha ária menus ki 700 square meters para u machuli' ginen inatulaikan tanu' prinibebeni na i "private" na tãnu' báln \$5,000 pat mäs.

ÁTURIDÁT: Esti na amenda siha manmacho'gui gi pápa' i áturidát i Dipattamentun Tanu' Publiku sigun gi 1 CMC § 2806 para u dibelop areklamentu "administrative", minanera, yan gubietna i asuntu i para tanu' pupliku.

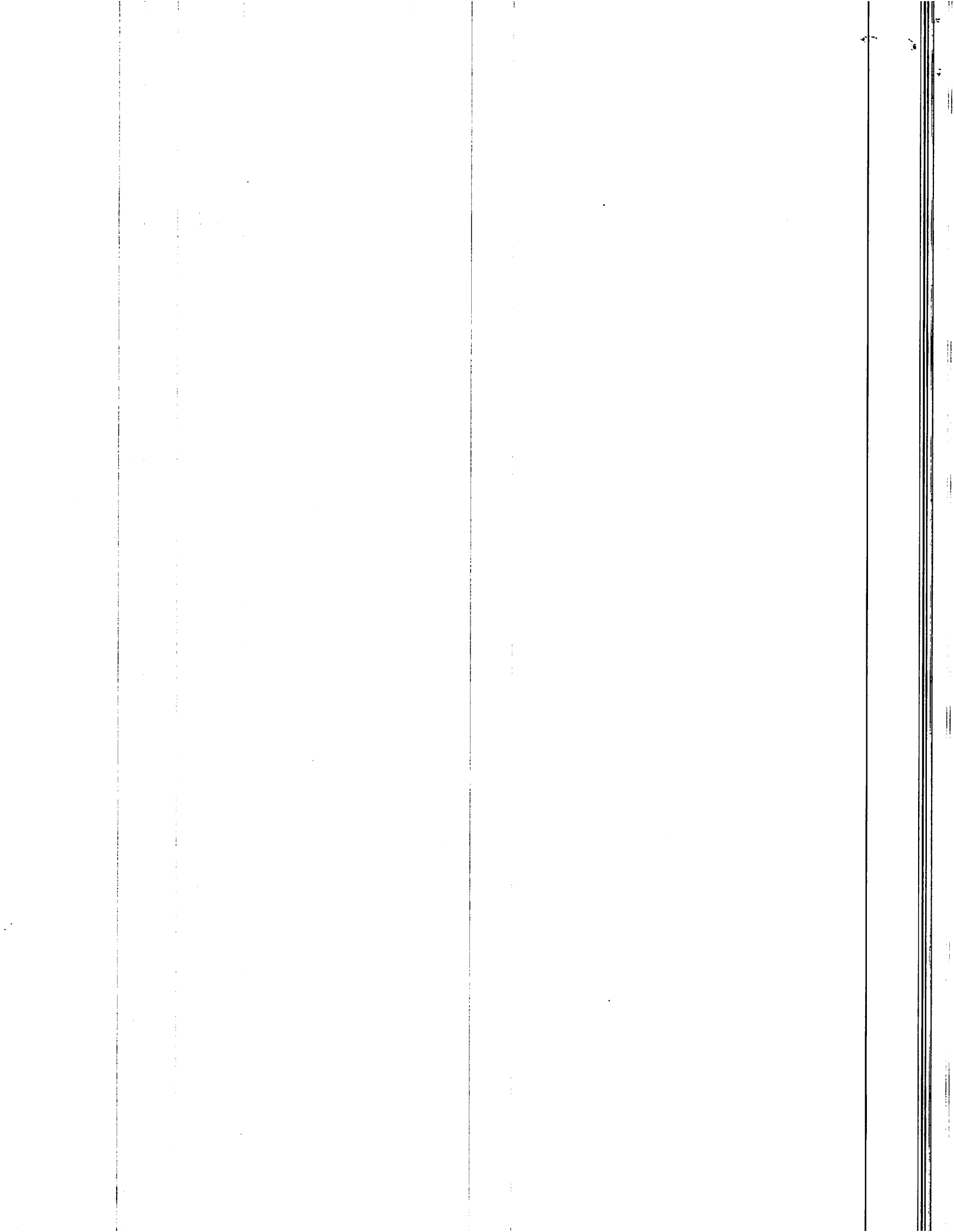
I TEMA YAN SUSTANSIAN I PALÁBRA SIHA: I Areklamentu yan Regulasi3n Inatulaikan Tanu' Minitu'n Publiku i DPL gi prisenti ha sedi i "private" na tãnu' para u machuli' ginen i inatulaikan tanu' ha' yanggin i "private" na tãnu' báln \$5,000 pat mäs yan i "private" na tãnu' gaigi gi 700 square meters pat mäs i mineddongña. I rason esti na regulasi3n sa' para u na'siguráo metton na tinakpapa' chi'ña na mineddung i tanu' pupliku ma'usa komu apási. Láo, i NMIAC § 145-50-140 mandimánda ni báln i "fair market" i tanu' para i fondasi3n i pinarehu na inatulaika, pues i mineddung nu i "private" na tãnu' para u machuli' debi ti u gubietna i inatulaikan tanu' maseha siña makunsigi. I regulasi3n ni maribibisa siempre ha sedi mäs "private" na tãnu' para u machuli' ginen i inatulaikan tanu'.

SITASI3N NU I MANINAFEKTA NA REGULASIÓN SIHA: I manmapropo ni na amenda siha siempre ha ribisa i maneksisti na lingguáhi regulatori gi halum i sigienti na regulasi3n:

NMIAC § 145-50-155 Mineddung yan Báln Minidiyi

DIREKSI3N PARA I PINE'LU YAN I PUPBLIKASI3N: I manmapropo ni na amenda debi di u mapupblika gi halum i Rehistran Commonwealth gi halum seksion ni manmapropo ni yan mannuebu ma'adápta na regulasi3n siha (1 CMC § 9201(a)(1)) ya u mapega gi halum kumbinienti na lugát siha giya i civic center yan gi halum ufisinan gubietnu gi kada distritun senatorial, parehu Inglis yan i dos na lingguáhi natibu (1 CMC § 9104(a)(1)).

UPIÑON SIHA: I manintiresáo na pattida siña ma'intrega hálum i tinigi' upiñon siha gi manmapropo ni na amenda siha guatu gi as Teresita A. Santos, i Sekretárian i Dipattamentun Tanu' Publiku, gi sigienti siha na address, fax, osino email address, yan i suhetu na rason "Manmapropo ni na Amenda gi Areklamentu yan Regulasi3n i Inatulaikan Tanu' Minitu' Publiku".



DEPARTMENT OF PUBLIC LANDS
PO Box 500380, Saipan, MP 96950
Fax: (670) 234-3755
Email: dpl@dpl.gov.mp

I upiñon siha debi di u manahålum gi halum trenta dihas (30) i kalendáriu ginen i fetchan publikasióon esti na nutisia. 1 CMC § 9104(a)(2)

Nina'hålum as:



TERESITA A. SANTOS
Sekritária, DPL

6/21/2024

Fetcha

Rinisibi as:



OSCAR M. BABAUTA
Ispisiát na Ayudánti para Atministrasióon

6/29/24

Fetcha

Pine'lu yan
Ninota as:



ESTHER R.M. SAN NICOLAS
Rehistran Commonwealth

6-27-2024

Fetcha

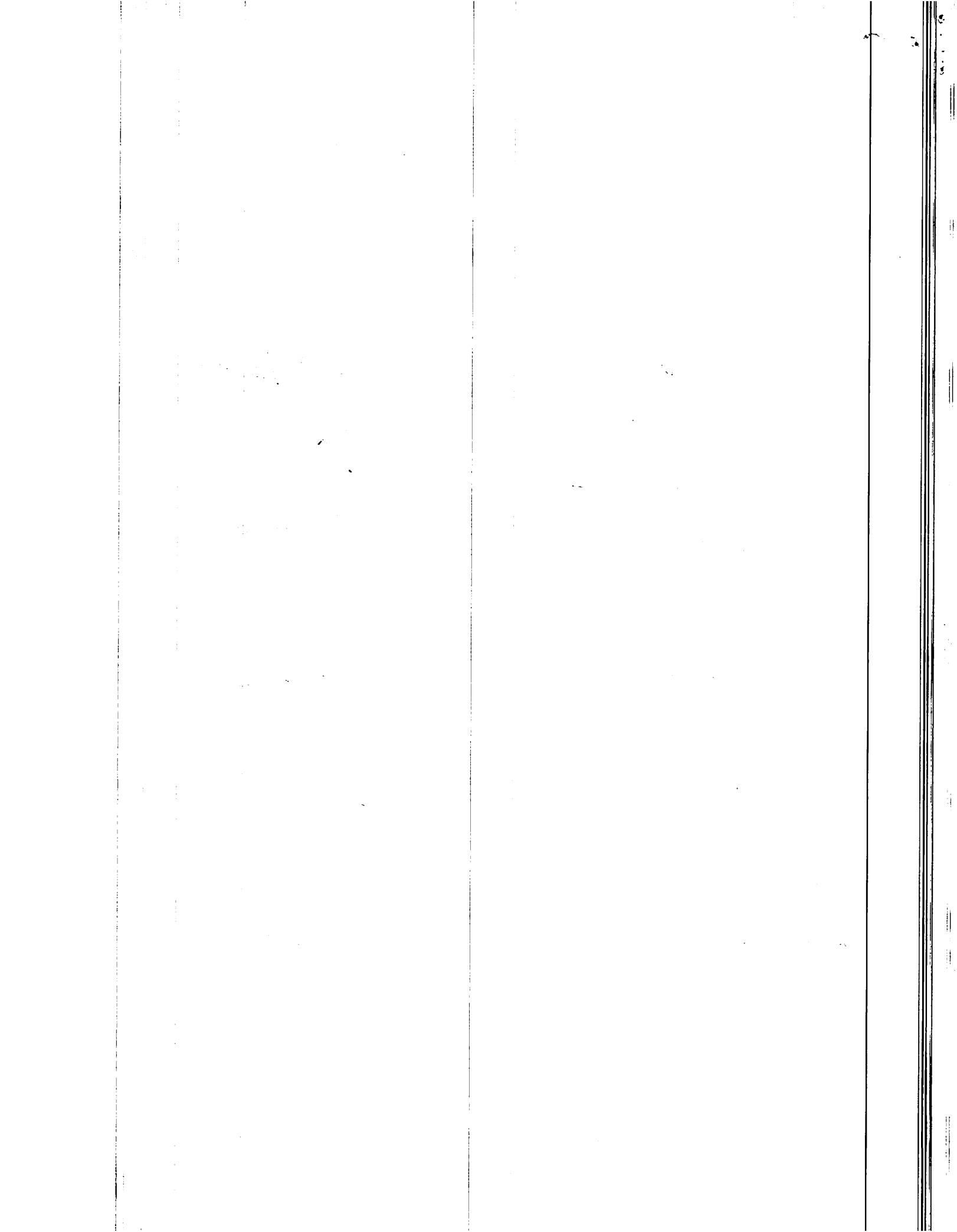
Sigun i 1 CMC § 2153(e) yan i 1 CMC § 9104(a)(3) i manmaproponi na amenda siha para i Areklamentu yan Regulasióon i "Administrative Hearing Procedure" ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligát ginen i CNMI Abugádu Henerát yan debi na u mapublika, 1 CMC § 2153(f).



EDWARD MANIBUSAN
Abugádu Henerát

6/29/2024

Fetcha





Commonwealth Téel Falúw kka Efáng Ilól Marianas
Bwulasiyol Soulemelem
BWULASIYOL AMMWELIL FALUWEER TOULAP



ARONGORONGOL TOULAP REEL PPWOMMWOL LIIWEL
NGÁLI ALLÉGHÚL ME MWÓGHUTUGHUTÚL TOULAP REEL LIIWELIL FALÚW

ARONGORONG REEL MÁNGEMÁNGIL MWÓGHUT: Commonwealth Téel Falúw kka Efáng Ilól Marianas, Bwulasiyol Soulemelem, Bwulasiyol Ammwelil Faluweer Toulap (DPL) re mángemángil rebwe liiweli Alléghúl me Mwóghutughutúl Administrative Hearing sángi mwóghutughutúl Administrative Procedures Act (APA), 1 CMC § 9104(a) ebwe lighiti falúw iye e lo bwe “private” iye e lo bwe 700 reel “square meters” rebwe bwughi sángi liiwel fengál bwe e lo mwotal falúw reel \$5,000 ngare maas.

BWÁNGIL: Ebwe arongowow liiwel kkaal faal bwángil Bwulasiyol Ammwelil Faluweer Toulap sángi 1 CMC § 2806 reel ebwe ayoora allégh, mwóghutughut, me lemelem ikka e súllúngáli faluweer toulap.

KKAPASAL ME AWEEWEEL: Mille Alléghúl me Mwóghutughutúl Toulap Bwulul Falúw iye aar DPL nge e lighiti ngáli falúw iye e lo bwe “private” rebwe bweibwogh sángi mille “land exchange” ngare mwotal falúw e lo bwe \$5,000 ngare maas me falúw e lo bwe 700 reel “square meters” ngare e lapaló. Bwulul mwóghutughut yeel nge ebwe ffat bwe lapal falúw iye rebwe yááyá óbwóss. Nge, NMIAC § 14-50-140 re tipáli bwe mwotal “fair market” reel falúw ebwe lo bwe “basis” ngáli mille “ratio for exchange” iwe lapal falúw iye rebwe bwughi essóbw lemeli ngare ebwe tééló mmwal mwóghutughutúl “land exchange”. Fféérúl sefáálil mwóghutughut ebwe lighiti ngáli maas falúw iye emmwel rebwe bwughi sángi mille “land exchange”.

ABWETCH REEL IKKA E SCHUU ME/ANNGAWA MWÓGHUTUGHUT: Ppwommmwol liiwel ebwe siiweli kkapasal mwóghutughut llól mwóghutughut iye e amwirimwiritiw:

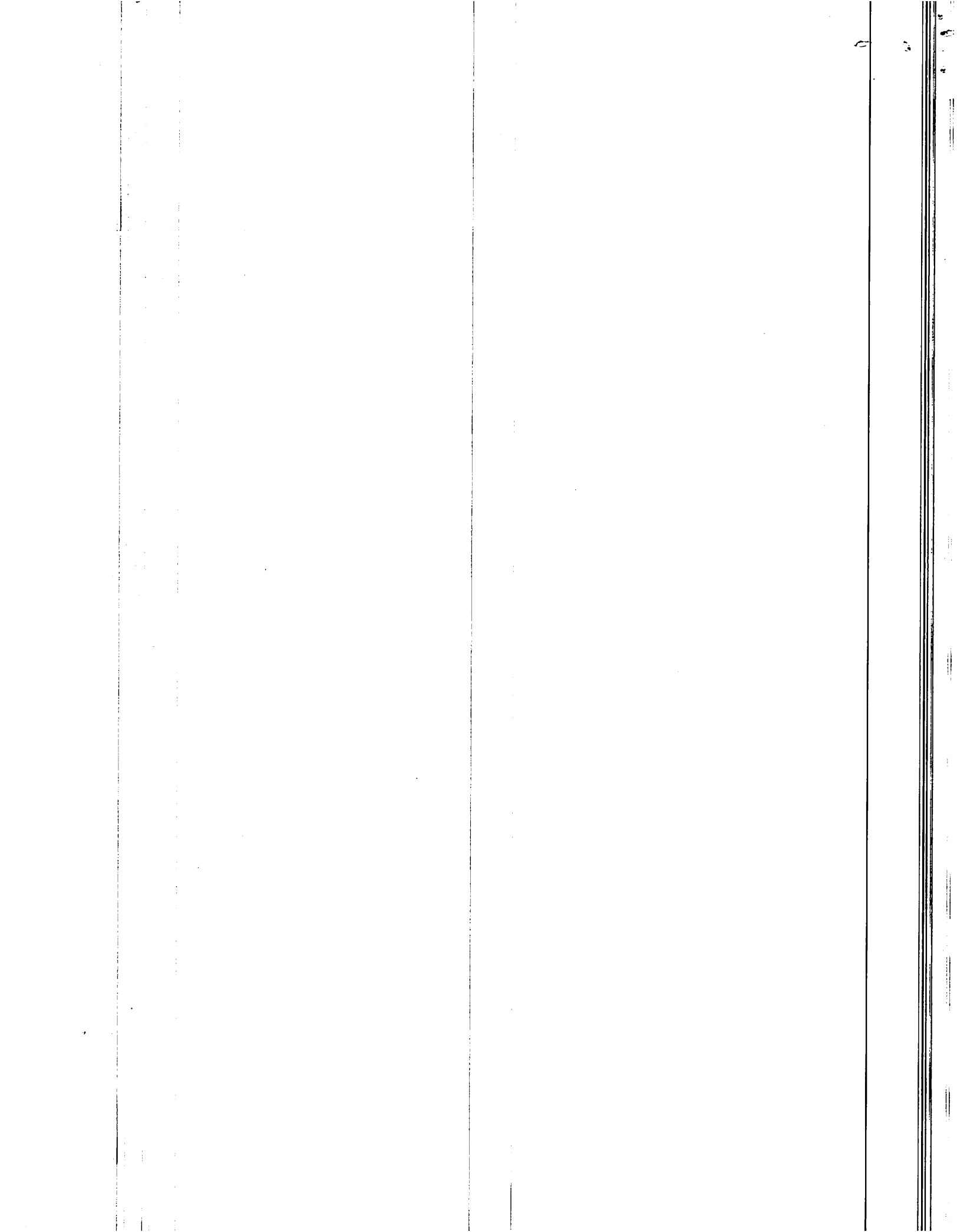
NMIAC § 145-50-155 Size and Value Limitations

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow ppwommmwol liiwel kkaal me llól Commonwealth Register llól tánil ppwommmwol me ffél mwóghutughut ikka ra adóptááli (1 CMC § 9201(a)(1)) me ebwe appaschetá llól civic center me bwal llól bwulasiyol gobetnameento llól senatorial district, fengál reel English me mwáliyaasch (1 CMC § 9104(a)(1)).

KKAPAS: Schóó kka re tipáli rebwe isiisilong ischil kkapas wóól ppwommmwol liiwel kkaal rebwe isiis ngáli Teresita A. Santos, Bwulasiyol Ammwelil Faluweer Toulap, reel féféfé iye e amwirimwiritiw, fax, ngare email address, fengál wóól subject line bwe “Proposed Amendments to the Public Purpose Land Exchange Rules and Regulations”:

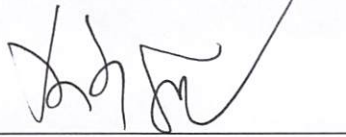
DEPARTMENT OF PUBLIC LANDS
PO Box 500380, Saipan, MP 96950
Fax: (670) 234-3755
Email: dpl@dpl.gov.mp

P.O. Box 500380, Saipan, MP 96950 • 2nd Floor, Joeten Dandan Commercial Building
Website: www.dpl.gov.mp • E-mail: dpl@dpl.gov.mp • Facebook: www.facebook.com/DplCnmi
Tel: (670) 234-3751/52/53/54 • Fax: (670) 234-3755



Ebwe toolong ischil kkapas llól eliigh (30) ráál mwiril aal akkatéwow arongorong yeel. 1 CMC § 9104(a) (2).

Isáliyalong:



TERESITA A. SANTOS
Sekretóoriya, DPL

6/21/2024

Ráál

Bwughiyal:



OSCAR M. BABAUTA
Special Assistant ngáli Administration

6/24/24

Ráál

Ammwelil:



ESTHER R.M. SAN NICOLAS
Commonwealth Registrar

6-27-2024

Ráál

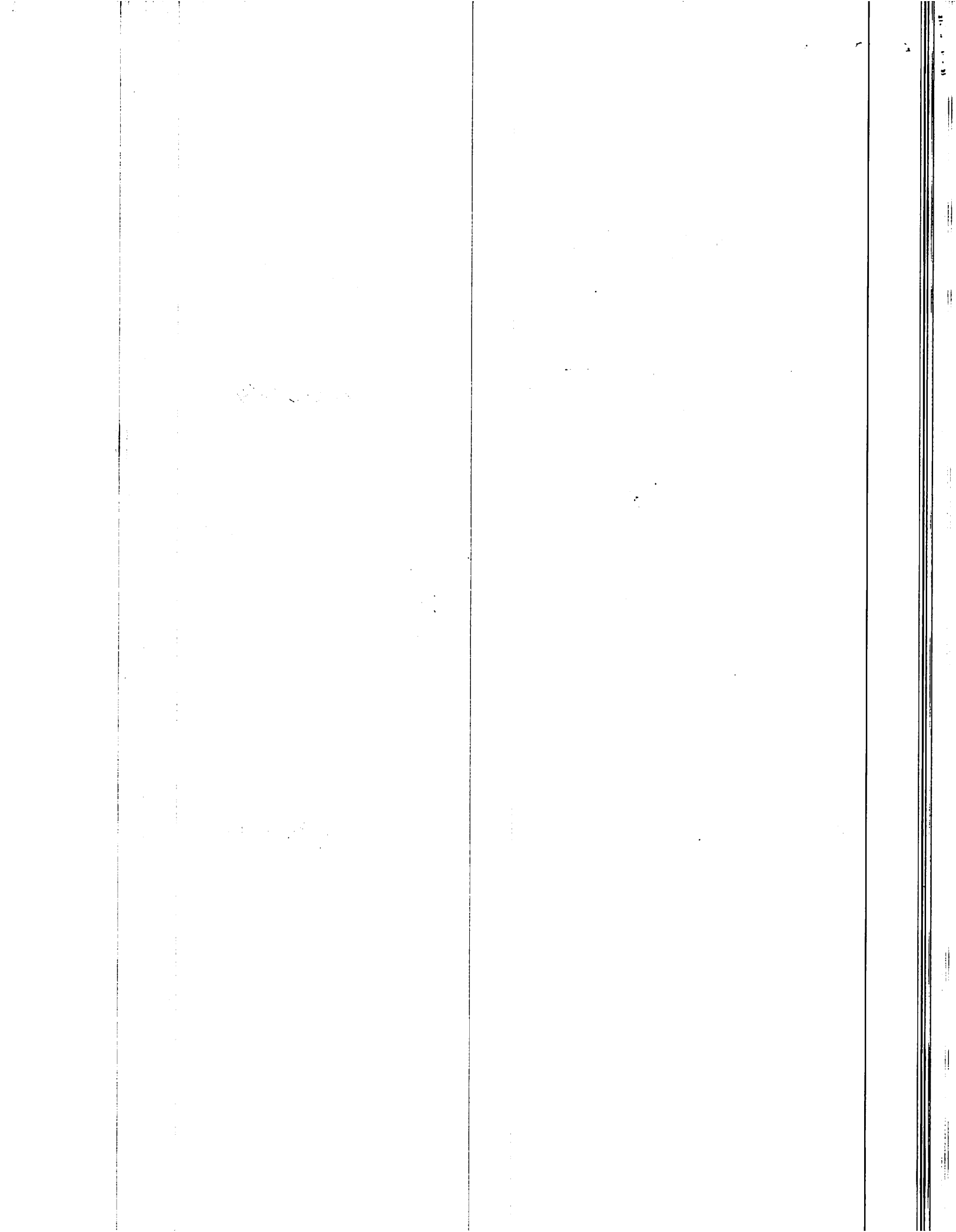
Sáangi 1 CMC § 2153(e) me 1 CMC § 9104(a)(3), ra takkal anwuri fischiiy ppwommwol Liiwel ngáli Allégh me Mwóghutughutúl Administrative Hearing me aa átirow bwe aa ffil reel fféerúl me legal sufficiency sáangi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatéwow, sáangi 1 CMC § 2153(f).



EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap

6/24/2024

Ráál





Commonwealth of the Northern Mariana Islands
Office of the Governor
DEPARTMENT OF PUBLIC LANDS



PUBLIC NOTICE OF PROPOSED AMENDMENTS
TO THE COMMERCIAL USE OF MANAGAHA ISLAND RULES AND REGULATIONS

NOTICE OF INTENDED ACTION: The Commonwealth of the Northern Mariana Islands, Office of the Governor, Department of Public Lands (DPL) intends to amend the Commercial Use of Managaha Island Rules and Regulations pursuant to the procedures of the Administrative Procedure Act (APA), 1 CMC § 9104(a) to restrict the consumption of outside food and beverages in the Exclusive Concession Area; restrict certain personal floatation devices in the Designated Swimming Zone; and further define the type of “commercial activity” that may only be provided by the main Concessionaire and a limited number of subconcessionaires mutually agreed upon by DPL and the Concessionaire.

AUTHORITY: These amendments are promulgated under the authority of the Department of Public Lands pursuant to 1 CMC § 2806 to develop administrative policies, procedures, and controls related to public land.

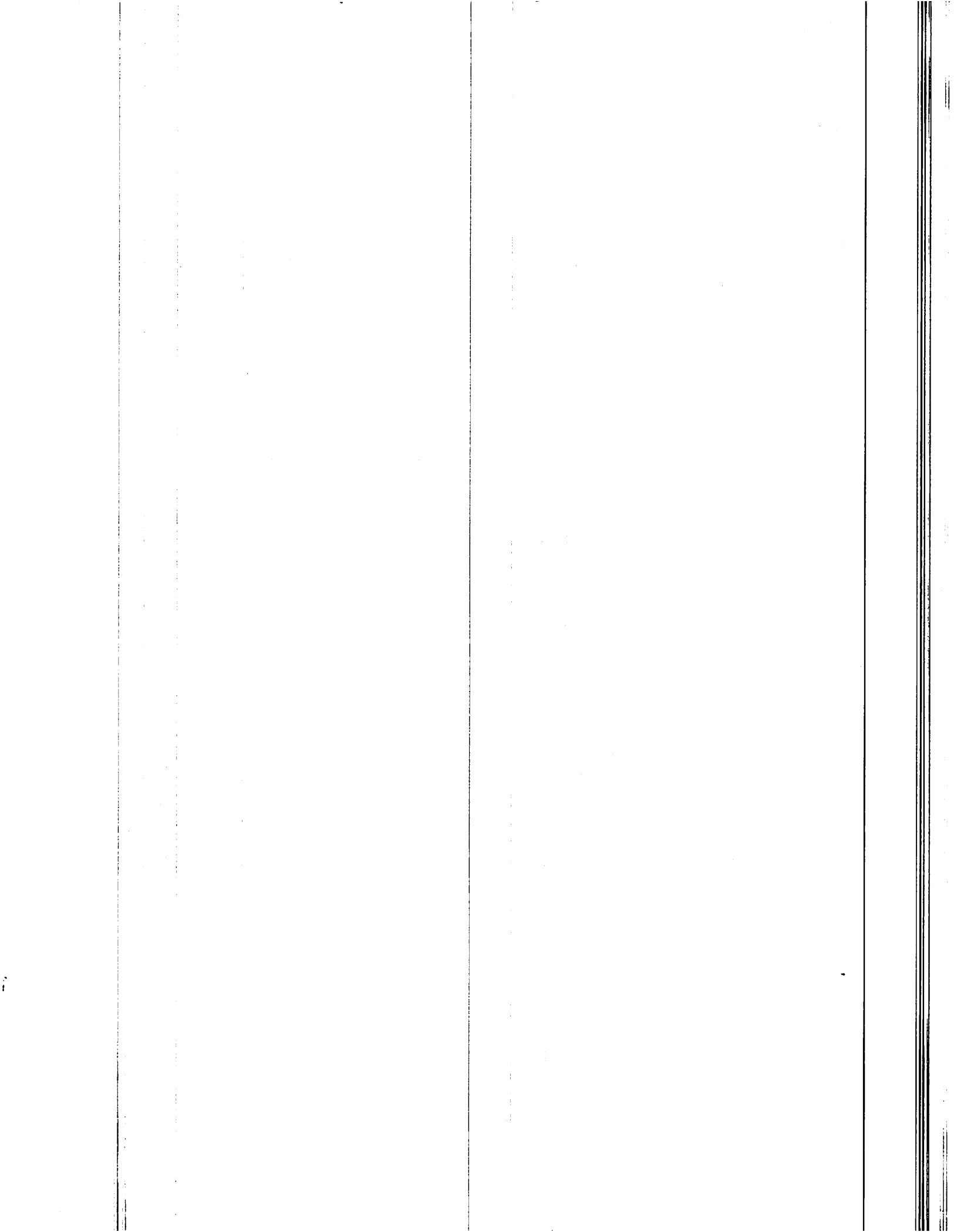
TERMS AND SUBSTANCE: DPL’s Commercial Use of Managaha Island Rules and Regulations currently provide that all commercial activity, including conveniences such as food, beverages, recreational equipment, and the like, shall only be provided by the main Concessionaire and a limited number of subconcessionaires, and allow outside food and beverages brought in by visitors for personal consumption. In addition, the regulations do not currently address the use of personal floatation devices. However, Section 16.A of DPL’s standard Managaha Island Master Concession Operator Agreement requires the Concessionaire to indemnify and hold harmless DPL for any injuries or losses which occur in the Exclusive Concession Area (“ECA”) or which arise out of or in connection with any activities under the Agreement, including the provision of lifeguard services. Revising the regulations to restrict outside food and beverages in the ECA and to restrict personal floatation devices used in the Designated Swimming Zone to those provided by the Concessionaire will allow the Concessionaire to exercise greater control over activities occurring in the ECA and for which the Concessionaire is liable.

In addition, the regulations provide that commercial competition on Managaha Island will be eliminated and provide that the Concessionaire has the exclusive right to operate all commercial concessions, but do not clearly define the scope of commercial activity and concessions included in this right. Revising the regulations will clarify that this exclusive right includes the right to conduct or operate any tour or activity on the Island or departing from the Island, including but not limited to underwater and surface water activities.

CITATION OF AFFECTED REGULATIONS: The proposed amendments will revise existing regulatory language in the following regulations:

- NMIAC § 145-30-015 Definitions
- NMIAC § 145-30-101 Uses and Privileges


DIRECTIONS FOR FILING AND PUBLICATION: The proposed amendments shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9201(a)(1)) and posted in convenient places in the civic center and in local governmental offices in each senatorial district, both in English and in the principal vernacular (1 CMC § 9104(a)(1)).



COMMENTS: Interested parties may submit written comments on the proposed amendments to Teresita A. Santos, Department of Public Lands Secretary, to the following address, fax, or email address, with the subject line "Proposed Amendments to the Commercial Use of Managaha Island Rules and Regulations":

DEPARTMENT OF PUBLIC LANDS
PO Box 500380, Saipan, MP 96950
Fax: (670) 234-3755
Email: dpl@dpl.gov.mp

Comments are due within thirty (30) calendar days from the date of publication of this notice. 1 CMC § 9104(a)(2).

Submitted by: 

DAVID C. SABLAN
Special Advisor, DPL

7/10/2024

Date

Received by: 

OSCAR M. BABAUTA
Special Assistant for Administration

7/10/24

Date

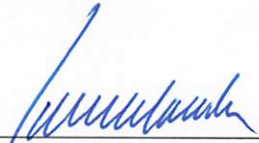
Filed and
Recorded by: 

ESTHER R.M. SAN NICOLAS
Commonwealth Registrar

7.12.24

Date

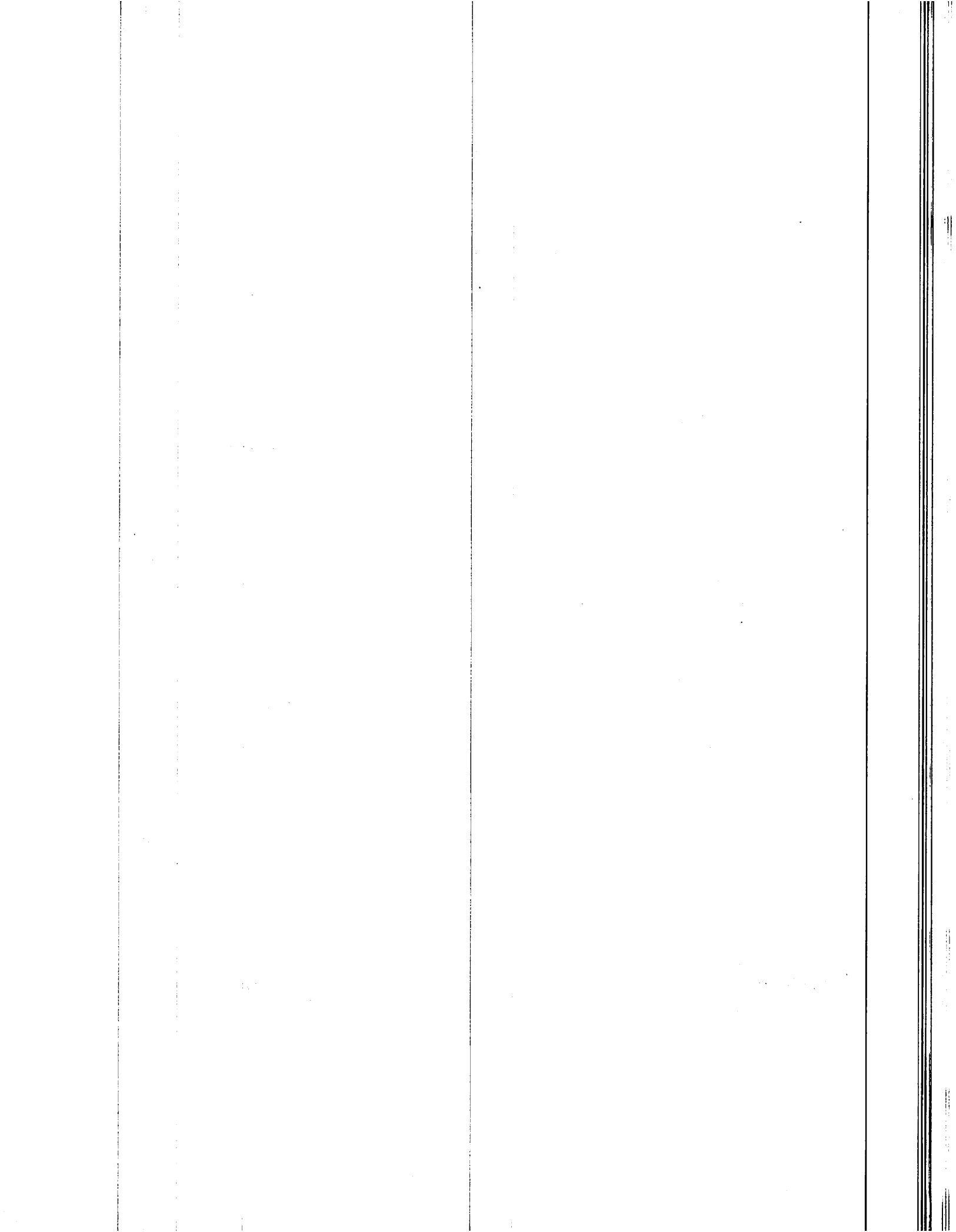
Pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3), the proposed Amendments to the Administrative Hearing Procedure Rules and Regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, pursuant to 1 CMC § 2153(f).



EDWARD MANIBUSAN
Attorney General

7/10/2024

Date



Part 100 – Commercial Use of the Island

§ 145-30-015 Definitions

(a) “Boat and Tour Operators”: Any person(s) who transports tourist(s) to the island for any type of fee or other compensation. (b) “Commercial Activity”: Any activity conducted on the Island for profit (or resulting in profit) by an enterprise or person required to have a business license to conduct the activity.

(b) “Commercial Activity”:

(1) Commercial activity is aAny activity conducted on ~~Managaha~~~~the Island~~ for profit (or resulting in profit) by an enterprise or person required to have a business license to conduct the activity, including but not limited to:

(i) the preparation, delivery, sale, or provision of food and/or beverages on the Island;

(ii) the rental or sale of water sports equipment, recreational equipment, or beach equipment and related supplies;

(iii) the conduct or operation of any tour on Managaha or departing from Managaha, regardless of how or by whom the persons engaging in the activity were first transported to the Island, including any and all underwater activities (e.g., SCUBA diving, SNUBA diving, snorkeling, BOB and sea walker-type tours) and any and all surface water activities (e.g., parasailing, banana boat rides, pedal bikes, power boat lagoon cruises, windsurfing, canoe rentals, canoe tours, kayak rentals, and kayak tours), but not including the provision of mere transportation from Saipan to Managaha and/or from Managaha to Saipan;

(iv) the sale of any goods or services on the Island; and

(v) the provision of entertainment on the Island.

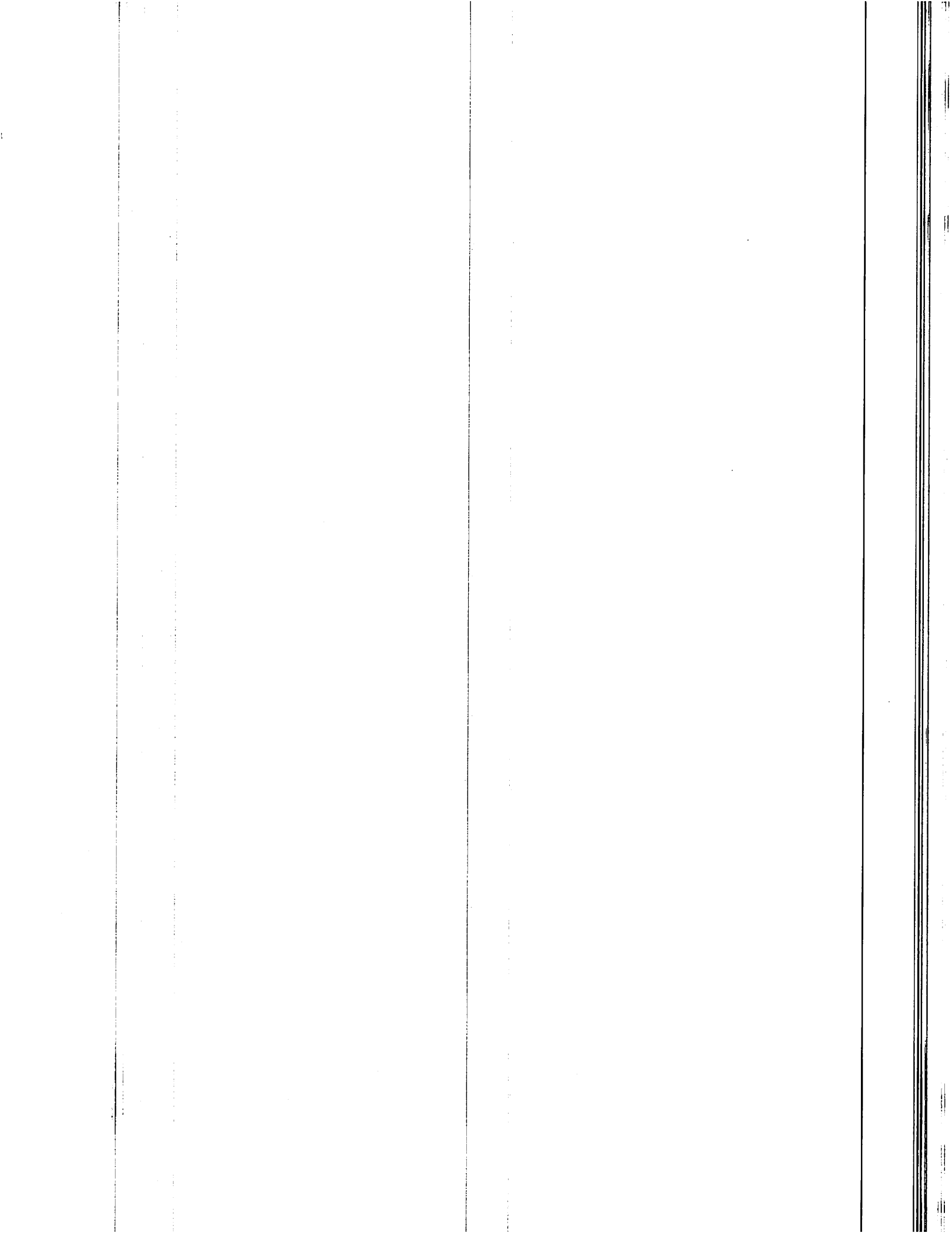
(2) The following examples are offered to illustrate, but not limit, the effect of this section; while they use the activity of parasailing, they are intended to be analogous for other commercial activities as well:

(i) Managaha to Managaha commercial activity: A person on Managaha is picked up from Managaha for parasailing and then is returned to Managaha when the activity is completed. Regardless of how the person was brought to Managaha, how the person was transported to Managaha, where the person was solicited into an agreement to go parasailing, or whether the person is on a package tour that began in Saipan, the activity constitutes a tour departing from Managaha and may only be conducted by the Concessionaire or a subconcessionaire mutually agreed upon by DPL and the Concessionaire.

(ii) Managaha to Saipan commercial activity: The activity is the same as example (i) above, except the person does not return to Managaha and parasails on the return trip to Saipan. The activity still constitutes a tour departing from Managaha and may only be conducted by the Concessionaire or a subconcessionaire mutually agreed upon by DPL and the Concessionaire.

(c) “Commercial photography”: The taking of photographs, films or videos from any type of camera device of any article of commerce or models for the purpose of commercial advertising and shall include all photography to be used for advertisements or for public entertainment and all photography for which a fee is paid, either to the model or actor, or to the photographer. It shall not include any photography by government agencies done on behalf of the Marianas Visitors Authority for the promotion of tourism in the Northern Marianas Islands.

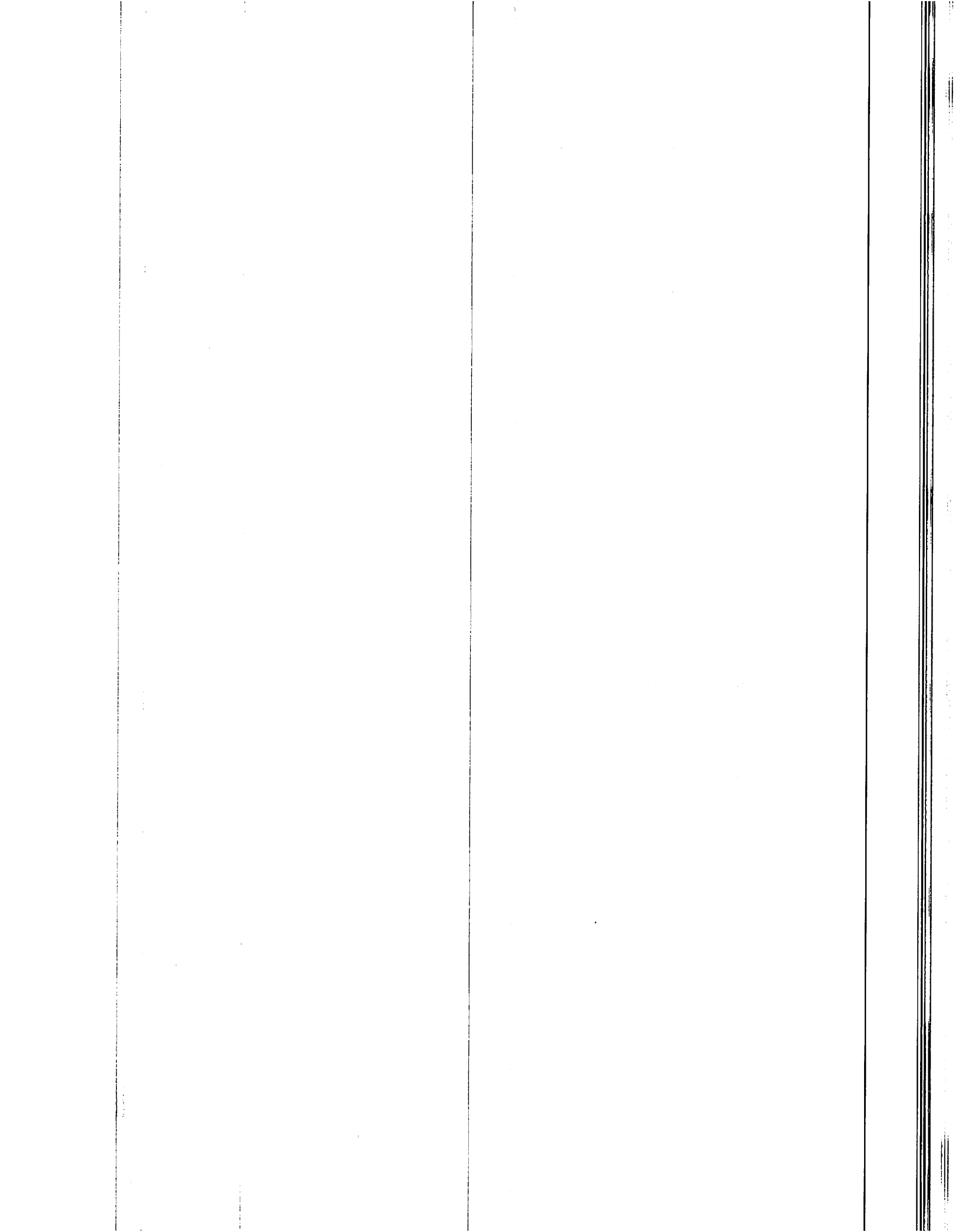
(d) “Commercial Concession”: Any ~~person or~~ facility which ~~prepares, delivers, sells or provides food or beverages on the Island; any facility which rents or sells water sports equipment, recreational equipment, or beach equipment and related supplies; any operation which conducts tours on the Island or from the Island; and, any merchant which sells goods or services~~ conducts commercial activity of any nature on the island.



- (e) “Concessionaire”: Whoever DPL awards the Special Recreational Concession to with a formal Agreement who has the exclusive right to operate all commercial concessions on the Island, provide island maintenance, and provide other provision of public services under the Agreement terms.
- (f) “Department”: Department of Public Lands (“DPL”).
- (g) “Designated Concession Area”: That portion of the main pavilion and other areas delineated in exhibit # 1 of the Special Recreational Concession Agreement.
- (h) “Island” or “Managaha”: Managaha Island.
- (i) “Regulation”: Commercial use of Managaha Island Rules and Regulations.
- (j) “Resident”: A person who is domiciled in the CNMI.
- (k) “Subconcessionaire”: A subcontracted company with a permit from DPL, approved by both DPL and the Concessionaire, to provide commercial activities such as food service, human powered watercraft or wind powered watercraft on Managaha Island, etc., under the Special Recreational Concession Agreement.
- (l) “Tourist”: A person who is not a resident of the CNMI.

§ 145-30-101 Uses and Privileges

- (a) All commercial activity including conveniences such as food, beverages, recreational activity and the like shall only be provided by the main Concessionaire and a limited number of subconcessionaires mutually agreed upon by DPL and the Concessionaire. Outside food and beverages brought in by visitors shall only be allowed for personal consumption and shall not be consumed within the exclusive concession area. Personal floatation devices brought in by visitors shall not be used in the Designated Swimming Area.
- (b) Any commercial activity shall take place only in the designated concession area.
- (c) The exclusive right to operate all commercial concessions does not include the exclusive right to provide transportation to and from the Island; provided, however, that if the Department, in consultation with any other agency determines that the number of tourists visiting the Island must at any present or future time be limited, then the Concessionaire shall carry the number of passengers permitted under the restriction. This, however, is subject to the Concessionaire’s privilege of providing transportation to that number of passengers it is entitled to serve meals to, so long as the number of passengers permitted to be carried to Managaha Island is no fewer than the number permitted under any current permit for the Island. In order to ensure that public safety can be maintained and that the Island will not suffer from environmental impacts, the combined number of passengers on the Island shall not exceed 1,000 at any one time, whether they arrived by the Concessionaire’s vessel or other boat and tour operators.





Commonwealth Téel Falúw kka Efáng llól Marianas
Bwulasiyol Soulemelem
BWULASIYOL AMMWELIL FALUWEER TOULAP



ARONGORONG TOULAP REEL PPWOMMWOL LIIWEL
NGÁLI “COMMERCIAL USE” REEL ALLÉGHÚL ME MWÓGHUTUGHUTÚL
GHALAGHAAL

ARONGORONGOL REEL MÁNGEMÁNGIL MWÓGHUT: Commonwealth Téel Falúw kka Efáng llól Marianas, Bwulasiyol Soulemelem, Bwulasiyol Ammwelil Faluweer Toulap (DPL) re mángemángil rebwe liiweli Alléghúl Mwóghutughutúl “Commercial Use” reel Ghalaghaal sáangi mwóghutughutúl Administrative Procedure Act (APA), 1 CMC § 9104(a) bwe ese mmwel mwongo kka e tooto me lughul llól Leliyál Exclusive Concession; ebwe ghitighiitiló lapal akkááw “personal floatation devices” me llól “Designated Swimming Zone”; me ebwe yoor weeweel reel tappal mwóghutughutúl “commercial” iye ebwe yoor sáangi “Concessionaire” me ebwe ghitighiitiló numurol “subconcessionaires” ikka re abwungubwung fengál sáangi DPL me “Concessionaire”.

BWÁNGIL: Ebwe arongowow liiwel kkaal faal bwángil Bwulasiyol Ammwelil Faluweer Toulap sáangi 1 CMC § 2806 reel ebwe ayoora allégh, mwóghutughut, me lemelem ikka e súllúngáli faluweer toulap.

KKAPASAL ME AWEEWEEL: Commercial Use reel Alléghúl me Mwóghutughutú; Ghalaghaal iye aar DPL e ayoora mwóghutughutúl “commercial”, iye e bwal schuulong yááyál e weey schagh mwongo, úúl, “recreational equipment”, rebwe ayoora sáangi esch “Concessionaire” me akkááw numurol “subconcessionaires”, me lighiti ngáliir schóól bisita rebwe bweibwogholong mwongo me úúl iye rebwe yááyá. Ebwal schuulong, mwóghutughut ese ayoora ammwelil ngáli yááyál “personal floatation devices”. Nge, Tálil 16 A reel DPL “Managaha Island Master Concession Operator Agreement” iye re tipáli “Concessionaire” rebwe óbwóssu me isáli DPL ngare eyoor mille e malinngu ngare metagh iye e fis me llól “Exclusive Concession Area (“ECA”)” ngare inamwo meeta reel mwóghutughut iye e toowow ngare e schuu faal Abwungubwung, e bwal schuulong angaangil “lifeguard”. Fféerúl sefááli mwóghutughut e ayoorai lemelem ngáli mwongo me úúl llól “ECA” me e ayoora lemlem ngáli “personal floatation devices” ikka re yááyá llól “Designated Swimming Zone” ngáli imwu re ayoora sáangi “Concessionaire” ebwe lighiti ngáli “Concessionaire” ebwe ghatch aar lemelem ngáli mwóghutughut ikka e fis llól “ECA” iye “Concessionaire” e lemeli.

Ebwe bwal schuulong, essóbw yoor “commercial competition” wóól Ghalaghaal sáangi mwóghutughut ikka re ayoora me e lo bwe “Concessionaire” eyoor aal weel llól alongal bwe ebwe ayoorai mwóghutughut ngáli alongal “concessions”, nge ese ffat weeweel mwóghutughutúl “commercial” me “concessions” e schuu llól weel yeel. Ebwe ffat siiwelil mwóghutughut bwe ebwal schuu llól weel yeel rebwe ayoora plónol me mwóghutughutúl inamwo meeta reel “tour” ngare mwóghutughut wóól Falúw ngare mwetelóól Falúw, e schuu nge ese mwúch ngáli “underwater” me “surface water activities”.

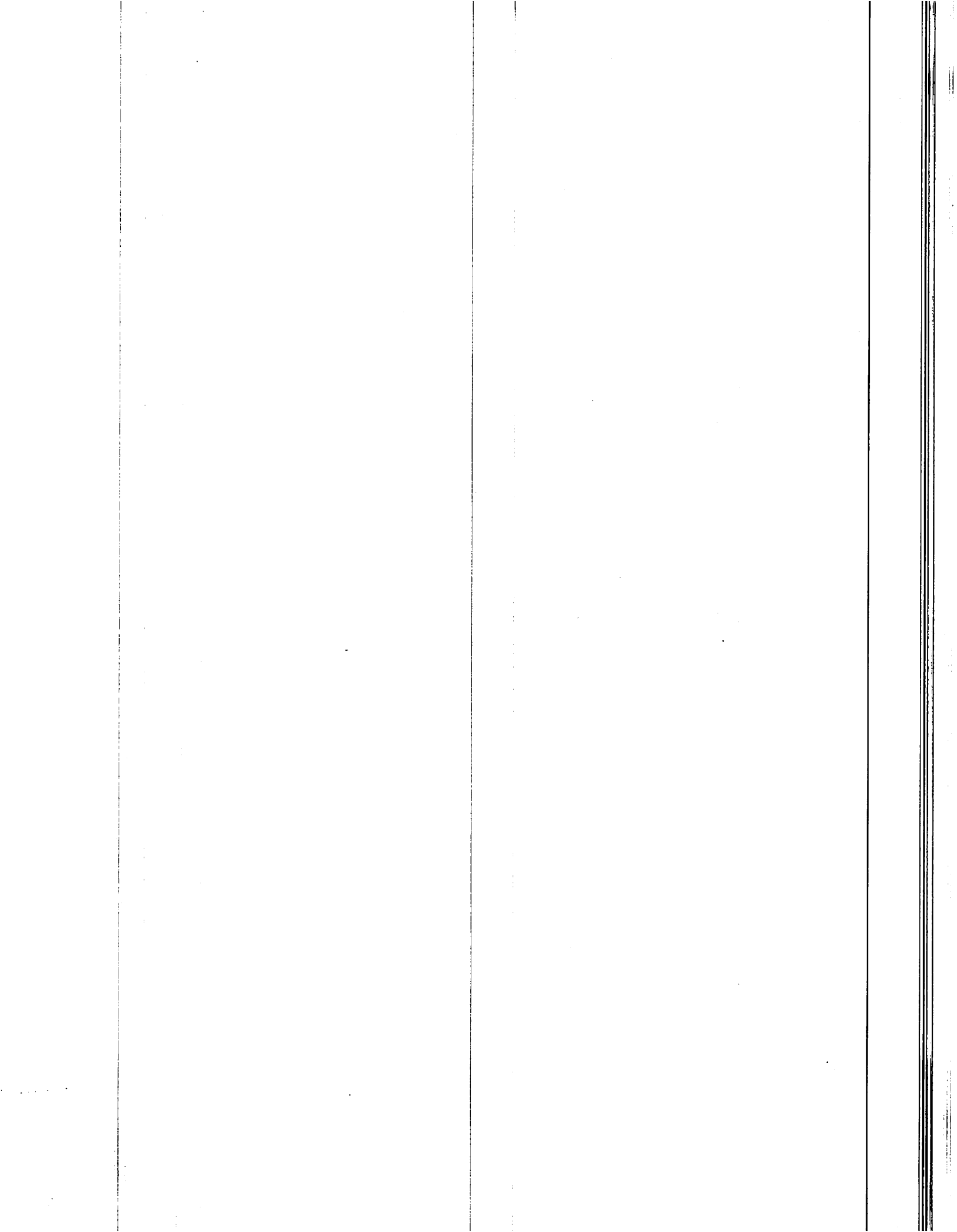
ABWETCH REEL IKKA E SCHUU ME/ANNGAWA MWÓGHUTUGHUT: Ppwommwol liiwel ebwe fféerú sefááli kkapasal regulatory llól mwóghutughut ikka e amwirimwiritiw:

NMIAC § 145-30-015

Weeweel

NMIAC § 145-30-101

Yááyál me Weel




AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow ppwommwol liiwel kkaal me llól Commonwealth Register llól tánil ppwommwol me ffél mwóghutughut ikka ra adóptáali (1 CMC § 9201(a)(1)) me ebwe appaschetá llól civic center me bwal llól bwulasiyol gobetnameento llól senatorial district, fengál reel English me mwaliyaasch (1 CMC § 9104(a)(1)).

KKAPAS: Schóó kka re tipáli rebwe isiisilong ischil kkapas wóól ppwommwol liiwel kkaal rebwe isch ngáli Teresita A. Santos, Sekkretóóriyal Bwulasiyol Ammwelil Faluweer Toulap, reel féléfél iye e amwirimwiritiw, fax, ngare email address, ebwe lo wóól subject line bwe “Proposed Amendments to the Commercial Use of Managaha Island Rules and Regulations”:

DEPARTMENT OF PUBLIC LANDS
PO Box 500380, Saipan, MP 96950
Fax: (670) 234-3755
Email: dpl@dpl.gov.mp


Ebwe toolong kkapas llól eliigh (30) ráál mwiril aal akkatééwow arongorong yeel. 1 CMC § 9104(a)(2).

Isáliyalong: 

DAVID C. SABLAN
Special Advisor, DPL




Ráál

Bwughiyal: 

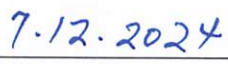
OSCAR M. BABAUTA
Special Assistant ngáli Administration



Ráál

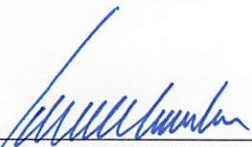
Ammwelil: 

ESTHER R.M. SAN NICOLAS
Commonwealth Registrar



Ráál

Sángi 1 CMC § 2153(e) me 1 CMC § 9104(a)(3), ra takkal amwuri fischiy ppwommwol Liiwel ngáli Allégh me Mwóghutughutúl Hearing Procedure iye e appasch me aa átirow bwe aa lléghló reel fféerúl me legal sufficiency sáangi Soulemelemil Allégh Lapalalap CNMI me ebwe akkatééwow, sáangi 1 CMC § 2153(f).



EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap



Ráál



Commonwealth gi Sangkattan na Islas Mariãnas
Ufisinan Gubietnu
DIPÀTTAMENTUN TANU' PUPBLIKU



NUTISIAN PUPBLIKU PUT I MANMAPROPONI NA AMENDA SIHA GI AREKLAMENTU YAN REGULASIÓN I USUN KUMISIÁT NU ISLAN MAÑAGÁHA

NUTISIAN I AKSIÓN NI MA'INTENSIONA: I Dipàttamentun Tanu' Pupbliku gi pápa' i Ufisinan Gubietnu giya Commonwealth gi Sangkattan na Islas Mariãnas ha intensiona para u amenda i Areklamentu yan Regulasió n i Usun Kumisiát nu Islan Mañagáha sigun gi maneran i Ákton Administrative Procedure (APA), 1 CMC § 9104(a), para u ristrikta i kunsuman nengkanu' yan gimin gi sanhiyung i Árian Operasió n Bisnis; ristrikta pattikulidát na “personal floatation devices” gi halum i Madinisikna na Lugát Muñangun; yan kuntuha dumifina i klásin nu “aktibidát Kumisiát” nai siña ha' maprubeniya ni prinsipát na Bisnis yan ristrikta numirun “subconcessionaires” ni maninapreba ni DPL yan i prinsipát na bisnis.

ÁTURIDÁT: Esti na amenda siha manmacho'gui gi pápa' i áturidát i Dipàttamentun Tanu' Pupbliku sigun gi 1 CMC § 2806 para u dibelop areklamentu “administrative”, minanera, yan gubietna i asuntu i para tanu' pupbliku.

I TEMA YAN SUSTANSIAN I PALÁBRA SIHA: I Areklamentu yan Regulasió n i Usun Kumisiát nu Islan Mañagáha gi presentu ha pribeni tod u na aktibidát kumisiát, kuntuodu i mankumbinienti siha tátkomu nengkanu', gimin, trástis huegu, yan i maguaiya siha, debi di u mapribeniya ha' ginin i prinsipát na Bisnis yan ristrikta i numirun “subconcessionaires”, yan sedi nengkanu' yan gimin sanhiyung ni manmachuli' hálum ginin i bisita para kunsuman-ñiha. Yan más, i regulasió n gi presentu ti ha mensiona i usun nu “personal floatation devices”. Láo, i Seksiona 16.A gi kuntrátan i “standard Mañagáha Island Master Concession Operator” i DPL ha gagógáo i Bisnis na ti para u na'fanapási yan ti para u pega i risponsibilidát guatu gi DPL para maseha háfa na linámin pat minalingu siha ni masusedi gi Árian “Exclusive Concession” (“ECA”) osino háfa na fina'tinas situasió n nu pat manchechettun na aktibidát siha gi pápa' i Kuntráta, ingklulusu i prubensió n nu sitbisiun “lifeguard”. I maribibisa na regulasió n siha para u ristrikta i sanhiyung na nengkanu' yan gimin siha gi halum i ECA yan para u marestrikta i usun i “personal floatation devices” gi halum i Madinisikna Na Lugát Muñangu para etyi siha mamprubeniya ginin i Bisnis siempri ha sedi i Bisnis para u gubietna más i aktibidát siha ni masusedi gi halum ECA yan ni risponsibilidátña i Bisnis.

Yan más, i regulasió n siha prumubeni na i “commercial competition” gi Islan Mañagáha siempri manmalaknus yan pribeni na i prinsipát na Bisnis guiya gai direchu para u opera tod u “commercial concessions,” láo ti kláru i difina i klásin cho'chu' na aktibidát kumisiat yan i bisnis humálum gi halum esti na direchu. I rinibibisan regulasió n siempri ha klaruyi na esti i guiya gai direchu para u kondukta osino opera maseha háfa na “tour” pat aktibidát gi Isla pat hinanao ginen i Isla, kuntuodu láo to limitá para aktibidát sanpapa' yan sanhilu' hánun siha.

SITASIÓ N NU I MANINAFEKTA NA REGULASIÓ N SIHA: I manmapropo ni na amenda siha siempri ha ribisa i maneksissisti na lingguáhi regulatori gi halum i sigienti na regulasió n:

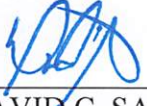
NMIAC § 145-30-015 Sustansian i palabra siha
NMIAC § 145-30-101 Usu yan Pribilehu siha

DIREKSIÓN PARA I PINE'LU YAN I PUPBLIKASIÓN: I manmaproponi na amenda debi di u mapupblika gi halum i Rehistran Commonwealth gi halum seksion ni manmaproponi yan mannuebu ma'adapta na regulasi3n siha (1 CMC § 9201(a)(1)) ya u mapega gi halum kumbinienti na lugat siha giya i civic center yan gi halum ufinan gubietnu gi kada distritun senatorial, parehu Inglis yan i dos na lingguahi natibu (1 CMC § 9104(a)(1)).

UPIÑON SIHA: I manintiresao na pattida siña ma'intrega hulum i tinigi' upiñon gi manmaproponi na amenda siha guatu gi as Teresita A. Santos, i Sekretarian i Dipattamentun Tanu' Pupbliku, gi sigienti siha na address, fax, osino email address, yan i suhetu na rason "Manmaproponi na Amenda gi Areklamentu yan Regulasi3n i Usun Kumisiat nu Islan Mañagaha".

DEPARTMENT OF PUBLIC LANDS
PO Box 500380, Saipan, MP 96950
Fax: (670) 234-3755
Email: dpl@dpl.gov.mp


I upiñon siha debi di u manahulum gi halum trenta dihas (30) i kalendariu ginen i fetchan pupblikasi3n esti na nutisia. 1 CMC § 9104(a)(2)

Nina'hulum as: 

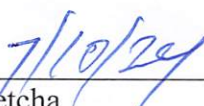
DAVID C. SABLAN
Special Advisor, DPL




Fetcha

Rinisibi as: 


OSCAR M. BABAUTA
Ispisiat na Ayudanti para Atministrasi3n



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Pine'lu yan
Ninota as: 

ESTHER R.M. SAN NICOLAS
Rehistran Commonwealth




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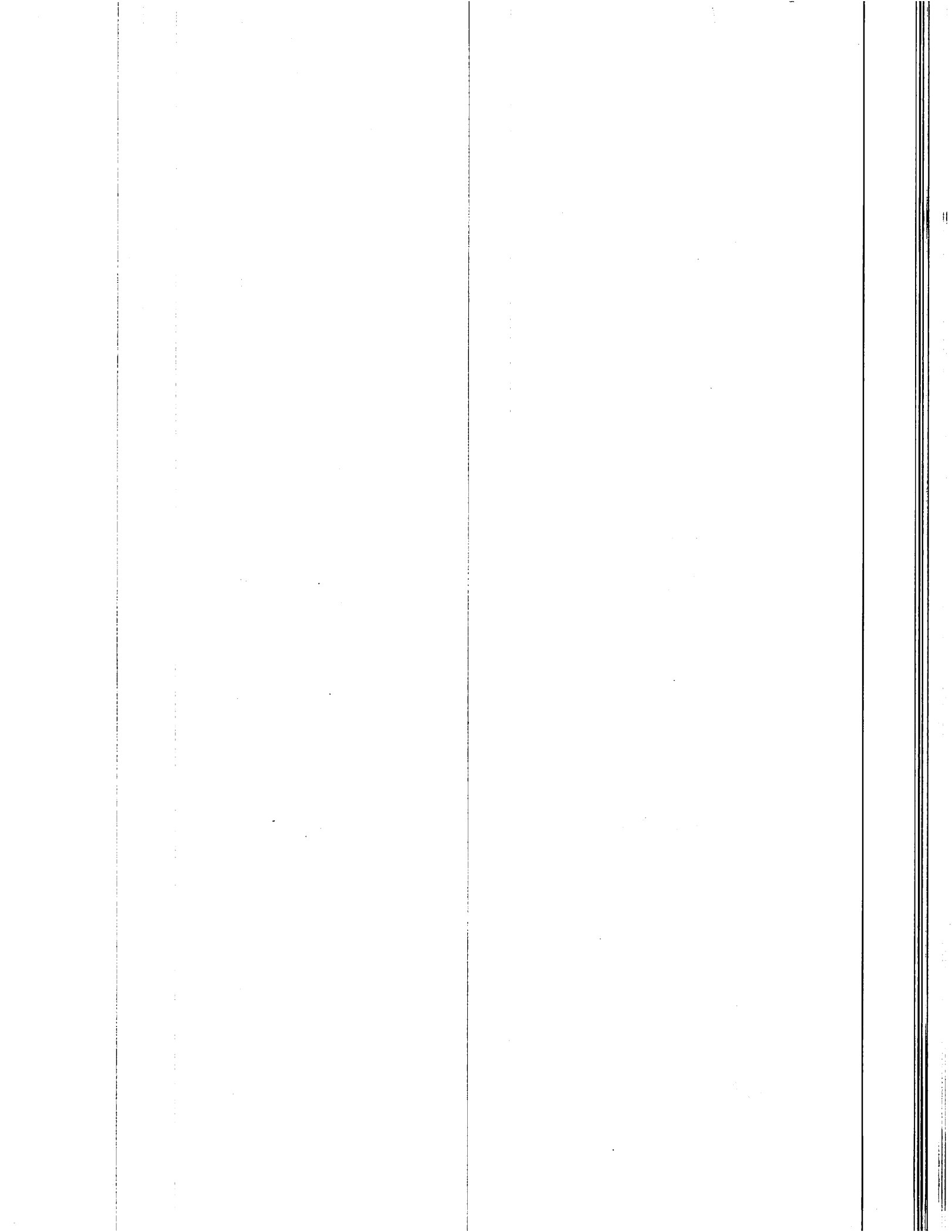
Sigun i 1 CMC § 2153(e) yan i 1 CMC § 9104(a)(3) i manmaproponi na amenda siha para i Areklamentu yan Regulasi3n i "Administrative Hearing Procedure" ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligat ginen i CNMI Abugadu Henerat yan debi na u mapupblika, 1 CMC § 2153(f).



EDWARD MANIBUSAN
Abugadu Henerat



Fetcha





CNMI DEPARTMENT OF LABOR



ADMINISTRATIVE HEARING OFFICE



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In Re Matter of:)	PUA Case No. 23-0246
)	
Rico Yumul,)	
)	
Appellant,)	ADMINISTRATIVE DECISION
)	
v.)	
)	
CNMI Department of Labor,)	
)	
Appellee.)	
)	

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on May 16, 2024 at approximately 9:00 a.m. at the Administrative Hearing Office, Saipan. Appellant Rico Yumul (“Appellant”) was present and self-represented. Appellee CNMI Department of Labor (“Appellee” or “Department”) was present and represented by PUA Adjudication Team Leader Naomi Camacho and PUA Adjudication Supervisor Joseph Pangelinan.

Based on the applicable law, parties’ arguments, and evidence presented,¹ the Department’s Determination dated June 28, 2023 is **AFFIRMED**. Appellant is not eligible for benefits for the period of March 28, 2021 to September 4, 2021.

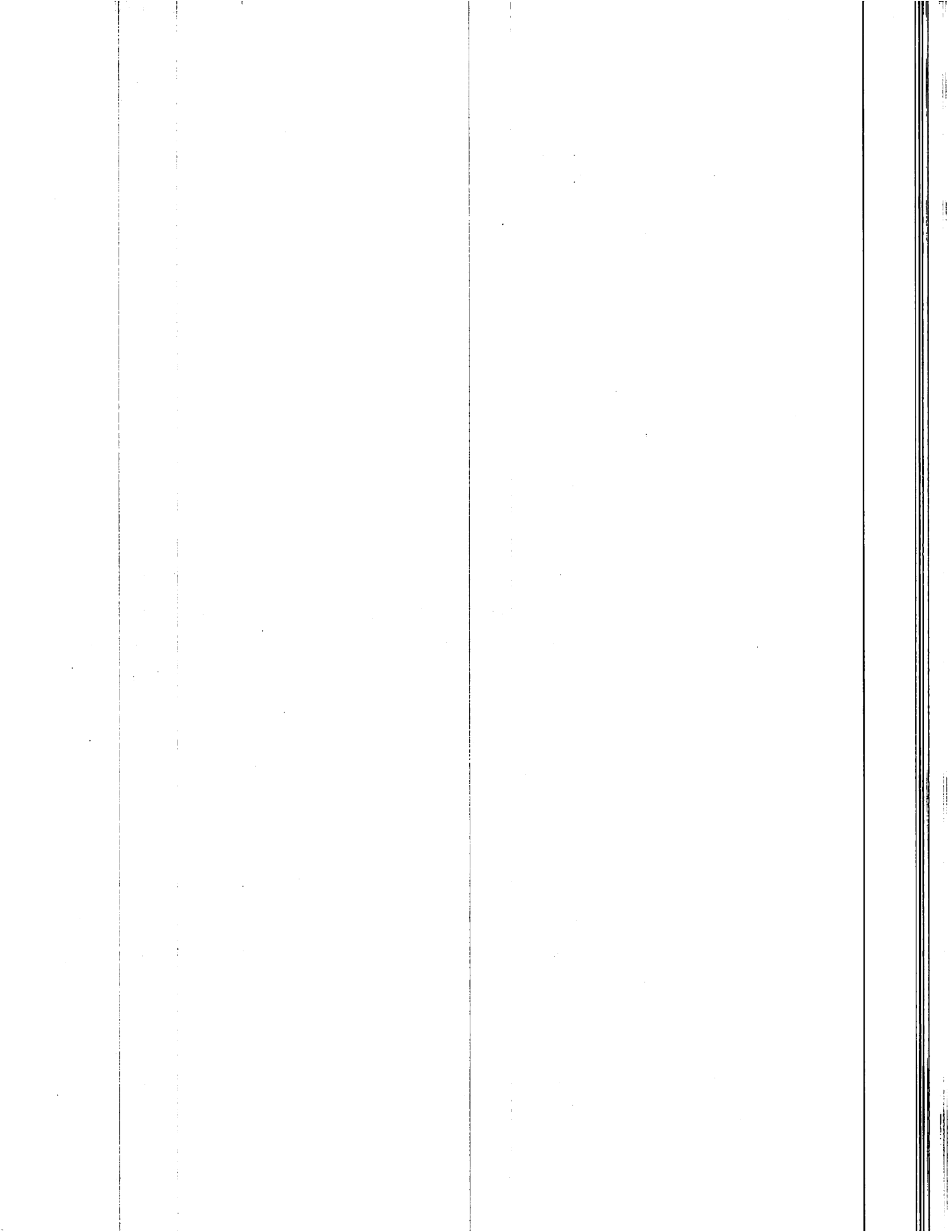
II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security (“CARES”) Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance (“PUA”)² and Federal Pandemic Unemployment Compensation (“FPUC”).³ On December 27, 2020, the Continued Assistance for Unemployed

¹ A list of the documents that were admitted into evidence at the hearing is appended to the end of this Order.

² See Section 2102 of the CARES Act of 2020, Public Law 116-136.

³ See Section 2104 of the CARES Act of 2020, Public Law 116-136.



1 Workers Act of 2020 (“Continued Assistance Act”) amended and created new provisions of said
2 federal unemployment insurance programs, which, among other things, extended the PUA and
3 FPUC programs to March 13, 2021.⁴ On March 11, 2021, the American Rescue Plan Act of 2021
4 (“ARPA”) extended the programs to September 6, 2021. The CNMI Department of Labor is
5 charged with the responsibility in administering the above-mentioned programs in the CNMI in
6 accordance to applicable law.⁵ The CNMI Department of Labor Administrative Hearing Office
7 has been designated to preside over appeals of agency decisions.

8 Upon review of the records, Appellant filed a claim to receive PUA benefits and was
9 ultimately denied. Appellant timely appealed the Department’s disqualifying determination.
10 Accordingly, jurisdiction is established.

11 III. PROCEDURAL BACKGROUND & ISSUES

12 Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon
13 review of Appellant’s application and supporting documents, the Department issued a
14 Disqualifying Determination on June 28, 2023. Based on the June 28, 2023 Disqualifying
15 Determination, the Department found that Appellant failed to show he was a US Citizen,
16 Noncitizen National or Qualified Alien during the relevant time period. For that reason, the
17 Department disqualified Appellant from March 28, 2021 to September 4, 2021.

18 On July 10, 2023, Appellant filed the present appeal and the matter was scheduled for a
19 hearing. In preparation for the hearing, the parties were ordered to file a prehearing statement
20 and proposed exhibits. The Department filed a Prehearing Statement and 10 proposed exhibits on
21 November 2, 2023.⁶ Appellant did not file a prehearing statement or any proposed exhibits.⁷

22 As stated in the Notice of Hearing, the issues on appeal are:

- 23 (1) Whether the appeal is timely filed;
- 24 (2) Whether Appellant is eligible to receive PUA benefits during the disqualified period; and
- 25 (3) Whether an overpayment occurred necessitating the return of funds.

26 ⁴ See Consolidated Appropriations Act, 2021, Division N, Title II, Subtitled A (“Continued Assistance for
Unemployed Workers Act of 2020” or “Continued Assistance Act”).

27 ⁵ Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI
Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state
28 law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

⁶ During the hearing, the Department offered an additional exhibit and Appellant did not object to its admission.

⁷ Upon inquiry, Appellant confirmed he had no other documents for the undersigned to consider.

IV. FINDINGS OF FACT

In consideration of the evidence admitted and credibility of witness testimony, the undersigned issues the following findings of fact:

1. Prior to the COVID-19 Public Health Emergency, Appellant was living and working in the CNMI.⁸
2. Specifically, Appellant worked full time as a Maintenance Technician at Hyatt Regency, Saipan (“Employer”) from February 1, 2011 to February 30, 2020.⁹
3. Appellant is a Philippine National with employment authorization to work in the CNMI.¹⁰
4. Appellant was authorized to work for Employer as a Commonwealth Only Transitional Worker (“CW-1”) from December 4, 2019 to September 30, 2020.¹¹
5. In light of the reduced tourism during the pandemic, Employer needed to adjust its staffing levels and decided not to submit a petition to renew Appellant’s CW-1 status beyond September 30, 2020.¹² Employer terminated Appellant, effective October 1, 2020.¹³
6. On or around July 10, 2020, Appellant applied for employment authorization under Category C37.¹⁴
7. On or around June 5, 2021, Appellant filed a claim for PUA benefits.¹⁵
8. On or around June 16, 2021, Appellant’s application for employment authorization under Category C37 was approved.¹⁶ Appellant’s C37 employment authorization is valid from June 15, 2021 to June 14, 2026.¹⁷
9. The Department verified Appellant’s status and employment authorization, as described above, with USCIS.
10. Aside from the above-stated status and employment authorization, Appellant had no other immigration status or employment authorization during the denial period. Appellant does not dispute the status and employment authorization history, as described above.

⁸ See Exhibit 1.

⁹ Exhibit 1; Exhibit 5.

¹⁰ Exhibit 2.

¹¹ Exhibit 3.

¹² Exhibit 4; Exhibit 5.

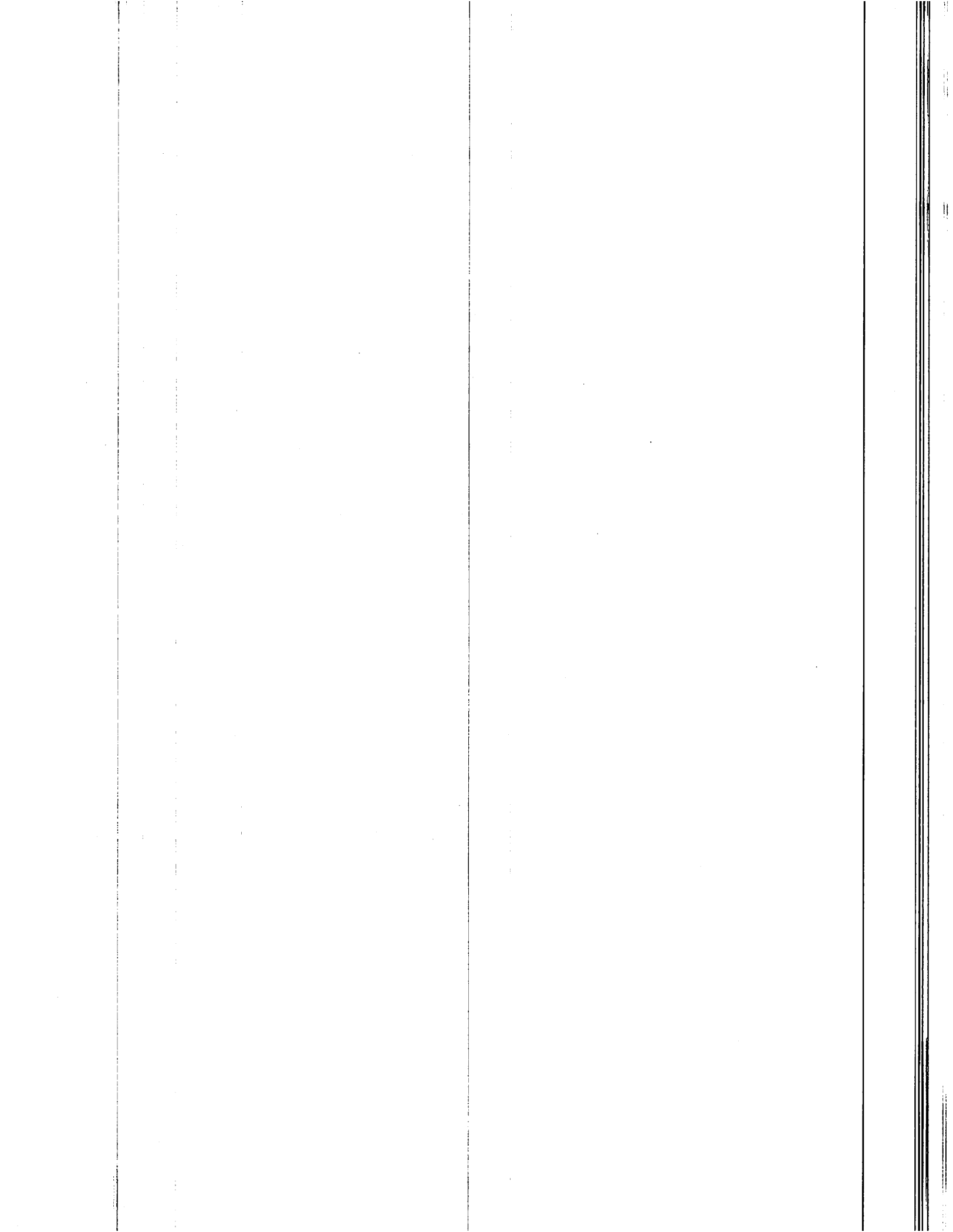
¹³ Exhibit 5.

¹⁴ Exhibit 6

¹⁵ Exhibit 1.

¹⁶ Exhibit 6.

¹⁷ Exhibit 6 and 2.



1 11. On or around June 28, 2023, the Department issued a Disqualifying Determination.¹⁸ The
2 Disqualifying Determination¹⁹ provided:

- 3 a. Appellant failed to show he was a US Citizen, Noncitizen National, or Qualified
4 Alien eligible for PUA benefits from March 28, 2021 to September 4, 2021;
5 b. Appellant was disqualified from March 28, 2021 to September 4, 2021; and
6 c. Appellant's ten-day deadline to appeal was July 8, 2023.

7 12. The Disqualifying Determination was served to Appellant through the online portal and
8 through an internal message.

9 13. Based on the Department's usual practice, the Department called Appellant to inform him
10 that the Disqualifying Determination was available online and he could pick up a hardcopy
11 at the PUA office.

12 14. Appellant did not have access to a computer. Appellant relied on a friend to access the
13 determination electronically. The friend informed Appellant that he was disqualified and
14 had time to file an appeal.

15 15. Additionally, the Appellant's appeal rights and appeal instructions were publicly
16 available.

- 17 a. The appeal deadline and appeal rights were included on the Disqualifying
18 Determination.²⁰
19 b. The appeal deadline and appeal rights were included in the Benefit Rights
20 Information Handbook—which claimants are responsible for reading.²¹
21 c. The appeal rights and instructions were included on the Appeal Forms, publicly
22 available on the Department website.²²
23 d. The appeal rights, deadline, and instructions were advertised in news articles
24 generally circulated in Saipan.²³

25 16. Appellant filed the appeal on July 10, 2023, after the ten-day deadline. Appellant
26 explained that he filed late due to the language barrier and lack of understanding.

26 ¹⁸ Exhibit 7.

27 ¹⁹ *Id.*

28 ²⁰ *Id.*

²¹ Exhibit 8.

²² See Appeal filing.

²³ Exhibit 9.

1 17. Upon filing the appeal, the Department confirmed that there is no outstanding
2 overpayment issue to resolve.²⁴

3 18. The Appeal does not adequately set forth or address the basis of appeal.

4 19. During the hearing, Appellant generally disagreed with the Department's Disqualifying
5 Determination but could not offer a factual or legal reason why the Determination should
6 be reversed. Further, Appellant did not dispute his status.

7 V. CONCLUSIONS OF LAW

8 In consideration of the above-stated findings and applicable law, the undersigned issues the
9 following conclusions of law:

10 1. **Appellant's appeal was timely filed.**

11 Generally, an appeal should be filed within ten days after the Notice of Determination was
12 issued or served to the claimant. However, the Department may extend the period to thirty days
13 by a showing of good cause.²⁵ Good cause means: (1) illness or disability; (2) keeping an
14 appointment for a job interview; (3) attending a funeral of a family member; and (4) any other
15 reason which would prevent a reasonable person from complying as directed.²⁶

16 Here, Appellant had both constructive and actual notice of the Determination and his appeal
17 rights. However, due to the language barrier and other limitations, Appellant experienced
18 difficulty in filing his appeal and missed the ten-day deadline. In light of the language barrier and
19 other limitations, the undersigned finds good cause for an extension. Based on the 30-day good
20 cause extension, Appellant's appeal is timely filed.

21 2. **Appellant is not a U.S. Citizen, Non-citizen National, or Qualified Alien during the 22 disqualified period.**

23 PUA and FPUC are federal public benefits as defined by 8 USC §1611(c). As a condition of
24 eligibility for any federal public benefit, the claimant must be a US Citizen, Noncitizen National,
25 or "qualified alien" at the time relevant to the claim. 8 USC §1611(a). Pursuant to 8 USC §1641,
26 the term "qualified alien" is:

- 27 1. An alien admitted for permanent residence under the Immigration and Nationality Act
28 (INA);

²⁴ Exhibit 10.

²⁵ HI. Rev. Statute § 383-38(a).

²⁶ HAR § 12-5-81(j).

- 1 2. An alien granted asylum under § 208 of the INA;
- 2 3. A refugee admitted to the US under § 207 of the INA;
- 3 4. An alien paroled into the US under § 212(d)(5) of the INA for at least one year;
- 4 5. An alien whose deportation is being withheld under § 243(h) of the INA ... or whose
5 removal is being withheld under § 241 (b)(3) of the INA;
- 6 6. An alien granted conditional entry pursuant to § 203 (a)(7) of the INA;
- 7 7. An alien who is a Cuban or Haitian entrant as defined in § 501(e) of the Refugee
8 Education Assistance Act of 1980; or
- 9 8. An alien who (or whose child or parent) has been battered or subject to extreme cruelty
10 in the U.S. and otherwise satisfies the requirements of § 431(c) of the Act.

11 Further, Section 265 of the Continued Assistance Act provides that a Commonwealth Only
12 Transitional Worker (CW-1) shall be considered a qualified alien for purposes of eligibility under
13 the PUA and FPUC programs. As provided in UIPL 16-20, change 4, page I-16, “CW-1 workers
14 may receive PUA and FPUC if they meet all PUA eligibility requirements beginning with claims
15 filed after December 27, 2020 (*i.e.*, claim effective dates beginning on or after January 3, 2021).”

16 Appellant does not meet this requirement because he was not a U.S. Citizen, Noncitizen
17 National, or Qualified Alien during the denial period of March 28, 2021 to September 4, 2021.
18 Further, while Appellant may generally disagree for the denial, Appellant fails to provide
19 sufficient evidence to show the reason for denial was either factually or legally incorrect.

20 Appellant is not a US Citizen or Noncitizen national. Instead, Appellant is a Philippine
21 National with temporary employment authorization to work in the CNMI.

22 Appellant is not a qualified alien. Based on the record and admitted exhibits, Appellant’s CW-
23 1 Petition Approval was valid from December 4, 2019 to September 30, 2020. Following a 180day
24 grace period, Appellant had no status from week ending March 28, 2021 to June 14, 2021. Then,
25 effective June 15, 2021 to present, Appellant received employment authorization under Category
26 C37. Notably, a CNMI Long Term Resident with the corresponding employment authorization
27 under Category C37 does not meet the Qualified Alien definitions above.

28 In sum, based on the applicable law and record, Appellant was not a US Citizen, Noncitizen
National or Qualified Alien during the denial period. For this reason, Appellant failed to meet his
burden to prove eligibility for PUA benefits.

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VI. DECISION

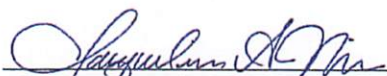
For the reasons stated above, it is ORDERED that:

1. The CNMI Department of Labor's Disqualifying Determination, dated June 28, 2023, is **AFFIRMED**;
2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of March 28, 2021 to September 4, 2021.

If a party is aggrieved by this Order and would like to contest the decision, he or she must submit a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5-93. The written request should be supported by legal, factual, or evidentiary reasons to reopen the decision. The written request must be submitted to the Administrative Hearing Office, either in person at 1331 Ascencion Drive, Capitol Hill Saipan MP 96950 or via email at hearing@dol.gov.mp.

In the event a request to reopen the decision is granted, the matter shall be scheduled for a subsequent hearing. In the event a request to reopen the decision is denied, or if the Appellant still disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI Superior Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms, filings fees, and filing deadlines for judicial review will be as established by the applicable law and court rule.

So ordered this **22nd** day of May, 2024.



Jacqueline A. Nicolas
Chief Administrative Hearing Officer

Exhibits Admitted into Evidence

1. **Exhibit 1:** A copy of Appellant's Application Snapshot, filed July 5, 2021;
2. **Exhibit 2:** A copy of Appellant's Passport (valid from July 16, 2021 to July 15, 2031) and Employment Authorization Card (valid from June 15, 2021 to June 14, 2026);
3. **Exhibit 3:** A copy of Appellant's CW Approval Notice (valid from December 4, 2019 to September 30, 2020);
4. **Exhibit 4:** A copy of Appellant's Verification of Employment Form, dated March 14, 2023
5. **Exhibit 5:** A copy of Appellant's Termination Notice, dated August 13, 2020;
6. **Exhibit 6:** A copy of Appellant's Employment Authorization Application and Approval Notice (valid from June 15, 2021 to June 14, 2026);
7. **Exhibit 7:** A copy of the Department's Determination, dated June 28, 2023
8. **Exhibit 8:** A copy of the PUA Benefit Rights Information Handbook;
9. **Exhibit 9:** A copy of News Articles, dated October 15, 2020 and October 16, 2020;
10. **Exhibit 10:** A copy of BPC's email communication, dated October 24, 2023

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CNMI DEPARTMENT OF LABOR



ADMINISTRATIVE HEARING OFFICE



In Re Matter of:)	PUA Case No. 23-0247
)	
Mayleen Aguon,)	
)	
Appellant,)	ADMINISTRATIVE DECISION
)	
v.)	
)	
CNMI Department of Labor,)	
)	
Appellee.)	

I. INTRODUCTION

This matter came before the undersigned for an Administrative Hearing on May 23, 2024 at approximately 9:00 a.m. at the Administrative Hearing Office, Saipan. Appellant Mayleen Aguon¹ (“Appellant”) was present and self-represented. Appellee CNMI Department of Labor (“Appellee” or “Department”) was present and represented by PUA Adjudication Team Leader Emelda Camacho and PUA BPC Auditor Jennifer Cabrera.²

Based on the applicable law, parties’ arguments, and evidence presented,³ the Department’s Determination dated April 20, 2023 is **AFFIRMED**. Appellant is not eligible for benefits for the period of April 12, 2020 to September 4, 2021.

II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security (“CARES”) Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance (“PUA”)⁴ and Federal Pandemic Unemployment

¹ Appellant’s parents Don Aguon and Margarita Taman were also present to observe the proceedings.

² Department’s BPC PUA Management Analyst Vincent Sablan and Adjudication PUA Management Analyst Joseph Pangelinan were also present to observe the proceedings.

³ A list of the documents that were admitted into evidence at the hearing is appended to the end of this Order.

⁴ See Section 2102 of the CARES Act of 2020, Public Law 116-136.

1 Compensation (“FPUC”).⁵ On December 27, 2020, the Continued Assistance for Unemployed
2 Workers Act of 2020 (“Continued Assistance Act”) amended and created new provisions of said
3 federal unemployment insurance programs, which, among other things, extended the PUA and
4 FPUC programs to March 13, 2021.⁶ On March 11, 2021, the American Rescue Plan Act of 2021
5 (“ARPA”) extended the programs to September 6, 2021. The CNMI Department of Labor is
6 charged with the responsibility in administering the above-mentioned programs in the CNMI in
7 accordance to applicable law.⁷ The CNMI Department of Labor Administrative Hearing Office
8 has been designated to preside over appeals of agency decisions.

9 Upon review of the records, Appellant filed a claim to receive PUA benefits and was
10 ultimately denied. Appellant did not timely appeal the Department’s disqualifying determination.
11 Accordingly, jurisdiction is not established.

12 III. PROCEDURAL BACKGROUND & ISSUES

13 Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon
14 review of Appellant’s application and supporting documents, the Department issued a
15 Disqualifying Determination on April 20, 2023. Based on the April 20, 2023 Disqualifying
16 Determination, the Department found that Appellant’s reason for unemployment did not fall
17 under the eligibility requirement of employment interruption. For that reason, the Department
18 disqualified Appellant from April 12, 2020 to September 4, 2021.

19 On July 11, 2023, Appellant filed the present appeal and the matter was scheduled for a
20 hearing. In preparation for the hearing, the parties were ordered to file a prehearing statement
21 and proposed exhibits. On October 31, 2023, the Department filed a Prehearing Statement and
22 proposed exhibits. The Department filed additional exhibits on May 16, 2024 and May 21, 2024.
23 Appellant did not file a prehearing statement or any proposed exhibits.⁸

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26 ⁵ See Section 2104 of the CARES Act of 2020, Public Law 116-136.

27 ⁶ See Consolidated Appropriations Act, 2021, Division N, Title II, Subtitled A (“Continued Assistance for
Unemployed Workers Act of 2020” or “Continued Assistance Act”).

28 ⁷ Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI
Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state
law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

⁸ Appellant provided additional medical records during the hearing.

1 As stated in the Notice of Hearing, the issues on appeal are:

- 2 (1) Whether the appeal is timely filed;
3 (2) Whether Appellant is eligible to receive PUA benefits during the disqualified period; and
4 (3) Whether an overpayment occurred necessitating the return of funds.

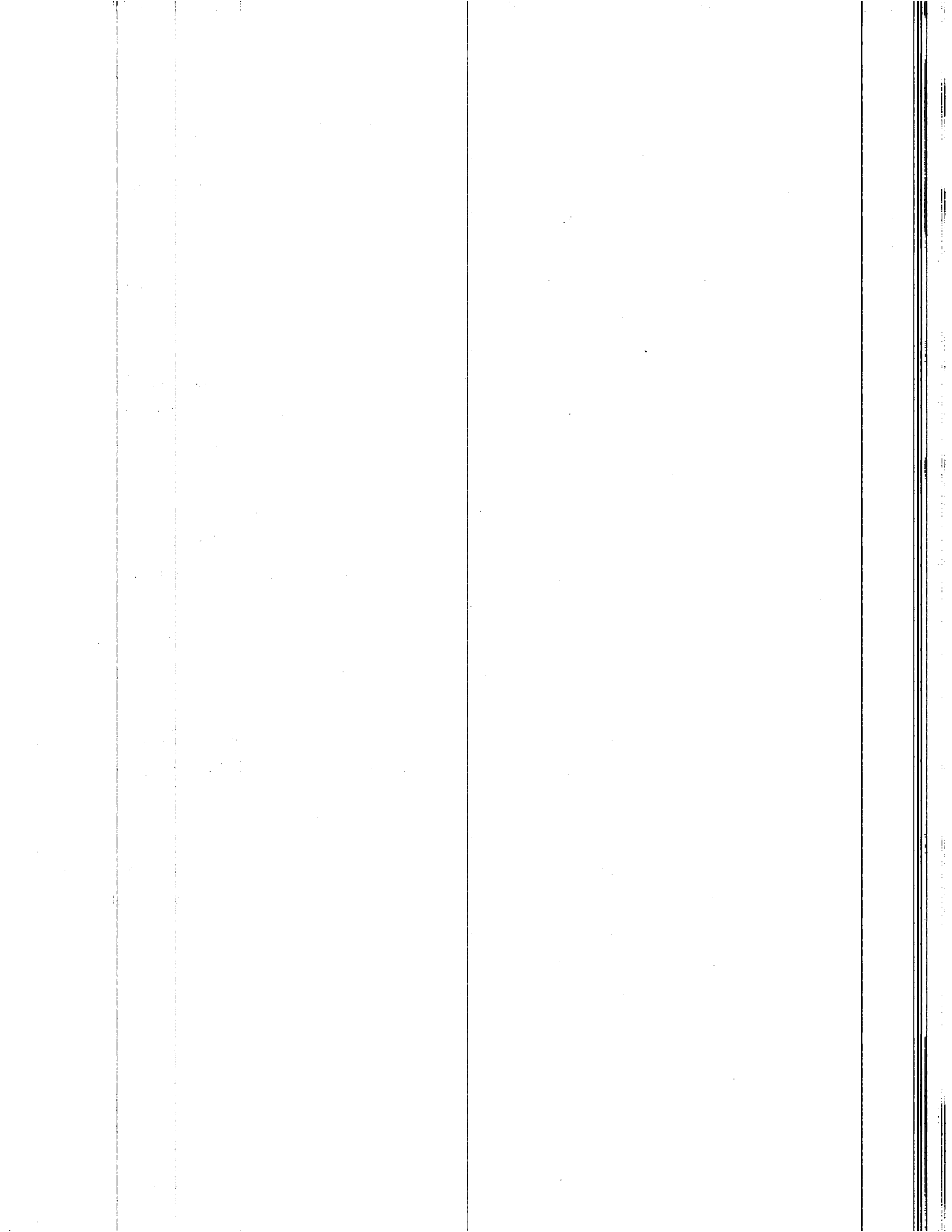
5 **IV. FINDINGS OF FACT**

6 In consideration of the evidence admitted and credibility of witness testimony, the undersigned issues the following findings of fact:

- 7 1. Appellant is a US citizen living and working in the CNMI.⁹
8 2. Prior to the COVID-19 Public Health Emergency, Appellant worked full time as a
9 Security Guard for G4S Secure Solutions (“Employer”) from October 2, 2019 to April 15,
10 2020.¹⁰ During the relevant time period, Appellant was assigned to guard Kensington
11 Hotel (Hotel).
12 3. Appellant was diagnosed with asthma since childhood and continues to suffer from her
13 condition today. Due to asthma, Appellant can experience symptoms like inability to
14 breath and tightness in the chest. Appellant has an inhaler to help abate the symptoms
15 when her asthma flares up.
16 4. Appellant’s asthma did not prevent her from working normal duties as a security guard.
17 When Appellant would experience symptoms, Appellant used her inhaler and shortly after
18 would be able to continue working.
19 5. To her knowledge, Employer and Hotel followed local and federal guidance to provide a
20 safe workplace. Specifically, Appellant was provided protective N95 masks and sanitizer.
21 While the office she worked in was small, it was not overcrowded as guards were stationed
22 and patrolling in varying areas of Hotel.
23 6. Regardless, Appellant was scared to work because she had to be near incoming tourists
24 traveling into the CNMI. Appellant believed that being near the tourists would put her at
25 greater risk of contracting COVID-19. Appellant was scared to work in fear of contracting
26 COVID-19 and exacerbating her asthma symptoms.
27 7. Appellant discussed her fears with her father. Together, they decided that Appellant
28 should quit her job.

⁹ Exhibit 1 and 2

¹⁰ Exhibit 3



- 1 8. Appellant voluntarily quit her job. Appellant's last day of work was April 15, 2020.¹¹
2 Appellant submitted a resignation letter on April 18, 2020.¹²
- 3 9. Appellant's sole reason for quitting was because she was generally scared of contracting
4 COVID-19.
5 a. Appellant did not consult her doctor prior to quitting.
6 b. A doctor did not advise Appellant to quit her job.
7 c. Appellant was not exhibiting symptoms or otherwise diagnosed with COVID-19
8 prior to quitting.
9 d. Appellant was not ordered to quarantine or advised to self-quarantine prior to
10 quitting.
- 11 10. Appellant did not consider options or request accommodations that would allow her to
12 continue working—such as reassignment or relocation.
- 13 11. On or around April 20, 2023, upon consideration of Appellant's employment and medical
14 records, the Department issued a Disqualifying Determination. The Disqualifying
15 Determination provided:
16 a. Appellant failed to show her unemployment was affected as a direct cause of a
17 qualifying COVID-19 reason;
18 b. Appellant was disqualified from April 12, 2020 to September 4, 2021; and
19 c. Appellant's ten-day deadline to appeal was April 30, 2023.
- 20 12. The Disqualifying Determination was served to Appellant through the online portal and
21 through an internal message.
- 22 13. Based on the Department's usual practice, the Department called Appellant to inform her
23 that the Disqualifying Determination was available online. The Adjudicator explained the
24 reason for the denial and advised that Appellant could file an appeal.
- 25 14. Appellant misunderstood the verbal appeal instructions and believed she needed to collect
26 her evidence in order to file an appeal.
- 27 15. This misunderstanding is partially due to Appellant's fault. Appellant admits she only
28 skimmed the PUA Benefit Rights Handbook (BRI),¹³ which included appeal rights and

¹¹ Exhibit 3

¹² Exhibit 5

¹³ Exhibit 6

1 instructions to file an appeal.¹⁴ Also, Appellant did not fully read the determination, which
2 included instructions and the deadline to appeal, in bold, at the bottom of the first page.

3 16. The appeal rights and appeal instructions were publicly available. In addition to the
4 published BRI, the Department published applicable federal guidance, available forms,
5 and other resources on the Department's website. Moreover, the appeal rights, deadline,
6 and instructions were advertised in news articles generally circulated in Saipan.¹⁵

7 17. Appellant filed the appeal on July 11, 2023, approximately 82 days after the ten-day
8 deadline.

9 18. During the hearing, the Department confirmed that there is no outstanding overpayment
10 issue to resolve. Specifically:

- 11 a. In 2023, outgoing payments were canceled to prevent an overpayment from
12 occurring.¹⁶
- 13 b. Due to internal issues, 10% of the benefits were deducted for taxes, resulting in a
14 \$4,210.00 overpayment.¹⁷ The system paid this amount to the Department of
15 Finance. The Department of Finance has been unable to reverse the transaction.
- 16 c. To avoid penalizing the Appellant, the Department waived¹⁸ the full amount from
17 recovery. Additionally, the Department confirmed that there are no outstanding
18 tax issues.

19 V. CONCLUSIONS OF LAW

20 In consideration of the above-stated findings and applicable law, the undersigned issues the
21 following conclusions of law:

22 1. Appellant's appeal was not timely filed.

23 Generally, an appeal should be filed within ten days after the Notice of Determination was
24 issued or served to the claimant. However, the Department may extend the period to thirty days
25 by a showing of good cause.¹⁹ Good cause means: (1) illness or disability; (2) keeping an

26 ¹⁴ Claimants are responsible for reading the PUA Benefit Rights Information Handbook. *See* Exhibit 1.

27 ¹⁵ Exhibit 7

28 ¹⁶ Exhibit 8

¹⁷ Exhibit 9

¹⁸ *Id.*

¹⁹ HI. Rev. Statute § 383-38(a).

1 appointment for a job interview; (3) attending a funeral of a family member; and (4) any other
2 reason which would prevent a reasonable person from complying as directed.²⁰

3 Appellant's appeal was not timely filed. The Determination was issued and served to
4 Appellant on April 20, 2023. Appellant was provided more than adequate notice of the
5 Determination when the Department served the Determination electronically and verbally
6 notified Appellant of the Determination. However, Appellant did not file the appeal until July 11,
7 2023. When asked why the appeal was filed late, Appellant stated she misunderstood the
8 instructions and did not know there was a deadline. Appellant's justification is not persuasive.
9 Appellant is not entitled to a good cause extension because of her inaction and failure to follow
10 instructions as provided in the Determination, Appeal Form, Benefit Payment Information
11 Handbook, published news articles, and other public resources available.

12 Since the appeal was not timely filed, the remaining issues are not reviewable and the
13 Department's Determination is **FINAL**.

14 VI. DECISION

15 For the reasons stated above, it is ORDERED that:

- 16 1. The CNMI Department of Labor's Disqualifying Determination, dated April 20, 2023, is
17 **AFFIRMED**;
- 18 2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of April 12,
19 2020 to September 4, 2021.

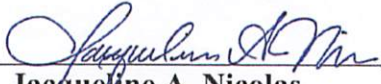
20 If a party is aggrieved by this Order and would like to contest the decision, he or she must
21 submit a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5-93. The
22 written request should be supported by legal, factual, or evidentiary reasons to reopen the
23 decision. The written request must be submitted to the Administrative Hearing Office, either in
24 person at 1331 Ascencion Drive, Capitol Hill Saipan MP 96950 or via email at
25 hearing@dol.gov.mp.

26 In the event a request to reopen the decision is granted, the matter shall be scheduled for a
27 subsequent hearing. In the event a request to reopen the decision is denied, or if the Appellant
28 still disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI
Superior Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms,

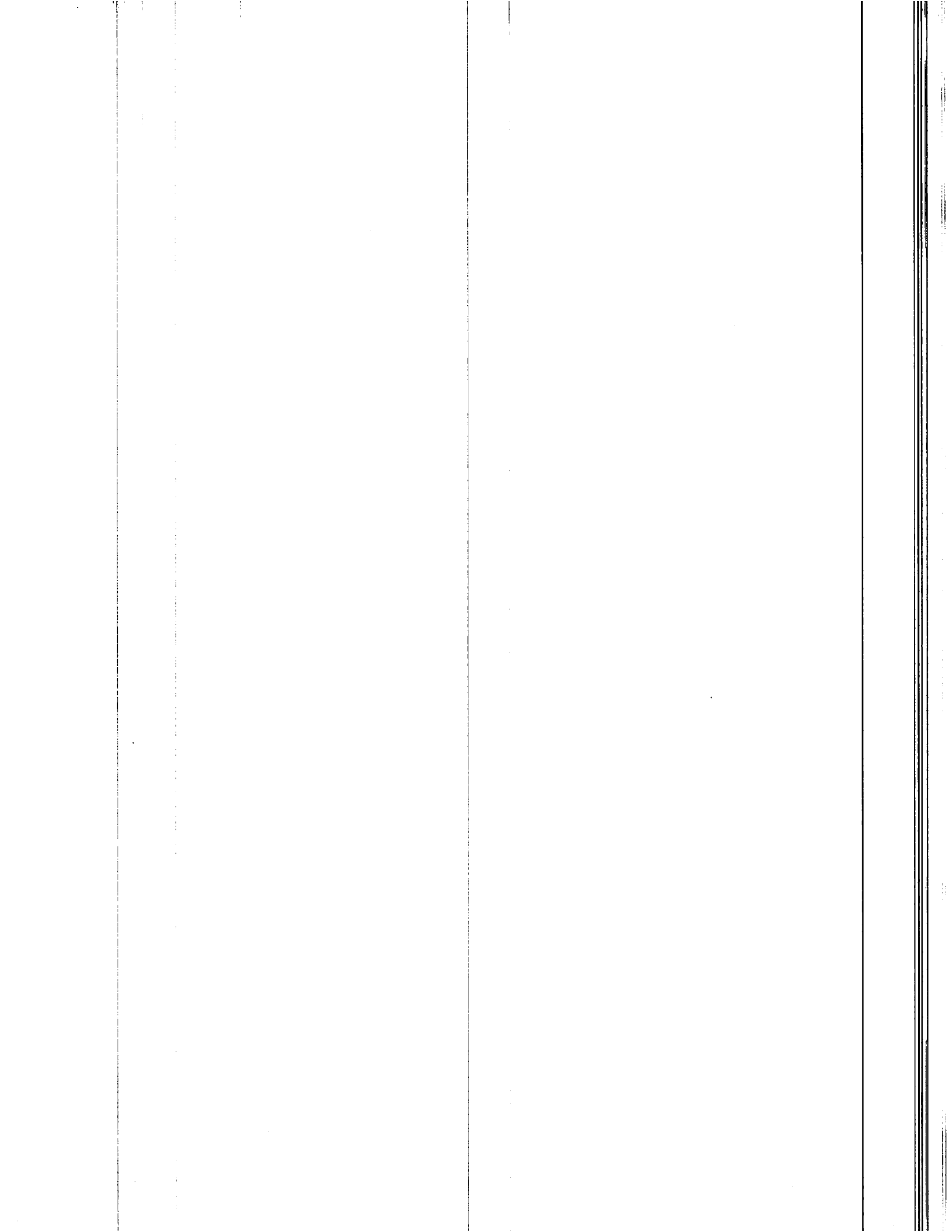
²⁰ HAR § 12-5-81(j).

1 filings fees, and filing deadlines for judicial review will be as established by the applicable law
2 and court rule.

3 So ordered this **29th** day of May, 2024.

4 
5 **Jacqueline A. Nicolas**
6 Chief Administrative Hearing Officer

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Exhibits Admitted into Evidence

1. **Exhibit 1:** A copy of Appellant's Application Snapshot, filed December 1, 2021;
2. **Exhibit 2:** A copy of Appellant's Initial Application;
3. **Exhibit 3:** A copy of Appellant's Verification of Employment Form, dated July 27, 2022;
4. **Exhibit 4:** A copy of the Department's Determination, dated April 20, 2023
5. **Exhibit 5:** Appellant's resignation letter dated April 18, 2020;
6. **Exhibit 6:** A copy of the PUA Benefit Rights Information Handbook;
7. **Exhibit 7:** A copy of News Articles, dated October 15, 2020 and October 16, 2020;
8. **Exhibit 8:** A copy of BPC's email communication, dated October 23, 2023;
9. **Exhibit 9:** A copy of the Department's BPC Notice of Overpayment and Waiver dated May 10, 2024;
10. **Exhibit 10:** A copy of Appellant's Notarized Self Statement, dated March 3, 2023; and
11. **Exhibit 11:** A copy of Appellant's Medical Record and Doctors notes, dated February 23, 2022 and March 16, 2022.

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CNMI DEPARTMENT OF LABOR

ADMINISTRATIVE HEARING OFFICE

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5 In Re Matter of:) PUA Case No. 23-0250
6 Jose T. Reyes,)
7 Appellant,) ADMINISTRATIVE DECISION
8 v.) GRANTING APPELLANT'S REQUEST
9 CNMI Department of Labor,) FOR DISMISSAL
10 Appellee.)
11)
12)

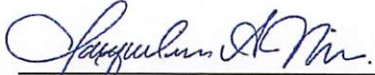
13 Pursuant to Appellant's Request to Appeal, this matter was scheduled for an
14 Administrative Hearing for June 13, 2024 at 9:00 a.m. at the Administrative Hearing Office in
15 Saipan. On June 4, 2024, Appellant filed a written request to voluntarily withdraw his appeal.
16 Specifically, Appellant is no longer interested in contesting the Department's disqualifying
17 determination dated July 20, 2023 because the Department has fully waived recovery of the
18 associated overpayment. In support of the request, Appellant includes a fully executed Notice of
19 Overpayment and Waiver. The Department has no objections to the dismissal.

20 Upon review of the filings, the undersigned notes what appears to be a number of missteps
21 by the Department. First, Appellant was denied unemployment benefits because the Employer did
22 not have or did not submit a valid business license. In support of the denial, the Department cites
23 CNMI regulatory law regarding the requirement to have a business license. This law is not
24 dispositive on the issue of eligibility. Moreover, the Department did not rely on the applicable
25 PUA law or guidance as the basis of their denial. That was improper. Second, the Department
26 does not clearly show that Appellant is eligible for a waiver. In order to be eligible for a waiver,
27 the Department must find that the overpayment occurred without fault on the Appellant and that
28 repayment would be against equity and good conscience. The Department submits conflicting
statements with regards to fault. These missteps demonstrate the Department's misapplication and
lack of understanding in the law.

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In consideration of above, the undersigned finds that dismissal is appropriate. Accordingly, this appeal is hereby **DISMISSED** and the Administrative Hearing scheduled for June 13, 2024 at 9:00 a.m. is **VACATED**. The underlying determination, dated July 20, 2023, is hereby **FINAL**. Appellant is not eligible for PUA benefits from March 1, 2020 to September 4, 2021. In the event that the Appellant disagrees with a subsequent determination or notice, Appellant may file a new appeal.

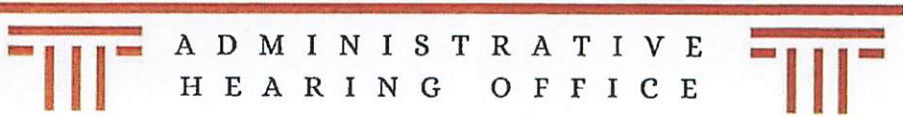
So ordered this **5th** day of June, 2024.



JACQUELINE A. NICOLAS
Chief Administrative Hearing Officer



CNMI DEPARTMENT OF LABOR



ADMINISTRATIVE
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In Re Matter of:)	PUA Case No. 24-0275
)	
Frank Sablan,)	
)	
Appellant,)	ADMINISTRATIVE ORDER
)	
v.)	
)	
CNMI Department of Labor,)	
)	
Appellee.)	
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I. INTRODUCTION

This matter came before the undersigned for an in-person Administrative Hearing on May 14, 2024 starting at approximately 9:00 a.m. at the Administrative Hearing Office in Saipan. Appellant Frank Sablan (“Appellant”) was present and self-represented. Appellee CNMI Department of Labor (“Appellee” or “Department”) was present and represented by Adjudication Team Leader Naomi Camacho and Benefit Payment Control Unit (“BPC”) Team Leader Kassandra Royal. There were no other witnesses that provided testimony at the hearing. A list of the documents admitted into evidence are appended to the end of this Order.

For the reasons stated below, the Department’s Determination dated February 9, 2024 is **AFFIRMED**. Appellant is not eligible for benefits for the period of February 16, 2020 to May 29, 2021. Further, the Department’s Notice of Overpayment, dated March 4, 2024, is **AFFIRMED**. Appellant was overpaid in the total amount of **\$30,250.00** and he is entitled only to a partial waiver for repayment of \$235.00 for week 1 (ending February 22, 2020).

II. JURISDICTION

On March 27, 2020, the Coronavirus Aid Relief and Economic Security (“CARES”) Act of 2020 was signed into law creating new temporary federal programs for unemployment benefits called Pandemic Unemployment Assistance (“PUA”)¹ and Federal Pandemic Unemployment

¹ See Section 2102 of the CARES Act of 2020, Public Law 116-136.

1 Compensation (“FPUC”).² On December 27, 2020, the Continued Assistance for Unemployed
2 Workers Act of 2020 (“Continued Assistance Act”) amended and created new provisions of said
3 federal unemployment insurance programs, which, among other things, extended the PUA and
4 FPUC programs to March 13, 2021.³ On March 11, 2021, the American Rescue Plan Act of 2021
5 (“ARPA”) extended the programs to September 6, 2021. The CNMI Department of Labor is
6 charged with the responsibility in administering the above-mentioned programs in the CNMI in
7 accordance to applicable law.⁴ The CNMI Department of Labor Administrative Hearing Office
8 has been designated to preside over appeals of agency decisions.

9 Upon review of the records, the Appellant’s appeal of the Disqualifying Determination, dated
10 February 9, 2024, and the Notice of Overpayment, dated March 4, 2024, is not timely filed.
11 Accordingly, jurisdiction is not established.

12 III. PROCEDURAL BACKGROUND & ISSUES

13 Appellant filed a claim for unemployment benefits under the PUA and FPUC programs. Upon
14 review of Appellant’s application and supporting documents, the Department issued a
15 Disqualifying Determination on February 9, 2024. On March 4, 2024, the Department issued a
16 Notice of Overpayment. On April 4, 2024, Appellant filed the present appeal and the matter was
17 scheduled for a hearing. As stated in the Notice of Hearing, the issues on appeal are: (1) whether
18 the appeal is timely filed; (2) whether Appellant is eligible for PUA; and (3) whether an
19 overpayment occurred and funds should be returned. Because Appellant is untimely in filing his
20 appeal of the Disqualifying Determination and the Notice of Overpayment, and jurisdiction is not
21 established, both the Disqualifying Determination and the Notice of Overpayment are final and
22 the latter issues are moot.

23 IV. FINDINGS OF FACT

24 In consideration of the evidence provided and credibility of witness testimony, the
25 undersigned issues the following findings of fact:

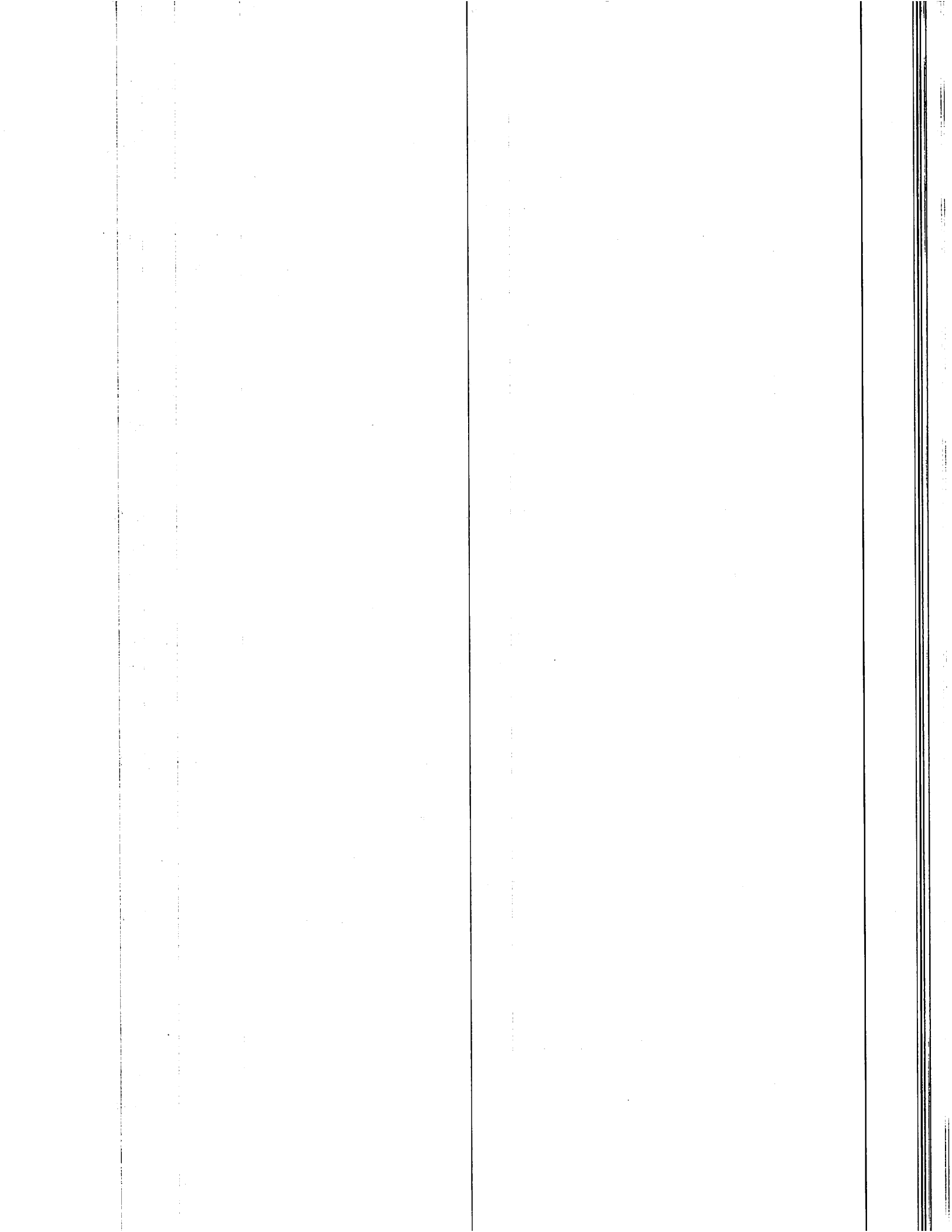
- 26 1. Prior to the COVID-19 pandemic, Appellant was employed as a Helper at R3A General
27 Services, LLC (“Employer”), located on Middle Road, Chalan Laulau, Saipan.⁵ As a

28 ² See Section 2104 of the CARES Act of 2020, Public Law 116-136.

³ See Consolidated Appropriations Act, 2021, Division N, Title II, Subtitled A (“Continued Assistance for Unemployed Workers Act of 2020” or “Continued Assistance Act”).

⁴ Pursuant to Section 2102(h) of the CARES Act of 2020 (Pub. L. 116-136) and 20 CFR § 625.2(r)(1)(ii), the CNMI Governor issued Executive Order No. 2020-09 declaring Hawaii Employment Security Law as the applicable state law in the CNMI. Hawaii state law applies, to the extent it does not conflict with applicable federal law and guidance.

⁵ Exhibits 9-10.



1 Helper, Appellant was paid \$7.50 hourly and he worked 32-40 hours per week.⁶

- 2 2. On or around June 29, 2020, Appellant submitted an initial application⁷ for unemployment
3 assistance under the PUA and FPUC programs administered by the Department. In his
4 initial application,⁸ Appellant self-certified under penalty of perjury to the following:
- 5 a. Appellant's employment was directly affected by COVID-19 when his place of
6 employment was closed as a direct result of the COVID-19 public health
7 emergency;
 - 8 b. Appellant recently received a notice of termination, layoff or military separation;
 - 9 c. Appellant's employment was affected since February 22, 2020; and
 - 10 d. Appellant understood that it was his responsibility to read the Benefit Rights
11 Information Handbook ("BRI Handbook").
- 12 3. Subsequently, on October 22, 2020 and February 19, 2021, Appellant submitted
13 applications for continued unemployment assistance under the PUA and FPUC programs.⁹
14 In these applications for continued unemployment assistance under PUA and FPUC
15 programs, Appellant self-certified to the same information as in his initial application.¹⁰
- 16 4. Appellant also submitted weekly certifications to claim continued benefits for
17 February 16, 2020 to September 19, 2020, October 18, 2020 to December 12, 2020, and
18 December 27, 2020 to February 27, 2021.¹¹ In each of his weekly certifications, Appellant
19 self-certified to the following:
- 20 a. Appellant's employment was still affected by COVID-19 because his place of
21 employment was closed as a direct result of the COVID-19 public health
22 emergency; and
 - 23 b. Appellant is able and available for work during the claimed week; and
 - 24 c. Appellant did not work (full or part-time) or earn wages during the claimed week.
- 25 5. However, in his weekly certification for week 1 (ending February 22, 2020), Appellant
26 self-certified that:

27 ⁶ *Id.*

28 ⁷ Exhibit 1.

⁸ *Id.*

⁹ *Id.*

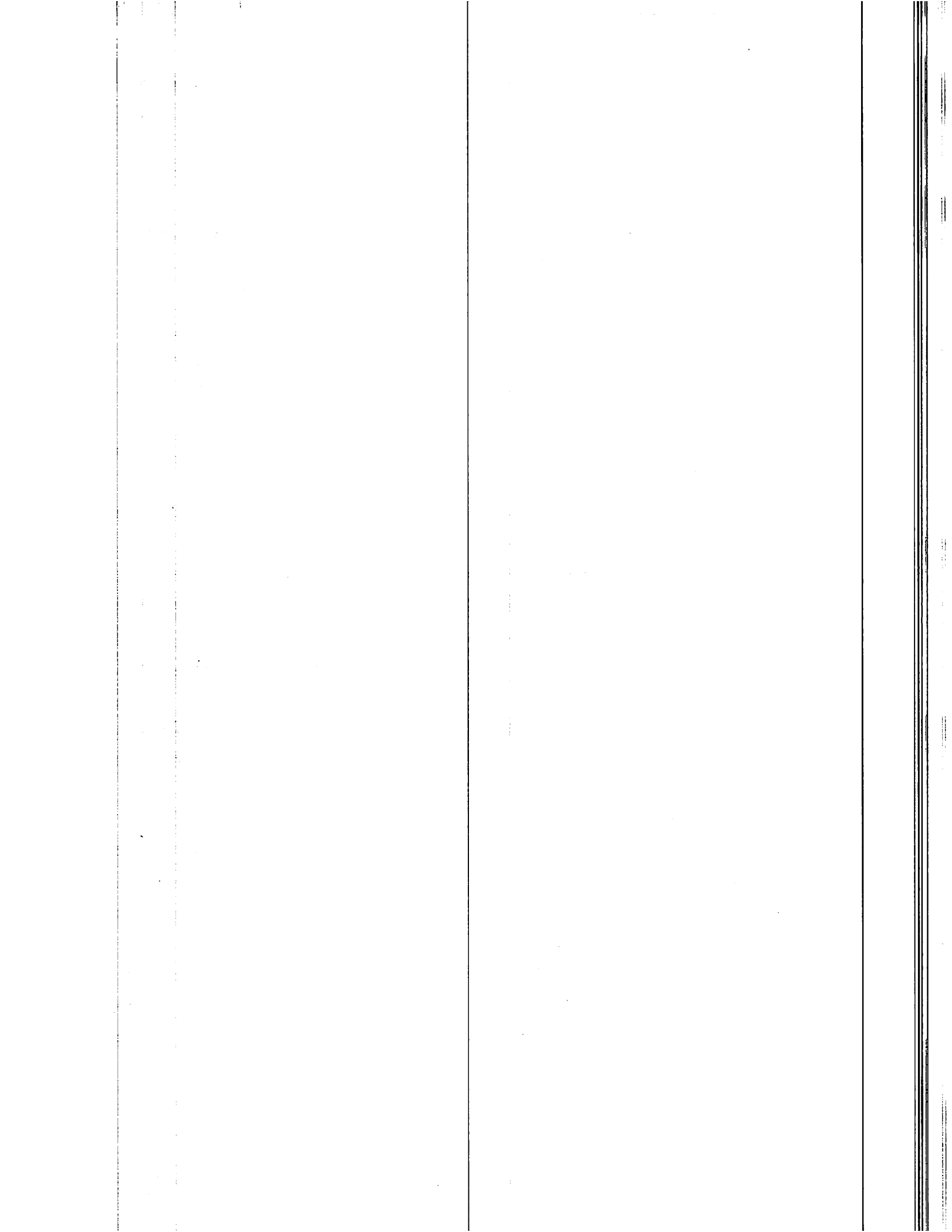
¹⁰ *Id.*

¹¹ See Exhibits 2-3.

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- a. Appellant’s employment was still affected by COVID-19 because his place of employment was closed as a direct result of the COVID-19 public health emergency;
 - b. Appellant was able and available for work during the claimed week; and
 - c. Appellant earned a gross income of \$129.76 during the week.¹²
6. The answers provided in Appellant’s applications and weekly certifications were submitted under penalty of perjury. It is Appellant’s responsibility to provide true, accurate, and complete answers. Moreover, it is Appellant’s responsibility to be informed about the program by reading the BRI Handbook and other official or published written material regarding PUA.
7. Appellant did not provide true, accurate, and complete answers in his applications and all of his weekly certifications (except for week 1). Specifically,
- a. Appellant’s employment was not closed as a direct result of the COVID-19 public health emergency.
 - b. Appellant was not terminated or laid off from employment.
 - c. Appellant’s separation from employment was not due to military or COVID-19 public health emergency.
 - d. Appellant voluntarily resigned from employment due to non-COVID-19 related reasons, effective October 2, 2021.
8. In addition, for weeks that Appellant’s worked hours were not his regular 32 to 40 hours per week, Appellant did not fulfill his hours as scheduled by his Employer due to non-COVID-19 reasons.
9. Appellant failed to be informed about the program and its requirements. Appellant did not read the BRI Handbook and other official or published written materials regarding PUA.
10. Based on the inaccurate answers that Appellant provided in his applications and weekly certifications, Appellant’s claim was processed for payment and Appellant received a total of \$30,250.00 in federal unemployment benefits by check payments to Appellant.
11. On February 9, 2024, the Department issued a determination disqualifying Appellant from PUA and FPUC benefits from February 16, 2020 to May 29, 2021 because the Department found that Appellant’s employment was not affected due to the COVID-19 pandemic.¹³

¹² Exhibit 2.
¹³ Exhibit 4.



- 1 12. On March 4, 2024, the Department issued an Initial Notice of Overpayment¹⁴ for the total
2 amount of \$30,250.00. Specifically, this overpayment amounted to \$16,450.00 in PUA
3 benefits, \$12,900.00 in FPUC benefits, and \$900.00 lost wages assistances (“LWA”). The
4 Department determined that for the weeks mentioned in the Notice of Overpayment,
5 Appellant was absent or failed to report to work, deeming Appellant “unable and
6 unavailable” to work due to non-COVID-19 reasons.¹⁵ However, the Department
7 determined that Appellant is entitled to a blanket waiver for repayment of only \$235.00
8 for week 1 (ending February 22, 2020) because Appellant fell under the blanket waiver
9 provision provided by UIPL 20-21 Change 1 by answering “no” to the question of whether
10 he is unemployed, partially employed, or unable and available.¹⁶
- 11 13. Appellant filed his appeal of the Determination on April 4, 2024.¹⁷
- 12 14. The Department provided credible testimony and supporting documents to show that
13 Appellant was informed of the disqualification and overpayment, the basis for the
14 disqualification and the overpayment, and instructions on the appeals process and his
15 appeal rights, including the 10-day deadline to file his appeal.¹⁸
- 16 15. Upon filing his appeal, the Administrative Hearing Office issued a Notice of Hearing
17 scheduling the matter for a hearing as to the issues on appeal.
- 18 16. Appellant’s explanation for missing the ten-day deadline to file his appeal, as he stated in
19 his request to appeal form, is because “due to transportation” and “no computer device”.¹⁹
- 20 17. Appellant has not returned to work, but he is financially supported by public benefits and
21 family members. Appellant has spent all of the benefits that he received on paying off
22 some debts, purchasing a used Hummer, giving to other family members, and generally,
23 “making it rain”. Appellant is therefore unable to repay the overpayment without incurring
24 a financial hardship.
- 25 18. Appellant appealed because he claims he is entitled to benefits. However, Appellant was
26 unable to provide credible testimony or supporting documents to show that his

27 ¹⁴ Exhibit 14.

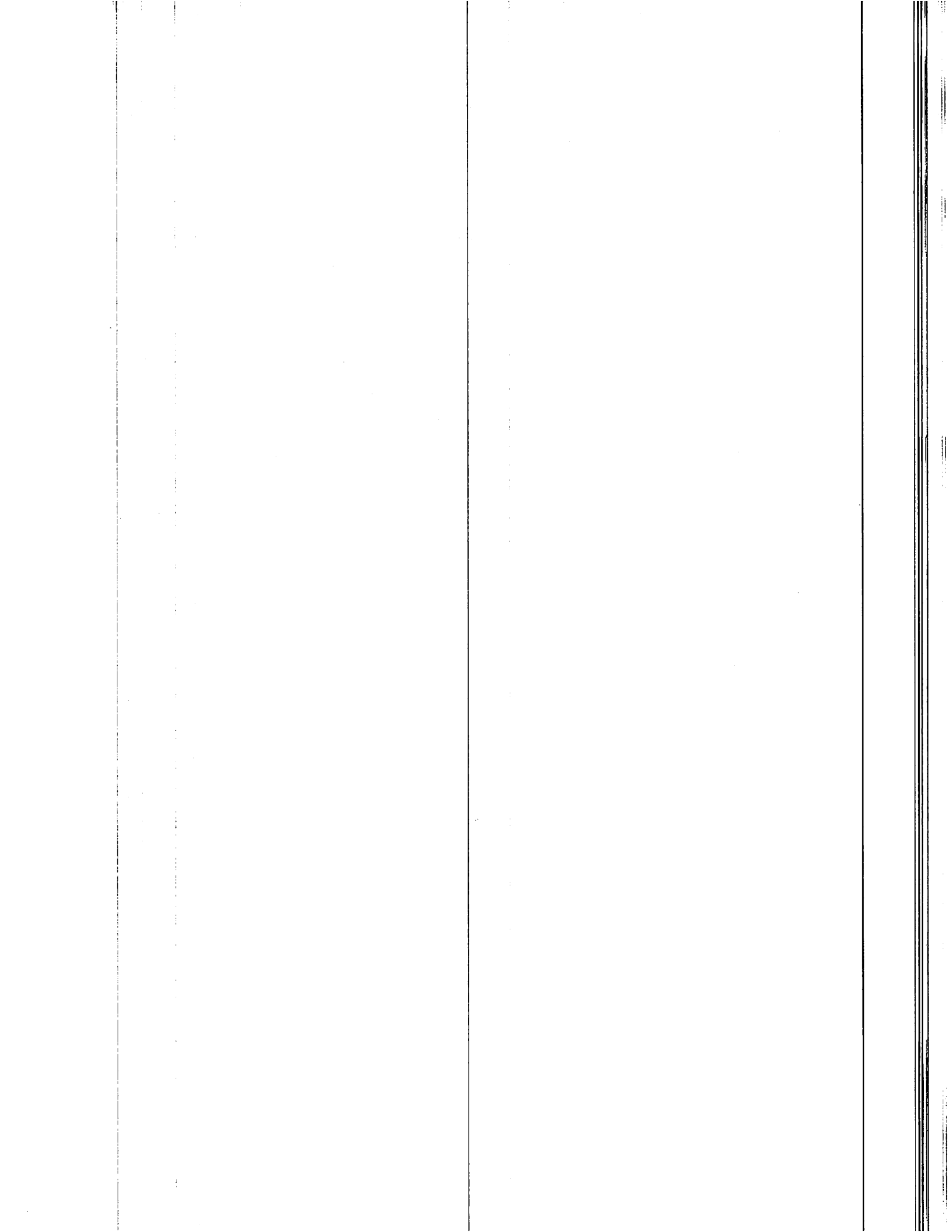
28 ¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Exhibit 5.

¹⁸ See Exhibits 4; 12-13.

¹⁹ *Id.*



1 employment was affected by COVID-19 related reasons, he was able and available to
2 work, and that the overpayment was not due to his fault.

3 V. CONCLUSIONS OF LAW

4 In consideration of the above-stated findings and applicable law, the undersigned issues the
5 following conclusions of law:

6 **1. Appellant's appeal is not timely filed.**

7 Generally, an appeal should be filed within ten days after the Notice of Determination was
8 issued or served to the claimant. However, the Department may extend the period to thirty days
9 by a showing of good cause.²⁰ Good cause means: (1) illness or disability; (2) keeping an
10 appointment for a job interview; (3) attending a funeral of a family member; and (4) any other
11 reason which would prevent a reasonable person from complying as directed.²¹

12 Here, the Disqualifying Determination was issued and transmitted to Appellant on February 9,
13 2024. Therein, Appellant was advised that he was disqualified, but had the right to appeal the
14 Determination within ten days from the date the Determination was issued. The Determination
15 also stated that if Appellant does not timely file, he loses the right to appeal. The second page of
16 the Determination provided instructions on how to file an appeal. In addition, as demonstrated by
17 the Department, Appellant was provided with instructions on how to file his appeal through
18 multiple avenues including in the BRI Handbook, the Determination, the Appeal Form, and
19 multiple press releases and newspaper articles. Notably, as acknowledged and self-certified under
20 penalty of perjury by the Appellant on his applications and weekly certifications, it is Appellant's
21 responsibility to read the BRI Handbook and all other official, published materials regarding
22 PUA. Appellant admitted that he has seen the BRI Handbook, did not read the entire BRI
23 handbook, and never read other published materials regarding PUA.

24 Ultimately, Appellant did not timely file his appeal of the Determination and the Notice of
25 Overpayment. The undersigned finds that Appellant failed to act within the ten-day deadline
26 despite being clearly informed in writing of the deadline, instructions on how to file an appeal,
27 his appeal rights, consequences of failing to file timely. Moreover, Appellant failed to justify good
28 cause for an extension of the ten-day deadline. When asked why he did not file within the ten-day
deadline, Appellant stated in his Request to Appeal Form that it was because of transportation
and he did not have a computer device. Generally, the failure to follow instructions and regularly

²⁰ HI. Rev. Statute § 383-38(a).

²¹ HAR § 12-5-81(j).

1 check one's PUA portal, mail, or emails are not good cause for an extension. Accordingly, the
2 Appellant's appeal is untimely filed and there is no good cause for an extension. Even assuming
3 there was good cause, Appellant filed his appeal beyond the 30-day good cause extension.
4 Because Appellant is untimely in filing his appeal, the Disqualifying Determination and the
5 Notice of Overpayment are final and the latter issues are moot.

6 **VI. DECISION**


7 For the reasons stated above, it is ORDERED that:

- 8 1. The CNMI Department of Labor's Disqualifying Determination, dated February 9, 2024,
9 is **AFFIRMED**;
- 10 2. The Appellant is **NOT ELIGIBLE** to receive PUA benefits for the period of
11 February 16, 2020 to May 29, 2021;
- 12 3. The CNMI Department of Labor's Notice of Overpayment, dated March 4, 2024, is
13 **AFFIRMED**; and
- 14 4. Appellant was overpaid in the total amount of **\$30,250.00** and he is entitled only to a
15 partial waiver for repayment of \$235.00 for week 1 (ending February 22, 2020).

16 If a party is aggrieved by this Order and would like to contest the decision, he or she must
17 submit a written request to reopen the decision pursuant to Hawaii Admin. Rule § 12-5-93. The
18 written request should be supported by legal, factual, or evidentiary reasons to reopen the
19 decision. The written request must be submitted to the Administrative Hearing Office, either in
20 person at 1331 Ascencion Drive, Capitol Hill Saipan MP 96950 or via email at
21 hearing@dol.gov.mp.

22 In the event a request to reopen the decision is granted, the matter shall be scheduled for a
23 subsequent hearing. In the event a request to reopen the decision is denied, or if the Appellant
24 still disagrees with a subsequent decision, the Appellant may seek judicial review with the CNMI
25 Superior Court under the local Administrative Procedures Act. *See* 1 CMC § 9112. All forms,
26 filings fees, and filing deadlines for judicial review will be as established by the applicable law
27 and court rule.

28 So ordered this **18th** day of June, 2024.


CATHERINE J. CACHERO
Administrative Hearing Officer, *Pro Tem*

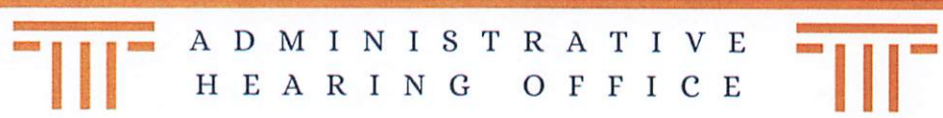
Documents Admitted into Evidence

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1. Exhibit 1: Copies of Appellant's Application Snapshots, filed June 29, 2020, October 22, 2020, and February 19, 2021;
2. Exhibit 2: Copies of Appellant's Weekly Certifications (online), for February 16, 2020 to September 19, 2020, October 18, 2020 to December 12, 2020, and December 27, 2020 to February 27, 2021;
3. Exhibit 3: Copies of Appellant's Weekly Certifications (paper), for December 27, 2020 to February 28, 2021;
4. Exhibit 4: Copy of the Department's Disqualifying Determination, dated February 9, 2024;
5. Exhibit 5: Copy of Appellant's Request for Appeal, received April 4, 2024.
6. Exhibit 6: Copy of the Department's Case Notes, created 10:11 AM, February 15, 2024;
7. Exhibit 7: Copy of the Department's Case Notes, created 11:33 AM, February 15, 2024;
8. Exhibit 8: Copy of Email from Employer to the Department, dated June 14, 2022;
9. Exhibit 9: Copy of Employer's PUA Verification of Employment, signed July 17, 2023;
10. Exhibit 10: Copy of Email from Employer to the Department, dated August 31, 2022, including attachment of scanned copies of Appellant's work schedules from February 16, 2020 to May 29, 2021;
11. Exhibit 11: Copy of Appellant's Paystubs from December 29, 2019 to February 29, 2020, February 21, 2021 to March 20, 2021, March 28, 2021 to June 05, 2021, and June 13, 2021 to October 2, 2021;
12. Exhibit 12: Copy of the Department's Case Notes, created August 4, 2023;
13. Exhibit 13: Copy of the Department's Case Notes, created August 9, 2023;
14. Exhibit 14: Copy of the Department's Notice of Overpayment, dated March 4, 2024;
15. Exhibit 15: Copy of the Department's Notice of Determination of PUA Overpayment, dated March 4, 2024, including envelope received April 4, 2024; and
16. Exhibit 16: Copy of Appellant's Equity Questionnaire.



CNMI DEPARTMENT OF LABOR



ADMINISTRATIVE HEARING OFFICE

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5	In Re Matter of:)	PUA Case No. 24-0279
6	Kiho Tajima,)	
7	Appellant,)	ADMINISTRATIVE DECISION
8	v.)	GRANTING APPELLANT'S REQUEST
9)	FOR DISMISSAL
10	CNMI Department of Labor,)	
11	Appellee.)	
12)	

13 On May 24, 2024, Appellant filed a written request to voluntarily dismiss her appeal stating
 14 she no longer wants to pursue the appeal and expressed her intent to pursue reconsideration
 15 instead. The Department does not oppose the dismissal.

16 In consideration of the above, the undersigned finds that dismissal is appropriate.
 17 Accordingly, this appeal is hereby **DISMISSED**. In the event that the Appellant disagrees with a
 18 subsequent determination or notice, Appellant may file a new appeal.

19
 20 So ordered this **28th** day of May, 2024.

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 22 **JACQUELINE A. NICOLAS**
 Chief Administrative Hearing Officer



CNMI DEPARTMENT OF LABOR



ADMINISTRATIVE
HEARING OFFICE



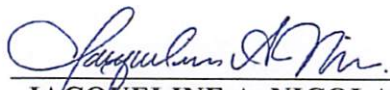
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In Re Matter of:)	PUA Case No. 24-0284
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Bobison Prado,)	
)	
Appellant,)	ADMINISTRATIVE DECISION
)	GRANTING APPELLANT'S REQUEST
v.)	FOR DISMISSAL
)	
CNMI Department of Labor,)	
)	
)	
Appellee.)	
)	

On May 21, 2024, Appellant filed a written request to voluntarily dismiss his appeal stating he no longer wants to pursue the appeal and expressed his intent to pursue reconsideration instead. The Department does not oppose the dismissal.

In consideration of the above, the undersigned finds that dismissal is appropriate. Accordingly, this appeal is hereby **DISMISSED**. In the event that the Appellant disagrees with a subsequent determination or notice, Appellant may file a new appeal.

So ordered this **22nd** day of May, 2024.



JACQUELINE A. NICOLAS
 Chief Administrative Hearing Officer

