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

****

COMMONWEALTH REGISTER

VOLUME 46
NUMBER 10
October 15, 2024

COMMONWEALTH REGISTER
VOLUME 46
NUMBER 10
OCTOBER 15, 2024

ADOPTION

PROPOSED

ORDERS

Commonwealth Ports Authority
Francisco C. Ada/Saipan International Airport
PO BOX 501055•SAIPAN•MP•96950
Phone: (670) 237-6500/01 Fax: (670) 234-5962
E-Mail Address: cpa.admin@pticom.com Website: https://cnmiports.com

PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS OF THE COMMONWEALTH PORTS AUTHORITY

PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER AS PROPOSED AMENDMENTS TO THE AIRPORT RULES AND REGULATIONS OF THE COMMONWEALTH PORTS AUTHORITY
Volume 46, Number 08, pp. 051218-050224, August 15, 2024.

ACTION TO ADOPT THESE PROPOSED AMENDMENTS TO THE AIRPORT RULES AND REGULATIONS: The Commonwealth Ports Authority ("CPA") HEREBY ADOPTS AS PERMANENT amendments to the Airport Rules and Regulations to exempt aircraft operators which have a valid written agreement with the Authority, which provides for terminal rental rates, rent for preferential use premises, common use charges, and turn fees from the rate methodology of NMIAC § 40-10.1-1206, pursuant to the procedures of the Administrative Procedure Act (APA), 1 CMC §§ 9101 *et seq*.

§ 40-10.1-1206 Terminal Rentals, (e) Exemptions

I certify by signature below that as published, such adopted regulations are a true, complete, and correct copy of the referenced Proposed Regulations, and that they are being adopted without modification.

PRIOR PUBLICATION: These regulations were published as Proposed Regulations in Volume 46, Number 08, pp 051218-050224 of the Commonwealth Register on August 15, 2024.

ATTORNEY GENERAL APPROVAL: The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register pursuant to 1 CMC § 2153(e).

MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY: None.

AUTHORITY: These amendments are promulgated under the authority of the CPA to adopt new regulations under 2 CMC § 2122. These regulations were adopted as final by majority vote of the CPA Board of Directors on September 27, 2024.

EFFECTIVE DATE: Pursuant to the APA, 1 CMC § 9105(b), these adopted amendments are effective 10 days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which in this instance is 10 days after publication in the Commonwealth Register.

COMMENTS AND AGENCY CONCISE STATEMENT: During the 30-day comment period, CPA received no comments regarding the Proposed Regulations. Upon this adoption of the amendments, CPA will, if requested to do so by any interested person within 30 days of adoption, issue a concise statement of the principal reasons for and against its adoption.

I declare under penalty of perjury that the foregoing is true and correct and this declaration was executed on the date indicated below at Saipan, Commonwealth of the Northern Mariana Islands.

Submitted by: _____ 10-1-24
LEO B. TUDELA
Executive Director, CPA
Date

Pursuant at 1 CMC § 2153(e) and 1 CMC § 9104(a)(3) and certified final regulations have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published. 1 CMC § 2153(f).

Dated this ____ day of _____, 2024.

_____ 10/3/2024
EDWARD MANIBUSAN
Attorney General
Date

Filed and
Recorded by: _____ 10.15.2024
ESTHER R.M. SAN NICOLAS
Commonwealth Registrar
Date

Part 1200 – Schedule of Fees and Charges
§ 40-10.1-1206 Terminal Rentals

(e) Exemptions. Exempted from paying terminal rental rates, rent for preferential use premises, common use charges, and turn fees are any aircraft operator which has a valid written agreement with the Authority, which provides for terminal rental rates, rent for preferential use premises, common use charges, and turn fees other than as provided for in this section.

Nutrition Assistance Program
Department of Community & Cultural Affairs
Commonwealth of the Northern Mariana Islands
P.O. Box 501488, As Lito, Saipan, MP 96950
Tel. No. (670) 237-2800 · Fax No. (670) 237-2850
Email: support@cnminap.gov.mp

• Administration • Benefit Issuance & Claims Accountability Unit • Certification Unit • Management Evaluation Unit • Retail & Redemption Unit

PUBLIC NOTICE OF PROPOSED REGULATIONS WHICH ARE AMENDMENTS TO THE REGULATIONS OF THE DEPARTMENT OF COMMUNITY AND CULTURAL AFFAIRS, NUTRITION ASSISTANCE PROGRAM

INTENT TO ADOPT: The Secretary of the Department of Community and Cultural Affairs (DCCA) intends to adopt as permanent regulations the attached proposed amendments, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Regulations, as amended, would become effective ten (10) days after adoption and publication in the Commonwealth Register, 1 CMC § 9105(b).

AUTHORITY: The Secretary is authorized to promulgate these amendments to regulations pursuant to 2 CMC § 5522(a).

TERMS AND SUBSTANCE: These proposed amendments to regulations specify the application fee for eligible retail food stores to participate in the Nutrition Assistance Program as an Authorized Retailer who meets the requirements set forth in NMIAC Title 55, Part 600 § 55-30-601.

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

COMMENTS: Interested parties may submit written comments on the proposed amendments to regulations to Francisco M. Rabauliman, Secretary of DCCA, via U.S. postal mail to Caller Box 10007, Saipan, MP 96950, or via email to frank.rabauliman@gov.mp. Comments, data, views, or arguments are due within 30 days from the date of publication of this notice. 1 CMC § 9104(a)(2).

Submitted by: _____ Date: 9/18/24
Francisco M. Rabauliman
Secretary of DCCA

Received by: _____ Date: 9/24/24
Oscar M. Babauta
Special Assistant for Administration

Filed and
Recorded by: Esther R.M. San Nicolas Date: 10.15.2024
Esther R.M. San Nicolas
Commonwealth Registrar

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

Dated this 25 day of September, 2024.

EDWARD MANIBUSAN
Attorney General

PROPOSED AMENDMENT TO REGULATIONS

NMIAC Title 55, Part 600 § 55-30-601 (a) is amended to read as follows:

(a) Application and Fee. Any firm desiring to participate in the program shall file an application as prescribed by the state agency nutrition assistance program. An application fee in the amount of $500.00 shall be assessed for General Retail Food Stores; and $100.00 for Exempted Retailers such as, Fish Mobile/Stand, Fruit/Vegetable Stand, Farmer's Market, and Bakery Products. The retail and redemption officer shall deny or approve authorization, or request more information, within thirty calendar days of receipt of the application.

Sections (b) through (l) remain unchanged

-END-

Progróómal Nutrition Assistance
Bwulasiyol Toulap reel Aweeweel Sóóbw me Kko
Commonwealth Téél Falúw kka Efáng llól Marianas
P.O. Box 501488, As Lito, Saipan, MP 96950
Tel. No. (670) 237-2800 · Fax No. (670) 237-2850
Email: support@cnminap.gov.mp

• Administration • Benefit Issuance & Claims Accountability Unit • Certification Unit • Management Evaluation Unit • Retail & Redemption Unit

ARONGORONGOL TOULAP REEL PPWOMMWOL MWÓGHUTUGHUT IYE AA LIIWEL NGÁLI MWÓGHUTUGHUTÚL BWULASIYOL TOULAP REEL AWEEWEEL SÓÓBW ME KKO, PROGRÓÓMAL NUTRITION ASSISTANCE

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI: Sekkretóóriyol Bwulasiyol Toulap reel Aweeweel Sóóbw me Kko (DCCA) e mángemáng bwe ebwe adópta ppwommwol mwóghutughut ikka e appasch bwe ppwommwol liiwel, sángi mwóghutughutúl Administrative Procedure Act, 1 CMC § 9104(a). Mwóghutughut kkaal, igha aa liiwel, ebwe bwunguló seigh ráál mwiril aal adóptááli me akkatééwowul me llól Commonwealth Register, 1 CMC § 9105(b).

BWÁNGIL: E yoor bwángil Sekkretóóriyo ebwe aronga liiwel ngáli mwóghutughut kkaal sángi 2 CMC 5522(a).

KKAPASAL ME WEEWEEL: Ppwommwol liiwel ngáli mwóghutughut e affatta óbwóssul application ngáli tendal "retail food" ikka re fil rebwe tuutá llól Progróómal Nutrition Assistance bwe eew "Authorized Retailer" ikka re fil ngáli ammwel ikka e lo llól NMIAC Title 55, Part 600 § 55-30-601.

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow ppwommwol liiwel ngáli mwóghutughut me llól Commonwealth Register llól tálil ppwommwol me ffél mwóghutughut ikka ra adóptááli (1 CMC § 9102(a)(1)), me ebwe appaschetá me llól civic center me bwal llól bwulasiyol goebetnameento 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 ngáli mwóghutughut rebwe isiis ngáli Francisco M. Rabauliman, Sekktretóóriyol DCCA, afanga ngáli Caller Box 10007, Saipan, MP 96950, ngare email ngáli frank.rabauliman@gov.mp. Ebwe toolong kkapas, data, ngare angiingi llól eliigh ráál mwiril aal akkatééwow arongorong yeel. 1 CMC § 9104(a)(2).

Isáliyalong: _____ Ráál: 9/18/24
Francisco M. Rabauliman
Sekkretóóriyol DCCA

Bwughiyal: _____ Ráál: 9/24/24
Oscar M. Babauta
Special Assistant ngáli Administration

Ammwelil: _____ Ráál: 10.15.2024
Esther R.M. San Nicolas
Commonwealth Registrar

Sángi 1 CMC § 2153 (e) me 1 CMC § 9104(a)(3), I akkapall bwe I ya takkal amwuri fischiiy me átirowa mwóghutughut kkaal bwe aa ffil reel fféérúl me legal sufficiency.

Ghikkill wóól 25 ráálil September, 2024.

_____
EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap

PPWOMMWOL LIIWEL NGÁLI MWÓGHUTUGHUT

NMIAC Title 55, Part 600 § 55-30-601 (a) aa liiwel ebwe árághi bwe:

(a) Application me Óbwóss. Schóó kka re tipáli rebwe tuutá llól progróóma rebwe ayoorai ammwelil ngare "file" eew application iye re ayoora sángi bwulasiyol progróómal nutrition assistance. "Application fee" llól llapal $500.00 ebwe amwuri ngáli "General Retail Food Stores"; me $100.00 ngáli "Exempted Retailers" e weey, "Fish Mobile/Stnd, "Fruit/Vegetable Stand", "Farmer's Market", me "Bakery Products". "Retail me redemption officer" emmwel ebwe "deny" ngare "approve" bwángil, ngare ayúlé reel maas arongorong, llól eliigh ráál mwiril aal bwughi application.

Tálil (b) ngáli (1) essóbw siiwel

-MWÚTCH-

Prugråman Asistensian Alimenta
Dipåttamentun Asuntun Kumunidå & Kuttura
Commonwealth gi Sangkattan na Islas Mariånas
P.O. Box 501488, As Lito, Saipan, MP 96950
Tel. No. (670) 237-2800 · Fax No. (670) 237-2850
Email: support@cnminap.gov.mp

• Atministrasión • Benefit Issuance & Claims Accountability Unit • Unit Settifikasión • Management Evaluation Unit • Retail & Redemption Unit

NUTISIAN PUPBLIKU PUT I MANMAPROPONI NA REGULASIÓN NA TINILAIKA SIHA GI REGULASIÓN GIYA DIPÅTTAMENTUN ASUNTUN KUMUNIDÅ YAN KUTTURA, GI PRUGRÅMAN ASISTENSIAN ALIMENTA

MA'INTENSIONA PARA U MA'ADÅPTA: I Sekritåriun Dipåttamentun Asuntun Kumunidå yan Kuttura (i DCCA) ha intensiona para u adåpta kumu petmanienti na regulasión siha i mañechettun manmaproponi na amenda siha, sigun gi manera nu i Åkton Administrative Procedure, 1 CMC § 9104(a). I Regulasión siha, kumu ma'amenda, siempri umefektibu gi dies dihas (10) dispues di adaptasión yan pupblikasión gi halum Rehistran Commonwealth, 1 CMC § 9105(b).

ATURIDÅT: I Sekritåriu ma'aturisa para u implimenta esti siha na tinilaika gi regulasión sigun gi 2 CMC § 5522(a).

TEMA YAN SUSTÅNSIAN I PALÅBRA SIHA: Esti i manmaproponi na tinilaika siha gi regulasión ha diskribi i åpas aplikasión para i mansiña na tendan nengkanu' siha para u fañåonåo gi halum Prugråman Asistensian Alimenta kumu Manma'aturisa na Bisnis ni ha tåttiyi i ginaogåo siha ni mapega mo'na gi halum NMIAC Titulu 55, Påtti 600 § 55-30-601.

DIREKSIÓN PARA U MAPO'LU YAN PARA U MAPUPBLIKA: Esti i manmaproponi na tinilaika siha gi regulasión debi na u mapupblika gi halum Rehistran Commonwealth gi halum i seksiona i manmaproponi yan nuebu manma'adåpta na regulasión siha (1 CMC § 9102(a)(1)), yan u mapega gi halum kumbinienti na lugåt siha gi halum civic center yan gi halum ufisinan gubietnamentu gi kada distritun senadot, parehu gi finu' Inglis yan i dos na lingguåhi natibu (1 CMC § 9104(a)(1)).

UPIÑON SIHA: I manintiresåo na pattidå siña ma'intrega hålum tinigi' upiñon gi manmaproponi na tinilaika siha gi regulasión guatu as Francisco M. Rabauliman, i Sekritåriun DCCA, gi sigienti na manera U.S. postal mail para Caller Box 10007, Saipan MP 96950, osino email guatu as frank.rabauliman@gov.mp. I upiñon, infotmasión, views, osino agumentu debi na u fanhålum gi halum trenta (30) dihas ginen i fetchan pupblikasión esti na nutisia. 1 CMC § 9104(a)(2).

Nina'hålum as: _____ Fetcha: 9/18/24
Francisco M. Rabauliman
Sekritåriun DCCA

Rinisibi as: _____ Fetcha: 9/18/24
Oscar M. Babauta

Ispisiåt na Ayudånti para i Atministrasión

Pine'lu yan
Ninota as: Esther R.M. San Nicolas Fetcha: 10.15.2024

Esther R.M. San Nicolas
Rehistran Commonwealth

Sigun i 1 CMC § 2153(e) yan 1CMC § 9104(a)(3), hu testigu na hu ribisa yan apreba esti siha na regulasión kumu para fotma yan sufisienti ligåt.

Mafetcha gi diha 25 gi September, 2024.

EDWARD MANIBUSAN
Hineråt Abugådu

MAPROPONI NA TINILAIKA GI REGULASIÓN SIHA

NMIAC Titulu 55, Påtti 600 § 55-30-601 (a) ma'amenda para u mataitai kumu tinåttiyi:

(a) Aplikasión yan Åpas. Maseha håyi na bisnis manmalagu' para sumåonåo gi halum i prugråma debi na u na'halum aplikasión kumu ma'abisa ni i estadu na ahensian i prugråman asistensian alimenta. I åpas i aplikasión gaigi gi $500.00 na debi na u ma'ibaluha para "General Retail Food Stores;" yan $100.00 para i Ti Makuenta na Tenda tatkumu, "Fish Mobile/Stand, Fruit/Vegetable Stand, Farmer's Market," yan Pruduktun Panaderia. I tenda yan i "redemption officer" debi na u puni pat apreba auturisasión, osino rikuesta mås infotmasión, gi halum trenta dihas i risibun nu i aplikasión.

Seksiona (b) ginen (l) tåya tinilaika.

-Uttimu-

Commonwealth of the Northern Mariana Islands
Department of Lands and Natural Resources
Capitol Hill, Caller Box 10007
Saipan, MP 96950
Tel: 670-322-9834 Fax: 670-322-2633

CNMI

PUBLIC NOTICE

Proposed Amendments to the Smiling Cove Marina Rules and Regulations of the Department of Lands and Natural Resources, Division of Fish and Wildlife

The Secretary of the Department of Lands and Natural Resources ("DLNR") hereby notifies the public that the Department of Lands and Natural Resources intends to promulgate amendments to its Smiling Cove Marina Rules and Regulation Contained in Northern Marianas Islands Administrative Code (NMIAC) §85-30.2

INTENDED ACTION TO ADOPT THESE PROPOSED AMENDMENTS TO THE SMILING COVE MARINA RULES AND REGULATION OF THE DEPARTMENT OF LANDS AND NATURAL RESOURCES ("DLNR"), DIVISION OF FISH AND WILDLIFE("DFW"): Notice is hereby given under 1CMC § 9104(a) of the Administrative Procedure Act that the Department of Land and Natural Resources, Division of Fish and Wildlife intends to promulgate the following amendments to its Smiling Cove Marina Rules and Regulations.

TERMS, SUBSTANCE, AND DECRIPTION OF THE SUBJECT AND ISSUES INVOLED: The proposed regulation amend NMIAC § 85-30.2 et. seq. to amend provisions relating to the definitions, Fees Structure and to allow Fueling with in the Smiling Cove Marina followed with a special condition for safety purposes.

AUTHORITY: The substance of the following proposed amendments is made under 1 CMC §2653 and 1 CMC §2654 which authorizes the Secretary of the Department of Lands and Natural Resources to Promulgate rules and regulations. These proposed amendments are for publication in the Commonwealth Register for Notice and Comment under the Administrative Procedure Act and for approval by the Attorney General under 1 CMC §2153(e).

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on Proposed and Newly Adopted Regulation, 1 CMC § 9102(a) (1) and posted in a convenient place in the Civic Center and the office of local governments in each senatorial district, both English and in the principal vernacular. CMC § 9104 (a)(1). **TO PROVIDE COMMENTS:** Persons or entities wishing to submit comments must do so in writing to DLNR Secretary Mr. Sylvan O. Igisomar, by means of one of the following: Email. Fax, Mail pr hand-delivery to the DLNR secretary's office located Capitol Hill Building no. 1315. With the subject line **"Comments on Proposed Smiling Cove Marina rules and regulations." All**

Written comments shall be submitted with in 30 days after publication of this notice.

Submitted by _____ **Date:** 9/23/24
Sylvan O. Igisomar
Secretary of DLNR

Received by: _____ **Date:** 24 SEP 2024
Oscar M. Babauta
Special Assistant for Administration

Filed and Record by: _____ **Date:** 10.15.2024
Esther R.M San Nicolas
Commonwealth Register

Pursuant to 1 CMC § 9104 (a)(3), the proposed regulation attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published under 1CMC §2153(f).

Approved as to form and Legal Sufficiency:

_____ 9/25/2024
Edward Manibusan
Attorney General

Commonwealth Gi Sangkattan Na Islas Mariånas
Dipåttamentun Tanu' yan Fengkas Naturåt
Capitol Hill, Caller Box 10007
Saipan, MP 96950
Tilifon: 670-322-9834 Fax: 670-322-2633

NUTISIAN PUPBLIKU

MAPROPONI NA TINILAIKA SIHA GI AREKLAMENTU YAN REGULASION SMILING COVE MARINA GI DIPÅTTAMENTUN TANU' YAN FENGKAS NATURÅT, DIBISIÓN GUIHAN YAN GÅ'GA' MACHÅLIK SIHA

I Sekritåriun Dipåttamentun Tanu' yan Fengkas Naturåt ("i DLNR") ha na'fanunungu' guini i pupbliku na i Dipåttamentun Tanu' yan Fengkas Naturåt ha intensiona para u implimenta i tinilaika siha gi iyon-ñiha Areklamentu yan Regulasion Smiling Cove Marina ni masahguan gi halum Islas Notti Mariånas Adminstrative Code (NMIAC) §85-30.2

I AKSIÓN NI MA'INTENSIONA PARA U ADÅPTA ESTI I MANMAPROPONI NA TINILAIKA SIHA GI AREKLAMENTU YAN REGULASION SMILING COVE MARINA GI DIPÅTTAMENTUN TANU' YAN FENGKAS NATURÅT ("DLNR"), DIBISIÓN GUIHAN YAN GÅ'GA' MACHÅLIK SIHA: Mannå'i guini nutisia gi påpa' 1 CMC § 9104(a) gi Åkton Administrative Procedure na i Dipåttamentun Tanu' Yan Fengkas Naturåt, gi Dibisión Guihan Yan Gå'ga' Machålik Siha ha intensiona para u implimenta i sigienti na tinilaika siha gi iyon-ñiha Areklamentu yan Regulasion i Smiling Cove Marina.

I TEMA, I SUSTÅNSIAN I PALÅBRA, YAN I DISKRIPSION NU I SUHETU YAN ASUNTU SIHA NI TINEKKA: I Manmaproponi na regulasión siha ha amenda i NMIAC § 85-30.2 et. seq. para u amenda i provisions ni sasåonåo gi sustånsian i palabra siha, Åpas Istruktura yan para u sedi i "Fueling" gi halum i Smiling Cove Marina tinåttitiyi yan i ispisiåt na kundisión para sinåfu' na rason siha.

ÅTURIDÅT: I suhetu gi sigienti mapropoponi na amenda siha mafa'tinas gi påpa' i 1 CMC §2653 yan 1 CMC §2654 ni inaturisa i Sekritåriun Dipåttamentun Tanu' Yan Fengkas Naturåt para u Implimenta i areklamentu yan regulasión siha. Esti i manmaproponi na tinilaika siha para pupblikasión gi halum Rehistran Commonwealth para Nutisia yan Upiñon gi påpa' i Åkton Administrative Procedure yan para u inaprueba ni i Hineråt Abugådu gi påpa' i 1 CMC §2153(e).

DIREKSION PARA PINE'LU YAN PUPBLIKASION: Esti i Manmaproponi na Regulasion siha debi na u mapupblika gi halum Rehistran Commonwealth gi halum seksiona ni Manmaproponi yan Nuebu Ma'adåpta na Regulasion, 1 CMC § 9102(a)(1), yan u mapega gi halum kumbinienti na lugåt gi halum i civic center yan i ufisinan gubietnamentu siha gi kada distritun senadot, parehu Inglis yan i prinsipåt na lingguåhi. 1 CMC § 9104(a)(1).

PARA U MAPRIBENIYI UPIÑON SIHA: Pitsona pat håyi na pattidå malagu' muna'halum upiñon siha debi na u cho'gui gi tinigi' para guatu as Siñot Sylvan O. Igisomar, i Sekritåriun DLNR gi unu na tinattiyi na manera: email, fax, kåtta osino intrega hålum gi Ufisinan i Sekritåriun DLNR ni gaigi gi Capitol Hill Building no. 1315. I suhetu na rason **"Upiñon gi Manmaproponi na Areklamentu yan Regulasion i Smiling Cove Marina".**

Todu i tinigi' upiñon siha debi na u mana'hålum gi halum trenta (30) dihas dispues di pupblikasión esti na nutisia.

Nina'hålum as: _____ **Fetcha:** 9/23/24
for **Sylvan O. Igisomar**
Sekritåriu, DLNR

Rinisibi as: _____ **Fetcha:** 24 SEP 2024
Oscar M. Babauta
Ispisiåt na Ayudånti para i Atministrasión

Pine'lu yan Ninota as: _____ **Fetcha:** 10.15.2024
ESTHER R.M. SAN NICOLAS
Rehistran Commonwealth

Sigun i 1 CMC § 9104(a)(3), i manmaproponi na regulasion siha ni mañechettun guini ginen manmaribisa yan maninaprueba komu fotma yan sufisienti ligåt ginen i CNMI Abugådu Hineråt yan debi na u mapupblika sigun para 1 CMC § 2153(f).

Maninaprueba komu fotma yan Sufisienti Ligåt:

_____ 9/25/2024
EDWARD MANIBUSAN
Hineråt Abugådu

Commonwealth Téél Falúw kka Efáng llól Marianas
Bwulasiyol Falúw me Schowaral Falúw
Capitol Hill, Caller Box 10007
Saipan, MP 96950
Tel: 670-322-9834 Fax: 670-322-2633

ARONGORONGOL TOULAP

Ppwommwol Liiwel ngáli Alléghúl me Mwóghutughutúl Smiling Cove Marina me Bwulasiyol Falúw me Schowaral Falúw, Bwulasiyol Fish and Wildlife

Sekkretóóriyol Bwulasiyol Falúw me Fowfischil Falúw ("DLNR") re aronga toulap bwe Bwulasiyol Falúw me Schowaral Falúw re mángemángil rebwe aronga liiwel ngáli Alléghúl me Mwóghutughutúl Smiling Cove Marina.

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI PPWOMMWOL LIIWEL NGÁLI ALLÉGHÚL ME MWÓGHUTUGHUTÚL SMILING COVE MARINA ME BWULASIYOL FALÚW ME FOWFISCHIL FALÚW ("DLNR"), BWULASIYOL FALÚW ME SCHOWARAL FALÚW ("DLNR"), BWULASIYOL FISH AND WILDLIFE ("DFW"): E isiisiwow arongorong yeel sángi 1 CMC § 9104(a) reel Administrative Procedure Act bwe Smiling Cove Marina re mángemángil rebwe Aronga liiwel ikka e amwirimwiritiw ngáli Alléghúl me Mwóghutughutúl Marina.

KKAPASAL, AWEEWEEL, ME FFATAL REEL KKAPASAL ME AUTOL: Ppwommwol mwóghutughut e liiweli NMICA § 40-10.1 1206 reel rebwe dispensaar "veseel operators" ikka eyoor aar ghikkillil abwungubwungúl isch fengál me Marina, iye e ayoora ngáli "terminal rental rates", "rent for preferential use premises", "common use charges", me "turn fees" sángi "rate methodology"me NMIAC § 40-10.1-1206.

BWÁNGIL: Autol ppwommwol liiwel ikka e amwirimwiritiw aa átirow sángi Bwulasiyol Falúw me Fowfischil Falúw ("DLNR") Board-il Directors wóól Alimaté 20, 2024 sángi mille "Smiling Cove Marina (SCM) Resolution NO. 2024-04. Ebwe akkatééwow ppwommwol liiwel kkaal me llól Commonwealth Register ngáli Arongorong me Kkapas sángi Administrative Procedure Act me ngáli átirowal Soulemelemil Allégh Lapalap sángi 1 CMC § 2153(e). Eyoor bwángil Smiling Cove Marina rebwe aronga mwóghutughut kkaal sángi 2 CMC § 2122.

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow Ppwommwol Mwóghutughut kkaal me llól Commonwealth Register llól tálil Ppwommwol me Ffél Mwóghutughut ikka ra adóptááli, 1 CMC § 9102(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).

REEL ISIISILONGOL KKAPAS: Aramas ngare bwulasiyo ikka re tipáli rebwe isiisilong ischil kkapas rebwe isiis ngáli DLNR Sekkretóóriyo Mr. Sylvan O. Igisomar, emmwel ubwe yááli ikka e amwirimwiritiw: Email,fax, kkatta, ngare bwughiló Bwulasiyol

DLNR iye e lo Asúngúl kkayú numuro 1315. Ebwe lo wóól subject line bwe **"Comments on Proposed Smiling Cove Marina Rules and Regulations."**

Department of Lands and Natural Resources
Capitol Hill, Caller Box 10007
Saipan MP, 96950
Tel: (670)322-9834 Fax (670) 322-2633

Alongal ischil kkapas ebwe toolong llól eliigh ráál mwiril aal akkatééwow arongorong yeel.

Isáliyalong: _____ **Ráál:** 9/23/24
Sylvan O. Igisomar
Sekkretóóriyol DLNR

Bwughiyal: _____ **Ráál:** 24 SEP 2024
Oscar M. Babauta
Special Assistant ngáli Administration

Ammwelil: _____ **Ráál:** 10.15.2024
Esther R.M San Nicolas
Commonwealth Registrar

Sángi 1 CMC § 9104(a)(3), ra takkal amwuri fischiiy ppwommwol mwóghutughut ikka e appasch me átirow bwe aa ffil reel ffééról me legal sufficiency sángi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow sángi CMC § 2153(f).

_____ Ráál: 9/25/2024
Edward Manibusan
Soulemelemil Allégh Lapalap

TITLE 85: DEPARTMENT OF LANDS AND NATURAL RESOURCES

CHAPTER 85-30.2

DIVISION OF FISH AND WILDLIFE

SUBCHAPTER 85-30.2 PROPOSED AMENDMENT SMILING COVE MARINA RULES AND REGULATIONS

Subchapter Authority: 1 CMC § 2654; PL 6-13 § 3.

Subchapter History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 25 Com. Reg. 20399 (July 15, 2003); Amdts Adopted 17 Com. Reg. 13723 (Sept. 15, 1995); Amdts Proposed 17 Com. Reg. 13515 (June 15, 1995); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (July 15, 1992) (effective for 120 days from July 13, 1992).

Commission Comment: PL 1-8, tit. 1, ch. 13 (effective Aug. 10, 1978), formerly codified at 1 CMC §§ 2651, et seq., originally created a Department of Natural Resources within the Commonwealth government.

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 § 104:

> Section 104. Department of Lands and Natural Resources.
>
> The Department of Natural Resources is re-designated the Department of Lands and Natural Resources.

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

In 1997, the Legislature passed the "Public Lands and Natural Resources Administration Act of 1997," PL 10-57 (effective Apr. 18, 1997), codified as amended at 1 CMC §§ 2651, et seq. PL 10-57 repealed and reenacted chapter 13, division 2 of title 1 of the Commonwealth Code, 1 CMC §§ 2651, et seq., and statutorily established the Department of Lands and Natural Resources (DLNR) with the structure, duties and responsibilities set forth in the act. See 1 CMC § 2651 and the commission comment thereto. 1 CMC § 2654 authorizes the Department of Lands and Natural Resources to adopt rules and regulations in furtherance of its duties and responsibilities.

PL 6-13 § 3 provides the Division of Fish and Wildlife with the authority to manage the improvements in the Smiling Cove Mariana.

In 1999, the Department of Lands and Natural Resources, Division of Fish and Wildlife published emergency and proposed Outer Cove Marina Rules and Regulations pursuant to PL 6-13. The regulations were in effect for several months as emergency regulations, but they were not permanently adopted. See 21 Com. Reg. 16629 (Apr. 19, 1999) (effective for 120 days from Mar. 19, 1999) (amending the March 1999 emergency regulations); 21 Com. Reg. 16572 (Mar. 18, 1999) (effective for 120 days from Feb. 19, 1999).

In 2006, the Department of Lands and Natural Resources, Division of Fish and Wildlife, promulgated amendments that repealed and replaced all prior rules and regulations relating to Smiling Cove Mariana. See § 85-30.2-1205.

Part 001 - General Provisions

§ 85-30.2-000 Definitions

(a) Berth: Refers to the SCM dock slips within Dock A to Dock G where the vessels are permitted to be anchored.

(b) Berthing: is the mooring of a vessels within an alloted space at the Smiling Cove Marina dock facility;

(c) ~~Marina Manager~~Marina Manager: is the person designated by the Director of Fish and Wildlife to manage the day-to-day operations of the marina. This person is also referred to as the Boating Access Program Supervisor.

(d) Mooring: is the lassoing, tethering, tying, or otherwise securing the vessel to affixed object such as mooring buoy and mooring anchor, rather than securing an anchor on allotted space within the SCM dock facility.

(e) SCM Dock Slips: is defined as the ~~Smiling Cove Marina dock~~ agency-issued berthing slips from A to G dock ~~slips~~ as well as the designated mooring locations within the Smiling Cove Marina boundary.

(f) Tenant Vessels: are vessels for which a valid berthing or mooring lease has been issued.

§ 85-30.2-001~~1~~ Authority and Purpose

(a) Authority. Department of Lands and Natural Resources/Division of Fish and Wildlife. The regulations in this subchapter ("Marina Regulations") are promulgated under the authority of 1 CMC §§ 2653 and 2654 providing the Department of Lands and Natural Resources with the authority to adopt rules and regulations in furtherance of its powers and duties, including the responsibility for the protection and enhancement of the natural resources of the islands, including the marine environment. Further, 1 CMC § 2661 provides the Division of Fish & Wildlife with the authority to manage marine resources and to administer Public Law 2-51, the Fish, Game, and Endangered Species Act, as amended (2 CMC §§ 5101 et seq.). Further, Public Law 2-51 (at 2 CMC § 5106) provides for the assent of the Commonwealth of the Northern Mariana Islands to the Federal Aid in Sport Fish Restoration Act (16 U.S.C. §§ 777 et seq.), allowing for the Department of Lands and Natural Resources to receive federal grant funds. Federal aid grant funds were used to construct the improvements in Smiling Cove Marina, and are being used to maintain and manage the marina.

(b) Purpose. It is the purpose of this subchapter to maintain Smiling Cove Marina in a sanitary, sightly, and orderly condition and to preserve the public health, safety, peace, welfare, and convenience in the use thereof.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments changed the last sentence of subsection (a).

§ 85-30.2-0050~~5~~ Application and Scope

(a) Geographic Area. The Marina Regulations codified in this subchapter shall apply to the berthing of vessels at docks, their mooring in the waterways, and other activities conducted within the Smiling Cove Marina as depicted in the charts attached hereto as Exhibits A-1 and A-2.* The term "Smiling Cove Marina," as used in this subchapter, shall apply to all that area circumscribed on Exhibit "A-1." When the docks are referred to by slip number, reference shall be to Exhibit "A-2."

(b) Other Laws and Regulations. The regulations in this subchapter in no manner diminish the authority of laws and lawful regulations that otherwise apply to the waters and lands of the Smiling Cove Marina, such as the Boating Safety Regulations [NMIAC, title 150, chapter 20] and the Vehicle Code.

* No charts or exhibits attached; see Commission comment to § 85-30.2-1205.

Modified, 1 CMC § 3806(d), (f), (g).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In subsection (a), the Commission moved the comma after "Marina" and the periods after "A-1" and "A-2" inside of the closing quotation marks. In 2006, this section was repromulgated without change.

Part 100 - Selection of Leases and Permits for Berthing Slips

§ 85-30.2-101 Lease or Permit Required for Tenancy in Smiling Cove Marina

(a) ~~(a)~~ Berthing and Moorings~~s~~: No vessel shall be permitted to be berthed at ~~a dock slip in Smiling Cove Marina~~ the SCM Dock~~k Slips~~ without a lease approved by the Director of Fish & Wildlife after consulting with the M~~m~~arina M~~m~~anager. This includes government and non-government-owned vessels that are also required to pay berth fees. E~~There are no e~~xemptions may be authorized ~~unless mutually agreed upon between the government agency and authorized~~ by the Director of Fish & Wildlife in consultation with the Marina Manager.

(b) Moorings: No vessel shall be permitted to be moored in the waterways of Smiling Cove Marina as stated in §85-30.2-101 (a), ~~,~~ except as provided for in ~~p~~Part 300 for storm and typhoon conditions.~~.~~

(c) "Tenant Vessels" defined: "Tenant vessels" are vessels for which a valid berthing or mooring lease has been issued.

(d) Other Permits: The ~~marina manager~~Marina Manager, at ~~his~~ their discretion and judgment, shall be allowed to issue temporary berthing permits at ~~Smiling Cove Marina~~SCM dock slips. ~~for visiting or transient vessels, not to exceed thirty days in duration, without the prior approval of the Director of Fish & Wildlife.~~

~~Modified, 1 CMC § 3806(c), (e), (f).~~pursuant to § 85-30.2-740 upon availability of SCM dock slips.

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was repromulgated without change.

§ 85-30.2-105 Categories of Vessel Exclusions

Except as provided for in part 300 of this subchapter, the following vessels ~~shall~~ may ~~not~~ be granted leases, issued permits, or be allowed to berth on any dock or moor within the waterways of Smiling Cove on a case by case basis as determined by the Director of Fish & Wildlife:

(a) ~~(a)~~ Commercial Vessel. A vessel engaged in the commercial carriage of passengers, including but not limited to sport fishing boats, Managaha transfer boats, tour boats and parasailing tow boats; vessels may only be allowed to lease a berthing slip on a month-to-month basis after all non-commercial priority

berthing slip requests are satisfied. ~~Means a vessel or vessel operator that receives cash, credit or any other form of valuable consideration for activities including commercial carriage of passengers, including but not limited to, sport fishing boats, Managaha transfer boats, tour boats, dive boats, cargo vessel, and parasailing tow boats.~~

(b) Vessels as a Place of Abode. A v~~V~~essel~~s~~ is deemed to be a live~~d~~ aboard if a person or persons occupy the vessel and engage in those usual and customary activities associated with a person's residence or abode, such as sleeping, preparation of meals, etc., for any period in excess of 72 consecutive hours in any seven day period unless the vessel is transient and has a holding tank for containment of waste by-products.

(c) Unseaworthy Vessels. Means that a vessel is not able to operate on its own power, inoperable electrical systems, is in the state of deterioration, it is not water tight (bilge pump not working), and is not navigable. Additionally, if the vessel, or any of its parts or equipment, is not reasonable fit for its intended purposes. The Lessee/Permittee, or the Applicant must demonstrate seaworthiness to the SCM management prior to permit or lease approval. At anytime during the permit or lease period, the SCM management reserves the right to request, the Lessee/Permittee, or the Applicant to demonstrate the permitted vessel is maintains seaworthiness. Failure to allow such request for the SCM Management is subject to revocation of existing permit.

(d) ~~Work Boats. The term "work boats" includes tugboats, crew boats, landing crafts, vessels engaged in cargo trade, fishing trawlers, utility boats, construction boats, barges and dredges.~~

(e) ~~Vessels as a Place of Abode. Vessel is deemed to be lived aboard if a person or persons occupy the vessel and engage in those usual and customary activities associated with a person's residence or abode, such as sleeping, preparation of meals, etc., for any period in excess of 72 consecutive hours in any seven day period unless the vessel is transient and has a holding tank for containment of waste by-products.~~

~~(b) Unseaworthy Vessels. Lessees, permittees and applicants shall, upon request, demonstrate or allow inspection of vessels for seaworthiness by the marina manager~~Marina Manager~~ or his designee. Need to further define the meaning of unseaworthy vessels.~~

~~(c) Work Boats. The term "work boats" includes tugboats, crew boats, landing crafts, vessels engaged in cargo trade, fishing trawlers, utility boats, construction boats, barges and dredges.~~

(c~~d~~) ~~Deep Draft Vessels. Vessels with a draft deeper than eight feet are "deep draft vessels."~~

~~(fe) Vessels Greater than 60 feet Long. The length of the vessel shall be determined by its length overall (LOA) rounded upward to the next whole foot, including all permanent and functioning overhangs.~~

~~(gf) Vessels Without Auxiliary Propulsion. Auxiliary propulsion means an engine, either outboard or inboard, sufficient to provide the vessel with safe maneuvering ability in the marina. Need to remove this from the regulation since sailboats are already allowable to use boating access recreational facility.~~Vessels with auxiliary propulsion is allowable to use the SCM facility.

Modified, 1 CMC § 3806(c), (e), (f), (g).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The Commission made "craft" plural in subsection (c) and moved the period after "vessels" in subsection (d) inside of the closing quotation mark. In 2006, this section was repromulgated without change.

§ 85-30.2-110 Categories of Exclusion for Leases

No vessel shall be granted a lease ~~for a berthing slip~~for berthing and mooring at the SCM Dock Slips ~~that comes~~ within any of the categories listed in § 85-30.2-105 and in addition to the following~~s~~:~~.~~

(a) Unregistered or Undocumented Vessel. A vessel must have either current CNMI registration or U.S. Coast Guard documentation.

(b) Unseaworthy Vessels. Means that a vessel is not able to operate on its own power, inoperable electrical systems, is in the state of deterioration, it is not water tight (bilge pump not working), and is not navigable. Additionally, if the vessel, or any of its parts or equipment, is not reasonable fit for its intended purposes. The Lessee/Permittee, or the Applicant must demonstrate seaworthiness to the SCM management prior to permit or lease approval. At anytime during the permit or lease period, the SCM management reserves the right to request, the Lessee/Permittee, or the Applicant to demonstrate the permitted vessel is maintains seaworthiness. Failure to allow such request for the SCM Management is subject to revocation of existing permit.

~~(b) Commercial Vessel. A vessel engaged in the commercial carriage of passengers, including but not limited to, sport fishing boats, Managaha transfer boats, tour boats, and parasailing tow boats may only be allowed to lease a berthing slip on a month to month basis after all non commercial priority preference berthing slip requests are satisfied. Commercial vessel month to month berthing slip leases may only be granted or renewed if there are no pending berthing slip lease requests from non-commercial vessels.~~

(c~~bc~~) Minimum Length. A vessel with a length overall (LOA) of less than fifteen feet.

(d~~cd~~) Maximum Beam. A vessel with a beam greater than fifteen feet (15'~~), except that~~. V~~v~~essels of greater than 15' beam may be berthed at dock "G". "Beam" is defined as the maximum breadth of the vessel.

(e~~de~~) Vessel has Alternate Government Berth. A vessel with any form of permit, license or lease from the government or any agency or corporation of the Commonwealth, or any vessel which has been habitually berthed for a year or longer alongside any dock, pier, quay, or jetty shall be excluded from obtaining a lease unless the other permit, license, or lease is first canceled and rescinded and/or the use of the dock, pier, quay or jetty is abandoned.

(f~~ef~~) Applicant has Another Berth. An applicant must not currently possess a lease for the berthing of another vessel at Smiling Cove. For purposes of this exclusion, "applicant" shall include a natural person, couples, corporation, partnership, joint venture or other legal entity.

(g) Work Boats. The term "work boats" includes tugboats, crew boats, landing crafts, vessels engaged in cargo trade, fishing trawlers, utility boats, construction boats, barges and dredges.

(h) Deep Draft Vessels. Vessels with a draft deeper than eight feet are "deep draft vessels."

(i) Vessels Greater than 60 feet Long. The length of the vessel shall be determined by its length overall (LOA) rounded upward to the next whole foot, including all permanent and functioning overhangs.

(j) Vessels Without Auxiliary Propulsion. Auxiliary propulsion means an engine, either outboard or inboard, sufficient to provide the vessel with safe maneuvering ability in the marina.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The Commission inserted "a" before the first occurrence of "berthing slip" in this section. In subsection (e), the Commission changed the "of" before "any agency" to "or" to correct a manifest error. The 2006 amendments changed subsections (b) and (c).

§ 85-30.2-115 First Come-First Served Priority

The SCM dock ~~S~~slips -shall be ~~assigned~~ recommended by the ~~marina manager~~Marina Manager and assigned by the Division of Fish & Wildlife Director according to first come-first served priority, recognizing an absolute priority preference for ~~non-commercial~~recreational vessels.~~, and v~~ Vessels shall be matched to slip sizes~~s~~ so as to maximize useable berthing space and not restrict maneuverability.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments added the priority preference for non-commercial vehicles to this section.

§ 85-30.2-120 Grant of Berthing or Mooring Lease

Upon selection for the grant of a lease, an applicant shall have ten days to complete the berthing or mooring lease, execute it, and pay the first month's berthing fees and the security deposit. Failure to do so will result in the denial of the application and the award of the lease to another applicant.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments changed "ten calendar days" to "ten days."

§ 85-30.2-125 Security Deposit

A security deposit in the amount of three months' berthing fees shall be required of a new applicant for a berthing lease. A security deposit in the amount of six months' berthing fees shall be required of an evicted lessee or permittee whose application is being reconsidered pursuant to § 85-30.2-710. All security deposits shall be applied to expenses incurred by the Division of Fish and Wildlife for violations of lease or permit terms or violations of the rules and regulations in this subchapter, including but not limited to curing delinquent berthing fees and expenses for impoundment or removal of a vessel pursuant to § 85-30.2-701 and § 85-30.2-705. The security deposit shall not be considered to be an advance payment of berthing fees by the lessee or permittee. In the event that all berthing fees are paid on a timely basis, then at the conclusion of any lease or permit period, the lessee or permittee shall be entitled to a return of his or her security deposit without interest.

Modified, 1 CMC § 3806(c), (d).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003).

Commission Comment: In 2006, this section was repromulgated without change.

~~**§ 85-30.2-130 Mooring Permits**~~

~~[Reserved.]~~

~~History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).~~

~~**§ 85-30.2-135 Location of Moorings**~~

~~[Reserved.]~~

~~History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).~~

~~**§ 85-30.2-140 Restriction on Moorings**~~

~~[Reserved.]~~

~~History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).~~

Part 200 - Berthing and Mooring Fees

§ 85-30.2-201 Fees for Berthing Slips

The following fees shall be assessed lessees assigned berths, on a monthly basis:

(a) Non-Commercial Activity Vessels
(1) Vessels 29.0 feet or less in length: $3.50 per foot.
(2) Vessels 29.1 feet to 44. 0 feet in length: $5.50 per foot.
(3) Vessels 44.1 feet or greater in length: $8.00 per foot.

(b) Vessels Involved in Commercial Activities
(1) Vessels 29.0 feet or less in length: $5.00 per foot.
(2) Vessels 29.1 feet to 44.0 feet in length: $8.00 per foot.
(3) Vessels 44.1 feet l0 60 feet in length: $10.00 per foot.
(4) Vessels 60.1 feet and greater in length: $15.00 per foot.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment – The Commission changed "involve" to "involved" in subsection (b). The 2006 amendments added subsection (b) and designated all subsections in this section.

§ 85-30.2-205 ~~Fees for~~Mooring Location and Fees ~~Moorings~~

~~[Reserved.]~~

The following fees shall be assessed lessees assigned mooring fees, on a monthly basis:

(a) Non-Commercial Activity Vessels
(1) Vessels 29.0 feet or less in length: $2.50 per foot.
(2) Vessels 29.1 feet to 44. 0 feet in length: $4.50 per foot.
(3) Vessels 44.1 feet or greater in length: $7.00 per foot.

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

§ 85-30.2-210 Delinquency

The due date for berthing slip lease payment shall be no later than the 10th day of each month (e.g., January lease payment is due by January 10). All delinquent payments, including those made after the 10th day of each month, shall be charged a 10% late fee for each month that payment is not made. Failure to pay berthing or mooring fees for a period of 30 days after the date that those fees are due, shall constitute delinquency, and shall be grounds for cancellation of the lease or permit pursuant to § 85-30.2-701.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003).

Commission Comment: The 2006 amendments added the first two sentences to this section.

Part 300 - Typhoons and Tropical Storms

§ 85-30.2-301 "Storm Conditions" Defined

"Storm conditions" means the government has declared that Saipan is currently in tropical storm condition~~ 2 or 1 or typhoon condition 2 or 1.~~.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was repromulgated without change.

§ 85-30.2-305 Typhoon Contingency Plan

All references to storm or typhoon preparation shall be in accordance with the current year's typhoon contingency plan. The plan specifies where each vessel will be berthed or moored in the event of a storm. The plan may be amended by the ~~marina manager~~Marina Manager as needed to accurately reflect the assigned berthing and mooring locations of all vessels during storm conditions.

Modified, 1 CMC § 3806 (f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003).

Commission Comment: In 2006, this section was repromulgated without change.

§ 85-30.2-310 Temporary Lifting of Exclusions During Storm Conditions

In the event of storm conditions, vessels excluded from Smiling Cove Marina under § 85-30.2-105(a), § 85-30.2-105(b~~a~~), § 85-30.2-105(c), § 85-30.2-105(d), ~~-~~and § 85-30.2-105(g~~f~~), may enter berth and moor in Smiling Cove Marina provided that they have applied for and received an approved non-tenant storm condition permit from the marina office, in accordance with § 85-30.2-330 and § 85-30.2-335. The permit will specify where the non-tenant vessel may be berthed or moored in the marina area during storm conditions, according to the typhoon contingency plan. All vessels registered in the typhoon contingency plan but which do not hold a valid lease issued pursuant to § 85-30.2-101 are required to leave within forty-eight hours after the ~~return to condition 3 or the~~ giving of the "all clear" signal.

Modified, 1 CMC § 3806(c), (f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was repromulgated without change.

§ 85-30.2-315 Emergency Moorings

In the event of storm conditions, any vessel permitted in Smiling Cove may moor across the channel of the waterway if the following conditions are observed and the vessel does not obstruct other permitted vessels according to the typhoon contingency plan:

(a) The vessel operator must follow the directions of the Director of the Division of Fish and Wildlife or his designee.

(b) The vessel must be moored in a manner that will not jeopardize the safety of adjacent vessels in a storm.

(c) All floats, gangways, and other floating obstacles other than vessels must be removed entirely from the water and secured on high ground.

(d) All loose objects on the vessel shall be either removed or sufficiently tied down to withstand typhoon strength winds.

(e) Mooring lines must use chafing protection on the vessel and at the end where they are fastened to trees, posts, or other objects out of the water.

(f) Vessels entering the Smiling Cove Marina specifically for storm protection, which are not registered according to the typhoon contingency plan, shall be placed in available locations on a first-come, first-served basis by the ~~marina manager~~Marina Manager or his designee.

(g) ~~(g)~~——Mooring lines must be removed from crossing the channel and all other locations that impede the movement or navigation of vessels in the waterways within twelve hours of the announcement of the "all clear" signal.

(h) The Secretary of Lands and Natural Resources at the recommendation of the ~~Marina Manager~~Marina Manager and the concurrence of the Director of Fish and Wildlife may refuse any vessel from entering the SCM and the transient dock to moor or berth under this section.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15,

2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was repromulgated without change. The Commission inserted a comma after "protection" in subsection (f) to correct a manifest error.

§ 85-30.2-320 Unattended Vessels During Storm Conditions

Any vessel with a berthing lease that is within Smiling Cove Marina during storm conditions and is not attended to by a person or persons who adequately secure the vessel for typhoon strength winds shall have its lease or permit terminated. It is the obligation of every boat owner to adequately secure his vessel so that it does not present a hazard to other vessels in the marina.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was repromulgated without change.

§ 85-30.2-325 ~~Marina Manager~~Marina Manager's Authority

The ~~marina manager~~Marina Manager is empowered to regulate all vessel movement and placement within Smiling Cove Marina, its boundaries and shore areas prior to or during storm conditions as the designee of the Director of Fish & Wildlife. The ~~marina manager~~Marina Manager or his/her designee shall:

(a) Announce when the marina is officially closed to vessel movement into or out of it when tropical storm condition ~~2~~1 is aired by weather broadcast, via, VHF marine band radio on channel 16 as notice to mariners. This broadcast will be transmitted at ten-minute intervals for one hour.

(b) Advise owners of trailerable vessels to remove them from the marina before tropical storm condition ~~2~~1 or typhoon condition 2.

(c) Monitor the placement of non-tenant vessels according to size and berth space. Non-tenant vessels are accorded refuge at Smiling Cove Marina pursuant to compliance with § 85-30.2-330 and § 85-30.2-335.

(d) Ensure that no vessels moor or anchor in the marina channel.

(e) Penalize and assess fines pursuant to CNMI laws for violations of this section.

(f) [Reserved.]

(g) [Reserved.]

Modified, 1 CMC § 3806(c), (f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003).

Commission Comment: The 2006 amendments changed subsection (e).

§ 85-30.2-330 Non-tenant Storm Condition Permit Procedures

An owner of any vessel that is not a tenant at Smiling Cove Marina who wishes to berth or moor within its premises during storms or typhoons must apply for a Non-Tenant Storm Condition Permit in accordance with § 85-30.2-330(a) through § 85-30.2-330(d) below:

(a) Complete an application and submit it to the marina office during the open application period, held each year between January 1 and March 31;

(b) Produce evidence of current, adequate and applicable insurance coverage along with the application;

(c) Pay the required annual fee if the application is approved; and

(d) Have a current vessel inspection report and certificate of number, as applicable.

(e) Any application submitted that cannot show evidence required by § 85-30.2-330(a) through § 85-30.2-330(d) above will be denied.

(f) No non-tenant vessel has the right to infringe upon the safety and welfare of the tenants of Smiling Cove Marina.

(g) All applications are subject to availability of berthing slips or mooring spaces at the marina.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003).

Commission Comment: In 2006, this section was repromulgated without change.

§ 85-30.2-335 Non-Tenant Storm Condition Permit Fees

The fees to be charged for the privilege to berth, moor or anchor within Smiling Cove Marina premises during storm conditions are assessed on an annual basis, are due and payable when the application is received and approved, and are not refundable. Fees are charged as follows:

(a) Vessels under 20 feet in length: Not permitted

(b) Vessels 20 feet to 30 feet in length: $50.00

(c) Vessels 31 feet to 40 feet in length: $55.00

(d) Vessels 41 feet to 50 feet in length: $60.00

(e) Vessels over 51 feet in length: $65.00

(f) Vessels at anchor: $30.00.

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003).

Commission Comment: The Commission changed "51over feet" to "over 51 feet" in subsection (e) to correct a manifest error. The 2006 amendments changed subsection (e).

Part 400 - Convenience Dock

§ 85-30.2-401 "Convenience Dock" Defined

The "convenience dock" is marked on exhibit "A~~-2~~" as the dock due north of the launching ramp.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was repromulgated without change.

§ 85-30.2-405 Commercial Vessels Prohibited

Commercial vessels ~~engaged in carrying passengers for hire, whether for transportation or any activity (fishing, parasailing, sightseeing, etc.)~~ are prohibited from using the convenience dock.

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was repromulgated without change.

§ 85-30.2-410 Use of Convenience Dock

The convenience dock is for the use of recreational boaters and fishermen. They shall use the dock for no longer than one-half hour at a time and shall tie up to the dock in a manner so as to allow the maximum number of vessels to use the dock. The convenience dock may also be used by visiting vessel pursuant to § 85-30.2-740.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was repromulgated without change.

Part 500 - Visiting Vessels

§ 85-30.2-501 "Visiting Vessel" Defined

A "visiting vessel" is a vessel registered outside of the ~~Commonwealth~~ Saipan or documented with a home port other than in the ~~Commonwealth~~ Saipan whose owner ~~is not~~ neither ~~a resident of the Commonwealth~~ a resident of Saipan and which will remain on Saipan for less than fourteen days.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments changed "thirty consecutive days" to "fourteen days."

§ 85-30.2-505 Procedure Upon Entry

(a) ~~(a)~~ Visiting vessels that visit from outside of the Commonwealth must clear various government inspections, such as CNMI CUSTOMS & Bio-security~~customs~~, ~~agricultural quarantine,~~DFW Brown Tree Snake Interdiction Section, and U.S. Customs Border Patrol~~and immigration~~. To receive such clearance, visiting vessels must call port control at the Commonwealth Port Authority on channel 16, announce their arrival, and present themselves for inspection at the area designated by port control near Charlie Dock.

(b) All visiting vessels who originated from Guam must clear the DFW Brown Tree Snake Interdiction Inspection prior disembarking the vessel or off-loading any cargo, goods, or materials. No cargo, goods, or materials, may be off-loaded from the vessel without getting clearance from the DFW Brown Tree Snake Interdiction Section.

(c) Visiting vessels that have been cleared may request permission from the ~~marina manager~~Marina Manager to temporarily berth in Smiling Cove. This permission will be granted if there is sufficient room to accommodate the vessel and the vessel does not come within a category of exclusion under § 85-30.2-105. In particular, a visiting vessel cannot be used as a place of abode, as defined in § 85-30.2-105(a), while in Smiling Cove Marina, unless permitted by the Director of Fish & Wildlife or his designee.

~~(b) Visiting vessels that have been cleared may request permission from the marina manager~~Marina Manager ~~to temporarily berth in Smiling Cove. This permission will be granted if there is sufficient room to accommodate the vessel and the vessel does not come within a category of exclusion under § 85-30.2-105. In particular, a visiting vessel cannot be used as a place of abode, as defined in § 85-30.2-105(a), while in Smiling Cove Marina, unless permitted by the Director of Fish & Wildlife or his designee.~~

Modified, 1 CMC § 3806(c), (f), (g).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The original regulation was not found on consecutive pages of the October 2006 Commonwealth Register due to a misplaced page in the middle of this section. The Commission inserted part of this section from 28 Com. Reg. 26246 (Oct. 30, 2006) rather than from the consecutive page (28 Com. Reg. 26245 (Oct. 30, 2006)).

In 2006, this section was repromulgated without change.

§ 85-30.2-510 Fees for Visiting Vessels

The following fees shall be collected daily from visiting vessels for berthing in Smiling Cove Marina:

(a) First three days in one month: free;

(b) Every day, or a fraction of a day, thereafter:
(1) Vessels 29.0 feet or less in length: $4.00 per day
(2) Vessels 29.1 feet to 44.0 feet in length: $8.00 per day
(3) Vessels 44.1 feet or greater in length: $12.00 per day.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The Commission inserted the final period in this section. In 2006, this section was repromulgated without change.

§ 85-30.2-515 Maximum Stay Permitted

A visiting vessel may stay only as long as permitted by the ~~marina manager~~Marina Manager and in no event longer than ~~13~~ 14 days per month.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments changed "30 calendar days" to "13 days per month."

Part 600 - Special Events

§ 85-30.2-601 "Special Events" Defined

"Special events" include use of the Smiling Cove Marina facilities for events including, but not limited to, fishing derbies and holiday celebrations, hosted by a person, a company, a non-profit organization, or a government agency. Marina facilities include, but are not limited to, berthing docks, launching ramp, trash bins, weigh station, convenience dock, parking area, water facilities and channel access.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003).

Commission Comment: In 2006, this section was repromulgated without change.

§ 85-30.2-605 Permit Required

Sponsors of special events are required to apply for a permit from the ~~marina manager~~Marina Manager for the special event. Application will be made in writing, on a form supplied by the ~~marina manager~~Marina Manager. A non-refundable fee of $~~50~~100.00 will be charged for the use of the marina facilities for the special event. No special event will be allowed to occur in Smiling Cove Marina without a permit approved by the ~~marina manager~~Marina Manager and full payment of the special event fee.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003).

Commission Comment: The 2006 amendments added the comma in the second sentence between "writing" and "on."

Part 700 - Leases and Permits

§ 85-30.2-701 Cancellation

(a) The Director of Fish & Wildlife may cancel and terminate any lease or permit upon five days written notice to the lessee or permittee for failure to comply with:

(1) Any provision of the lease or permit, including without limitation, nonpayment of lease rent or permit fees;

(2) The Smiling Cove Marina rules and regulations in this subchapter; or
(3) The Boating Safety rules and regulations [NMIAC, title 150, chapter 20].
(4) Non-compliance of previous special event permit conditions.

(b) In addition, if there is any change of circumstances that causes a vessel to come within § 85-30.2-105 or § 85-30.2-110, the lease or permit may be canceled.

(c) Notice shall be deemed served within twenty-four hours of the time said notice can include transmittal via email or~~is~~ deposited in the United States Postal Service, if mailed by first-class mail, postage prepaid, to the lessee's or permittee's address as designated on the lease or permit. In the case of personal service, notice shall be effective upon such service.

(d) The notice shall specify the applicable provision of the lease or permit, Marina Regulations in this subchapter or Boating Safety Regulations [NMIAC, title 150, chapter 20] with which the lessee or permittee has failed or refused to comply, the date and time on or before which the slip must be vacated, and the cancellation date.

(e) The lessee or permittee shall be liable for all berthing or mooring fees accruing prior to the date of cancellation.

Modified, 1 CMC § 3806(c), (d), (e), (f), (g).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The Commission designated subsections (a), (b), (c), (d), and (e). The 2006 amendments added subsection (a)(3) and modified subsections (a), (c), and (d). The Commission changed "effected" to "effective" in subsection (c) to correct a manifest error.

§ 85-30.2-705 Impoundment of Vessel upon Cancellation of Lease or Permit

(a) If the lessee or permittee shall fail or refuse to remove his or her vessel from a slip on or before the date of cancellation of the lease or permit, the Director or his designee shall impound the vessel at the lessee's or permittee's risk and expense.

(b) Impoundment shall consist of chaining the vessel to the dock and placing a dated sign upon the vessel explaining the reasons for impoundment.

(c) The Director or his designee may also impound a vessel by removing it from the slip.

(d) Neither the Division nor the Commonwealth government nor any of its officers or employees shall be liable for any such actions and all lessees and permittees waive all claims for damage to persons and property sustained by a vessel resulting from its movement pursuant to this provision.

(e) The lessee or permittee shall reimburse the Division for costs incurred in moving and storing the vessel. Fines may be assessed as well.

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The original paragraphs were not designated. The Commission designation subsections (a)-(e). The 2006 amendments added subsection (d) and changed subsections (c) and (e).

§ 85-30.2-710 Reconsideration of Evicted Lessees or Permittees

Any lessee or permittee evicted from the marina under part 700 of this subchapter who wishes to berth again at Smiling Cove Marina must make a new application and must wait for a space on the waiting list, if any. Any such new application made by an evicted lessee or permittee will be considered only after all delinquent berthing fees are paid, and any other violations or lease or permit provisions are cured. The ~~marina manager~~Marina Manager is authorized to require an advance deposit of six months' rental fees for any such new application.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003).

Commission Comment: In 2006, this section was repromulgated without change.

§ 85-30.2-715 Reassignment of Slips

(a) The ~~marina manager~~Marina Manager shall have the right to temporarily or permanently reassign berthing slip spaces and to move or cause to be moved any vessel so reassigned. A lessee or permittee, by applying for and accepting the use of a slip, shall be deemed to have consented to the reassignment and movement of the vessel to another slip:

(1) For the proper operation, maintenance and repair of Smiling Cove Marina,
(2) For the convenience of the Commonwealth,
(3) For a special event, or
(4) In case of an emergency.

(b) The lessee or permittee further consents to the movement of the vessel by the ~~marina manager~~Marina Manager if, after notice to move the vessel is given by the ~~marina manager~~Marina Manager, the lessee or permittee fails to comply with any such notice. The lessee or permittee shall reimburse the Division for costs incurred in moving the vessel.

(c) Neither the Division nor the Commonwealth government nor any of its officers or employees shall be liable for such action and all lessees and permittees waive all claims for damage to persons and property sustained by a vessel resulting from its movement pursuant to this provision.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments changed subsection (b) and added subsection (c).

In the original, part of this section appears out of order due to a misplaced page, which caused the last part of this section not to appear on the consecutive page. The Commission inserted the appropriate part of this section found at 28 Com. Reg. 26245 (Oct. 30, 2006).

§ 85-30.2-720 Non-Transferability of Lease

A lessee or permittee shall not give, sell, sublease, assign, or transfer, or attempt to give, sell, sublease, assign or transfer, whether voluntarily or involuntarily, the use of a designated slip, the lease or permit therefore, or any interest therein. No agreement, whether oral or in writing, between the lessee or permittee and any other person, firm, or entity may be made in connection with:

(a) The use of a designated slip by a person other than the lessee or permittee,

(b) The use of a designated slip by a vessel other than one owned by the lessee or permittee,

(c) The transfer of ownership of or an interest in a vessel, or

(d) A transfer of an interest in a corporation or partnership (general or limited) or joint venture owning a vessel, by which agreement lessee or permittee attempts to give, sell, sublease, assign, or to otherwise transfer the lease or permit and interest therein, or the right to use the designated slip, shall make the lease void and shall constitute grounds for the cancellation of the lease.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The Commission changed 'therefor" to "therefore" in the first sentence of this section to correct a manifest error. The 2006 amendments modified subsection (d) by removing the reference to § 85-30.2-701.

§ 85-30.2-725 Sale of Vessel

(a) A lessee or permittee may retain his or her designated slip for a period of thirty days after transferring title to or agreeing to sell his or her vessel provided:
(1) The lessee or permittee shall notify the ~~marina manager~~Marina Manager in writing of the sale of the vessel and his or her intent to acquire another vessel of appropriate length for the occupancy of the slip within five days of the date the agreement for the sale of the vessel is entered into, and
(2) The lessee or permittee shall pay slip fees equal to the amount specified in the lease or permit for the vessel sold pending the acquisition of another vessel.

(b) An extension of an additional period may be granted at the discretion of the ~~marina manager~~Marina Manager upon presentation of proof of a contract to purchase or construct another vessel.

(c) If the lessee or permittee does not acquire and accept delivery of another vessel of appropriate length for the assigned slip within the thirty day period or any extension thereof; the lease or permit shall be canceled. The lessee or permittee shall remain liable for all fees accruing prior to cancellation.

(d) A lessee or permittee shall notify the ~~marina manager~~Marina Manager in writing within five days of any change of ownership in his or her vessel resulting from a gift, sale, lease, withdrawal, addition or substitution of partners, the sale or transfer of stock in a closely held corporate ownership of the vessel or a change of officers or directors of a closely held corporation owning the vessel. If a lessee or permittee fails or refuses to notify the ~~marina manager~~Marina Manager within five days from the date of any such change, such failure or refusal shall constitute grounds for cancellation of the lease or permit.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments removed "calendar" before "days" in subsections (a), (a)(1), and (d) and before "day" in subsection (c). The 2006 amendments also removed references to § 85-30.2-701 in subsections (c) and (d).

§ 85-30.2-730 Partnerships and Corporations

(a) No lease will be issued in the name of a partnership, corporation, joint venture or other legal entity.

(b) A lease or permit for a vessel which is registered or documented by a partnership, corporation, joint venture, or other legal entity will be issued only to a sole natural person whose name appears on the Smiling Cove Marina waiting list and whose interest in the vessel is equal to or greater than that of each of the other partners, stockholders, members or associates.

(c) An application for a berthing lease for a vessel owned by a partnership, corporation, joint venture or other legal entity shall submit to the Director of the Division of Fish and Wildlife a fully executed marine bureau statement of ownership.

(d) If a lessee or permittee fails or refuses to notify the Director of a change to any of the information contained in the marine bureau statement of ownership within five days from the date of any such change, such failure or refusal shall constitute grounds for cancellation of the lease or permit.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The original paragraphs of this section were not designated. The Commission designated subsections (a)-(d). The 2006 amendments removed "calendar" before "days" and removed the reference to § 85-30.2-701 in the last sentence of this section.

§ 85-30.2-735 Absence from Slips

(a) In the event of an absence from a slip of more than seven days, the ~~marina manager~~Marina Manager shall be notified of the intended length of absence so that the slip may be made available to other vessels under a temporary permit.

(b) In the event that the planned absence is greater than ninety days, then a leave of absence must be requested from the ~~marina manager~~Marina Manager. The manager may grant a leave of absence for a reasonable period. If the period is deemed to not be reasonable, then the lease or permit shall be canceled.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments removed "calendar" before "days" in subsections (a) and (b) and removed the reference to § 85-30.2-701 in the last sentence of subsection (b).

§ 85-30.2-740 Temporary Slip Permit

The M~~m~~arina M~~m~~anager in consultation with the Director of DFW may issue temporary permits to occupy and use vacant or unassigned slips~~ upon such terms and conditions as may be required for the efficient operation of Smiling Cove Marina.~~ for the following activities:

(a) Visiting Vessels as defined in §85-30.2-501

(b) Non-Tenant vessels requiring temporary berthing at the SCM dock slips to repair their trailers;

(c) Recreational vessel who is seeking to berth or moor in the SCM dock slip for less than one year.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was repromulgated without change.

§ 85-30.2-745 Waiver of Claims

Neither the Commonwealth of the Northern Mariana Islands government nor any of its officers or employees shall be liable to a lessee or permittee and their guests for any damages to persons or property within Smiling Cove Marina.

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments removed the exception regarding the Government Liability Act of 1983 and added "and their guests" to this section.

Part 800 - General Regulations

§ 85-30.2-801 Application

The regulations in this part shall control the conduct of all lessees and permittees of Smiling Cove Marina and shall be incorporated as a part of any berthing lease or temporary slip permit. The regulations in this part may be changed from time to time and shall apply prospectively as changed or amended to all existing lessees and permittees.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was repromulgated without change.

§ 85-30.2-802 No Commercial Use of Slips

No slip or dock structure within the Smiling Cove Marina shall be used for commercial purposes.

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was repromulgated without change.

§ 85-30.2-804 Storage on Docks

Nothing shall be stored on the dock by any lessee or permittee. Each lessee or permittee is responsible for keeping the adjacent dock area clean and free of litter. A lessee or permittee shall not place items on the dock except for short periods of time; and at such times shall place the items in such a manner so as to not obstruct free passage along the dock.

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was repromulgated without change.

§ 85-30.2-806 Fenders on Dock

No lessee or permittee shall install fender material, dock wheels, or carpet on the docks without the express permission of the ~~marina manager~~Marina Manager. Upon installation, title to said fender or dock wheels shall be vested in the Commonwealth.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was repromulgated without change.

§ 85-30.2-808 Movement of Vessels in Marina

Movement of vessels within Smiling Cove Marina shall be for the purpose of entering or leaving a slip only.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments removed "by marina tenants" after "Smiling Cove Marina."

§ 85-30.2-810 Speed Within the Marina

(a) Basic Speed Law: No vessel shall be operated at such a speed in the Smiling Cove Marina and its channel that a wake is created that will disturb other vessels docked or moored or cause destruction of the shoreline. This shall apply to all vessels for the full length of the channel.

(b) Heavy Displacement Vessels: Heavy displacement vessels, greater than twenty tons are particularly prone to causing destructive wakes at slow speeds. Operators of these vessels shall maintain their speeds at less than 3 mph while traveling within Smiling Cove Marina.

(c) All Other Vessels: All vessels not specified in § 85-30.2-810(b) shall observe a 5 mph speed limit within Smiling Cove Marina for the full length of the channel, subject at all times to the basic speed law.

(d) Complaints: Lessees and permittees are encouraged to report incidents of vessels traveling in excess of any of the above subsections.

(e) If the ~~marina manager~~Marina Manager finds a violation of this section, a lessee or permittee shall have its right to berth or moor in the marina canceled.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments added subsection (e).

§ 85-30.2-812 Toilet Usage

Toilets or marine heads shall not be used aboard a vessel in Smiling Cove Marina unless waste removal from vessel toilets or marine heads are conducted pursuant to a process approved in writing by the Director of Fish & Wildlife or his designee.

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was repromulgated without change.

§ 85-30.2-814 Mooring of a Vessel

A lessee or permittee shall, at all times, ensure that his or her vessel is safely moored with lines adequate for the weather conditions.

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was repromulgated without change.

§ 85-30.2-816 Maintenance Work on Vessel

(a) Major repair or reconstruction work shall not be performed in or at any slip.

(b) No repair or other work on a vessel shall be performed before 8:00 a.m. nor after sunset, except in the case of emergency repairs to keep a vessel afloat. The ~~marina manager~~Marina Manager may provide written authorization to have a vessel repaired after sunset in the marina if the repairs require a longer period of time provided that the repairs do not infringe upon the safety and welfare of the tenants of Smiling Cove Marina. Such authorization must state a "start" and "ending" time and date for the repairs.

(c) Tools and equipment must not be placed on the dock in a manner that will obstruct free passage along the dock. The dock area must be kept in a neat, clean and orderly condition.

(d) No material of any type resulting from maintenance work, such as solvents, paints, sandpaper, and other non-biodegradable materials shall be allowed to enter the water of Smiling Cove Marina.

(e) Spray painting, welding, burning, and other hazardous activities are strictly prohibited in the marina.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments added "in a manner that will obstruct free passage along the dock" to subsection (c).

§ 85-30.2-818 Garbage and Littering

(a) No lessee or permittee shall have or keep on a vessel or on the adjacent dock any garbage or decaying matter. Trash bins are provided at the Smiling Cove Marina parking area for proper disposal of trash and other disposable materials.

(b) No lessee or permittee shall throw, place, leave, deposit or abandon, or cause to be thrown, placed, deposited or abandoned, any litter within the Smiling Cove Marina and the adjacent areas of American Memorial Park except in receptacles designated by the Division of Fish & Wildlife for the disposal of such materials. A lessee or permittee shall place only that garbage or litter within such receptacles as is generated during and results from a vessel's voyage.

(c) No lessee or permittee shall place, throw, deposit or discharge or cause to be placed, thrown, deposited, or discharged into the waters of Smiling Cove Marina any litter, sewage, garbage, gaseous liquid or solid materials which render the water unsightly, noxious, or unclean so as to be detrimental to the public health and welfare.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The Commission changed the "&" to "and" in subsection (a). In 2006, this section was repromulgated without change.

§ 85-30.2-820 Fire Safety

(a) Basic Rule: No lessee or permittee shall use or permit his or her vessel to be used or maintained in a manner as to create or constitute a potential fire hazard.

(b) Fire Extinguishing Equipment: Any vessel berthed in the Smiling Cove Marina shall have at least two operable hand portable fire extinguishers containing ten pounds of dry chemicals. This requirement is waived if the vessel has a current safety inspection by the local boating safety office, Coast Guard or a vessel safety check that has passed the Coast Guard Auxiliary inspection criteria.

(c) Fueling: No fueling of vessels shall be permitted within the Smiling Cove Marina unless concurred by the Director of Fish and Wildlife and approved the Secretary of Lands and Natural Resources pursuant to § 85-30.2-821~~0-1~~., ~~whatsoever, shall be permitted within Smiling Cove Marina.~~

(d) LPG: Any vessel equipped with liquid propane gas for cooking shall also be equipped with a solenoid or a warning indicator for detecting LPG leaks.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15,

2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The Commission inserted "or" before "permittee" in subsection (a). In 2006, this section was repromulgated without change.

§ 85-30.2-8210 1 Fueling Within the SCM

Fueling within the Smiling Marina premises shall be restricted and limited to the Saipan International Fishing Derbycommunity events or Transient Vesselsevent with the following special conditions:

(a) **Request and Approval:** AllThe Saipan International Derbycommunity events shall submit a written request 15 working days to the Director of Division of Fish and Wildlife prior to the fishing derby event for review and concurrence to authorize fueling at the Smiling Cove Marina;

1) The Director of Fish and Wildlife shall review and forward his determination (concurrence or non-concurrence) to the Secretary of Lands and Natural Resources within 5-working days upon receipt of a written request from the Saipan International Derbyevent official.
2) The Secretary of Lands and Natural Resources shall make his determination within 5-working days upon receipt of the the Director's determination;
3) With the concurrence of the Director of Fish and Wildlife and the approval of the Secretary of Lands and Natural Resources, the Director of Fish and Wildlife shall issue a permit to authorize fueling at the SCM premises with the following Special Condition and Guidelines.

(b) **Special Conditions and Guidelines:**

1) Allowable Period: Fueling shall be allowed temporarily and will be outlined within the permit conditionsfor a temporary period 5-days prior to the fishing derby event and 3-days after the fishing derby event.
2) The event applicant/designated representative must secure all other pertinent permits required to fuel their vesssels.
3) Location for Fueling: Fueling may be allowed **only** at the SCM Convenience Dock (Dock A). No fueling at anytime shall be allowed within Dock B to G at the SCM.
4) Allowable Gas Containers: No greater than 15 gallons capacity. The gas container can be metal and polyethlenepolyethylene safety cans equipped with a no-spill spout.
   i. Gas containers must not have excessive rust, dents, gouges, or cuts on its surface.
   ii. The spout must not have any cracks and tightly fit to prevent any leak
5) Safety Measures Before Fueling:
   i. Secure the vessel transporting fuel to the vessel;
   ii. When transporting gas container to your boat, walk slowly, watch your step, and do not rush;
   iii. Must have a fire extinguisher on your boat during fueling;
   iv. Turn off engine(s), electronics, and extinguish all open flames;
   v. Close all ports, windows, doors and hatches;
   vi. Make sure your container is comfortable to carry, hold and balance;
   vii. Take your time in fueling, do not rush fueling your boat, go slowly, pour deliberately and watch your container, especially the nozzle mechanism, for signs of leak;
   viii. Ensure the nozzles stays in contact with the tank opening at all times;
   ix. Use a buddy system if the container is too heavy;
   x. Use absorbenabsorbent pad under the container;
   xi. Don't top off your tank. Know how much fuel your tank holds and fill it to about 90%.

xii. Treat your fueling operation with care, avoid having too many people around while fueling your boat;

xiii. No smoking on the boat;

6) Safety Measures After Fueling:

i. Close all openings, i.e., boat fuel tank and gas containers;

ii. Wipe out all spilled fuel;

iii. Permit vessels to ventilate for at least 5 minutes before opening ports, windows, doors and hatches;

iv. Check to ensure that there are no fuel fumes in the bilges or below deck spaces before starting machinery or lighting fires.

7) Prohibited Fueling Activity

i. At no time will any ~~person will be allowed to fuel using a 50-gallon drum and running a fuel hose from the ground and across the marina fence~~fueling be allowed. F~~This f~~ueling activity is strictly prohibited unless permitted.

8) Accidental Fuel Spills into the Water:

i. Immediately stop any fueling activity;

ii. Stop any smoking around and near the spill area;

iii. Immediately report the fuel spill to the event~~fishing derby~~ officials and to the Division of Fish and Wildlife (670) 664-6000 / (670) 664-6080 / (670) 483-6261 and the Smiling Marina Management (670) 323-6070 / (670) 783-7261;

iv. Contain the spill fuel using absorbent pads

v. ~~The Division of Fish and Wildlife or the Smiling Cove Marina management~~ Any spill activity shall be~~will~~ reported~~ the spill activity~~ to the USCG, BECQ and DFW.

9)

§ 85-30.2-822 Dumping of Hazardous Substances

No lessee or permittee shall dump, discharge or pump oil, spirits, gasoline, diesel, distillate, any petroleum product, any other flammable materials, detergent, cleaning solutions or any substance that violates CNMI Water Quality Standards [NMIAC, title 65, chapter 130] into the waters of Smiling Cove Marina, upon any of the docks, or on any land adjacent to the marina. Combustible materials shall not be placed in trash receptacles, but only in receptacles specially marked for combustibles and petroleum products. In the absence of such a receptacle, a lessee or permittee shall remove the substances for disposal at a site other than the marina or American Memorial Park.

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was repromulgated without change.

§ 85-30.2-824 Swimming

No person shall swim in the Smiling Cove Marina, except as necessary to moor or anchor a vessel, clear a fouled propeller, assist a vessel in clearing another vessel's mooring lines, or remove a vessel that is aground.

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was repromulgated without change.

§ 85-30.2-826 Fishing

No person shall fish from any docks of the marina and adjacent locations. No shoreline or fishing from the banks within Smiling Cove Marina is permitted beginning westward from the convenience dock to the south end of the marina ending at the last slip at dock G. Fishing in Smiling Cove Marina is strictly prohibited.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was repromulgated without change.

§ 85-30.2-828 Visitors

Visitors, unless accompanied by a lessee or permittee, or designated by the lessee or permittee in writing, shall not be permitted on the docks after sunset.

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was repromulgated without change.

§ 85-30.2-830 Small Children on Docks

Children under ten years of age are not permitted on the docks without the immediate presence of their parents or other responsible adults.

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was repromulgated without change.

§ 85-30.2-832 Obstructions Placed in Water

No float, pier, dock, pile, ramp or other obstruction may be placed in the Smiling Cove Marina without the prior authorization of the ~~marina manager~~Marina Manager.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was repromulgated without change.

§ 85-30.2-834 Signs

(a) No lessee or permittee shall place, erect or maintain any sign, display or notice on any property, structure, or improvement within the Smiling Cove Marina, without the prior written authorization of the ~~marina manager~~Marina Manager.

(b) A lessee or permittee may place one sign on the exterior of a vessel advertising the sale or offering for sale of said vessel; provided however, the size of any such sign shall not exceed nine inches by twelve inches and the lettering thereon shall not exceed four inches in height. Such a sign shall be displayed on the vessel for seven consecutive calendar days that is written on the authorization.

(c) Application for another week to post a sign shall be made again to the ~~marina manager~~Marina Manager.

(d) The ~~marina manager~~Marina Manager may direct the removal of any nonconforming or unauthorized sign, display, or notice. In the event that a lessee or permittee refuses to remove it, such shall constitute grounds for cancellation of the lease or permit.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a)-(d). In 2006, this section was repromulgated without change.

§ 85-30.2-836 Maintenance of Marina

A lessee or permittee shall immediately notify the ~~marina manager~~Marina Manager of the need for repairs to the docks or any dangerous conditions in the marina requiring attention.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was repromulgated without change.

§ 85-30.2-838 Alteration of Docks

A lessee or permittee shall not alter any dock in any way without the prior written consent of the ~~marina manager~~Marina Manager.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments did not make any changes to this section.

§ 85-30.2-840 Nuisance

No lessee or permittee shall use his or her vessel in such a manner or maintain it in such a condition that its presence in the marina is a nuisance. A "nuisance" is defined as when the health or safety of others is threatened or their quiet and peaceful use of the marina is interfered with.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The Commission changed "their" to "his or her" in the first sentence of this section. In 2006, this section was repromulgated without change.

§ 85-30.2-842 Guests Aboard at Night

A lessee or permittee shall not have more than five guests aboard his or her vessel while at its berthing space between the hours of 8:00 p.m. and 4:00 a.m. The exception to this rule shall be when a vessel is departing or arriving at its berth space. In such an event, any guests may remain only as long as engaged in performing any acts necessary for the departure or arrival, such as the loading and unloading of the vessel.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments removed "one" before "exception" in the second sentence of this section.

§ 85-30.2-844 Noise

A lessee or permittee shall not create, or allow to be created by any person, animal, machinery, hardware, sound system, radio, television, or any form of device, any sound which may be considered offensive or a nuisance to any other users of the marina, taking into consideration the circumstances of the time, place, and nature of the sound.

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was repromulgated without change.

§ 85-30.2-846 Articles and Equipment Left on Dock

[Repealed.]

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003).

Part 900 - Parking Area

§ 85-30.2-901 "Parking Lot" Defined

The paved parking area adjacent to and immediately south of the docks at Smiling Cove Marina is referred to herein as the "parking lot."

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The Commission moved the final period inside of the quotation mark. In 2006, this section was repromulgated without change.

§ 85-30.2-905 Use Restrictions

(a) A lessee or permittee is entitled to leave one vehicle in the parking lot while aboard his or her vessel. Two additional vehicles of guests of a lessee or permittee may be left in the parking lot while the guests are aboard the lessee's or permittee's vessel.

(b) Buses and mini-buses shall be permitted to load and unload passengers in the parking lot, and park at the designated bus parking location.

(c) No person shall sleep or cook in a vehicle while it is in the parking lot.

(d) Trailers shall be permitted in the parking lot in the area that is marked and designated for "trailers."

(e) No vehicle or trailer may be left in the parking lot for more than seventy-two hours without the written authorization of the ~~marina manager~~Marina Manager. Any vehicle that does not belong to a tenant of the marina or his/her guest, and that remains in the parking lot after 8:30 p.m., shall be towed away at the owner's expense. A parking fine will also be assessed.

(f) No person shall remain, stay, or loiter in the parking lot between the hours of 8:30 p.m. and 5:00 a.m.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In subsection (d), the Commission moved the final period inside of the closing quotation mark. The 2006 amendments modified subsection (e).

§ 85-30.2-910 Risk of Use

The parking lot is maintained by the government for the gratuitous use of boat owners. Any person who parks a vehicle in the parking lot does so at his or her own risk.

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was repromulgated without change.

Part 1000 - Enforcement

§ 85-30.2-1001 Effect of Regulations on Lease and Permits

(a) The rules and regulations in this subchapter, as stated herein, and as they may be amended from time to time, are express conditions of every lease and permit.

(b) A violation of the rules and regulations in this subchapter may result in the cancellation of a lease or permit by the Director of Fish & Wildlife.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments removed the reference to § 85-30.2-701 in subsection (b).

§ 85-30.2-1005 Enforcement of Regulations

(a) The rules and regulations in this subchapter may be enforced against persons who are not lessees or permittees by an action for specific performance and/or damages.

(b) No action for legal or equitable relief may be filed for enforcement except by the government. However, any lessee may file an action in his or her own name against any person who places or maintains a vessel at the lessee's berthing slip without the consent of the lessee.

(c) The Secretary of Lands & Natural Resources is hereby empowered to deputize marina enforcement personnel for the issuance of citations in violation of the regulations in this subchapter.

(d) The ~~marina manager~~Marina Manager is directed to instruct and train the marina enforcement personnel in the proper procedures for the issuance of citations and/or notices pursuant to the regulations in this subchapter.

(e) Marina enforcement personnel must be attired in identifiable uniforms and must carry identification cards in the performance of their duty.

Modified, 1 CMC § 3806(d), (f), (g).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The Commission deleted "or" located before "without the consent of the lessee" in subsection (b) to correct a manifest error.

The 2006 amendments inserted a new subsection (c) and redesignated the remaining sections. The 2006 amendments modified subsection (d) (formerly subsection (c)) by inserting "citations and/or" before "notices."

§ 85-30.2-1010 Discretion of the ~~Marina Manager~~Marina Manager in Removing Applicants from Waiting List

The ~~marina manager~~Marina Manager may remove an applicant for a berth lease from the waiting list for failure to comply with the regulations in this subchapter or to obey the directives of the Director of Fish & Wildlife. No application will be accepted if that person has an unpaid debt to Smiling Cove Marina for prior usage of the facility.

Upon complete payment of all debts in arrears, the ~~marina manager~~Marina Manager may consider including the applicant on the waiting list.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was repromulgated without change.

§ 85-30.2-1015 Nature of Lease and Permit

No person has a right to a lease or a permit or the use of the government's docks or the Smiling Cove Marina. Upon execution of a lease agreement or a permit, a holder obtains certain rights to the extent provided in the agreement.

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: In 2006, this section was repromulgated without change.

Part 1100 - Fines

§ 85-30.2-1101 Fines

Assessment of fines for violation of the Smiling Cove Marina Rules and Regulations in this subchapter is as follows:

(a) Illegally berthed vessel: $4.00 per linear foot per day.

(b) Impounded vessel:
(1) $25.00 per week for vessels from 20 feet to 30 feet in length;
(2) $50.00 per week for vessels from 31 feet to 45 feet in length; and
(3) $75.00 per week for vessels over 45 feet in length.

(c) Trailer removal: $25.00 per trailer.

(d) Vessel removal:
(1) $50.00 per vessel from 20 feet to 30 feet in length;
(2) $100.00 per vessel from 31 feet to 45 feet in length; and
(3) $250.00 per vessel over 45 feet in length.

(e) Illegal parking: $25.00 per day.

(f) Unauthorized signs: $10.00 per sign after warning to remove it.

(g) Unauthorized persons on dock: $10.00 per person after warning to leave.

(h) Articles and equipment on dock: $50.00 per occurrence after warning to remove it.

(i) Dumping of hazardous substances: $500.00 per occurrence.

Modified, 1 CMC § 3806(d), (g).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003).

Commission Comment: The Commission changed "are" to "is" in the first sentence of this section to correct a manifest error. The Commission designated subsections (b)(1)-(3) and (d)(1)-(3). The 2006 amendments made several changes throughout this section, including replacing the title of Part 1100 and § 85-30.2-1101 ("Cost Reimbursement" replaced with "Fines").

§ 85-30.2-1105 Opportunity to Contest Imposition of Costs

[Repealed.]

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003).

Part 1200 - Miscellaneous Provisions

§ 85-30.2-1201 Severability

If any section or portion of a section herein is invalid, it shall be deleted from this subchapter and shall not invalidate the remaining sections of the regulations.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003); Adopted 14 Com. Reg. 9633 (Sept. 15, 1992); Proposed 14 Com. Reg. 9338 (July 15, 1992); Emergency 14 Com. Reg. 9327 (effective for 120 days from July 13, 1992).

Commission Comment: The 2006 amendments replaced this section in its entirety.

§ 85-30.2-1205 Supersedure

The Smiling Cove Marina Rules and Regulations contained in this subchapter supercede all other rules and regulations regarding Smiling Cove Marina previously promulgated, including but not limited to those published in the Commonwealth Register:

(a) On July 15, 1992 at pages 9327 through 9334;

(b) On July 15, 1992 at pages 9338 through 9380;

(c) On September 15, 1992 at pages 9633 through 9636;

(d) On June 15, 1995 at pages 13515 through 13517; and

(e) On September 15, 1995 at page 13723.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003).

Commission Comment: In 2006, this section was repromulgated without change. However, Exhibits A-1 and A-2, although referenced in this subchapter and formerly located at the end of the subchapter, were not published with the 2006 amendments. Therefore, Exhibits A-1 and A-2 were repealed pursuant to this section (§ 85-30.2-1205).

Exhibit A-1

[Repealed].

See Commission Comment to § 85-30.2-1205.

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006) (repealed); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003).

Exhibit A-2

[Repealed].

See Commission Comment to § 85-30.2-1205.

History: Amdts Adopted 28 Com. Reg. 26409 (Dec. 29, 2006) (repealed); Amdts Proposed 28 Com. Reg. 26231 (Oct. 30, 2006); Amdts Adopted 25 Com. Reg. 21401 (Sept. 18, 2003); Amdts Proposed 58 Com. Reg. 20399 (July 15, 2003).

Department of Finance

P.O. Box 5234 CHRB
Saipan, MP 96950
Phone: (670) 664-1100 / Fax: (670) 664-1115

PUBLIC NOTICE OF PROPOSED AMENDMENTS TO REGULATIONS to the DEPARTMENT OF FINANCE, DIVISION OF CUSTOMS SERVICE

INTENDED ACTION TO ADOPT THESE PROPOSED AMENDED REGULATIONS: The Department of Finance – Division of Customs Biosecurity intends to amend the Customs Service Regulations, pursuant to the procedures of the Administrative Procedure Act (APA),1 CMC § 9104(a). If adopted, these amendments will become effective ten days after the publication of a Notice of Adoption in the Commonwealth Register. 1 CMC §9105(b)

AUTHORITY: These amendments are promulgated under the authority set forth in the Commonwealth Code, including but not limited to 1 CMC §2553, 1 CMC §2557, 1 CMC §252021, 1 CMC §1104, 1 CMC §1402, 4 CMC §1425 and §1820.

THE TERMS AND SUBSTANCE: The purpose of the amendments to Customs Service Regulations Chapter 70-10 is to reinstate bonded warehouses in the Commonwealth of the Northern Mariana Islands.

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

TO PROVIDE COMMENTS: Interested parties may submit written comments on the proposed regulations to Tracy B. Norita, Secretary of Finance, via US mail to the Dept. of Finance, P O Box 5234 CHRB, or via hand-delivery to the Office of the Secretary of Finance, Capitol Hill, Saipan, MP. Comments, data, views, or arguments are due within 30 days from the date of publication in this notice. 1 CMC § 9104(a)(2).

Department of Finance
P O Box 5234 CHRB Saipan, MP 96950
670-664-1100 **info@dof.gov.mp**

Submitted by: TRACY B. NORITA
Secretary of Finance

10/9/2024
Date

Received by: OSCAR BABAUTA
Governor's Special Assistant
for Administration

10/9/24
Date

Filed & Recorded by: ESTHER SAN NICOLAS
Commonwealth Register

10.15.2024
Date

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

EDWARD MANIBUSAN
Attorney General

10/10/2024
Date

Department of Finance
P.O. Box 5234 CHRB
Saipan, MP 96950
Phone: (670) 664-1100 / Fax: (670) 664-1115

ARONGORONGOL TOULAP REEL POMMWOL LIIWEL NGALI MWOGHUTUGHUTUL DEPATTAMENTOOL FINANCE, DIVISION OF CUSTOMS

ARONGORONG REEL MANGEMANGIL MWOGHUT: Depattamentool Finance, Division of Customs (Customs) re atirow reel akkateewowul liiwel kka e amwirimwirtiw ngali Mwoghutughutul Customs Service. Re mangemangil rebwe adoptaali mwoghutughut kkal bwe ebwe lleghlo, sangi Administrative Procedure Act, 1 CMC § 9 104(a). Ngare re adoptaali, ebwe bwungulo liiwel kkal 1lo1 seigh ráál mwiril aal akkateewow reel Notice of Adoption llol Commonwealth register. 1 CMC § 9105(b).

BWANGIL: Liiwel kkal nge aa ffil reel ffeerul faal bwangil iye ebwe mmwetelo mmwal llol Commonwealth Code ebwe bwal aschuulong, nge ese yoor pilil ngali, 1 CMC § 2553, 1 CMC § 2557, 1 CMC § 25201. 4 CMC § 1104, 4 CMC § 1402, 4 CMC § 1425 me 4 CMC § 1820.

KKAPASAL ME AWEEWEL: Bwulul liiwel ngali Customs Service Regulations Chapter 70-10 nge ebwe itittiw afal me mwoghut ngali peiragh me rebwe ayoora bwe ebwe weewelo enforcement reel alleghul Commonwealth me Teel Faluw kka Efang llol Marianas iye Customs re lemeli; re mwuschel bwe Customs rebwe lemeli kkosas ikka e toolong me faluw kka akkaaw reel alongal tappal kkosas, wares, ngare merchandise ngali assessment me collection reel tax; me bwal atippa mil kka e nngaw ngaliir aramas me akkaaw ikka esoor bwangil ngare e nngaw nge re bweibwoghlong.

AFAL REEL AMMWELIL ME AKKATEEWOWUL: Pommwol liiwel kkal nge ebwe akkateewow llol Commonwealth Register loll talil pommwol me ffel mwoghutughut kka ra adoptaali (1 CMC § 9102(a)(1)) me ebwe apascheta llol civic center me lloll gobetnamento llol senatorial district, fengal reel kkasal English me mwaliyaasch (1 CMC § 9 104(a) (1)).

FOOS: Scho kka re mwuschel isiisilong iischil mangemang wool pommwol mwoghutughut kka rebwe isch ngali Tracy B. Norita, Sekkretoriyal Finance, via U. S. Mail ngali Depattamentool Finance, P. O. Box 5234, CHRB, Seipel, MP 96950, ngare bwughilo reel Bwulasiyol Sekkretoriyal Finance, Asungul, Seipel, MP, Isiisilongol mangemang, data, views, ngare angiingi ebwe toolong llol eliigh (30) ráál mwiril aal a kkateewow arongorong yeel. 1 CMC § 9 104(a) (2).

Department of Finance
P O Box 5234 CHRB Saipan, MP 96950
670-664-1100 **info@dof.gov.mp**

Isaliyalong: _____ 10/9/2024
TRACY B. NORITA
Sekkretoriyal Finance
Ráál

Bwughiyal: _____ 10/09/2024
OSCAR BABAUTA
Special Assistant ngali
Administration
Ráál

Ammwelil: _____ 10.15.2024
ESTHER SAN NICOLAS
Commonwealth Register
Ráál

Sangi 1 CMC §2153 (e) me 1 CMC § 9104(a)(3) reel pommwol mwoghutughut ikka e appasch bwe ra takkal amwuri fischiiy me atirowa bwe aa ffil reel ffeerul me legal sufficiency sangi Soulemelemil Allegh Lapalapal CNMI me ebwe akkateewow. 1 CMC § 2153(f).

_____ 10/10/2024
EDWARD MANIBUSAN
Soulemelemil Allegh Lapalap
Ráál

Department of Finance
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NUTISIAN PUPBLIKU NI MANMAPROPONI NA REGULASION SIHA PARA I DIPATTAMENTON I FINANSIAT, DIBISION I CUSTOMS

NUTISIA PUT I AKSION NI MA'INTENSIONA: I Dipattamenton i Finansiat, Dibision i Customs (Customs) ma'apl'ueba i pupblikasion i tinattiyi na amendasion siha para iyo-niha Customs Service Regulations. Ma'intensiona para u ma'adapta esti siha na regulasion kumu petrnanienti, sigun para i Aktun Administrative Procedures, 1 CMC § 91 04(a). Kwnu rna' adapta, esti siha na regulasion siempri mu ifektibu gi Mlum dies (1 0) dihas dispues di pupblikasion nu i Nutisian i Adaptasion gi M.lum i Rehistl'an Commonwealth. (1 CMC § 9 105(b))

ATURIDAT: Esti na amendasion siha para u macho'gui gi papa' i aturidat ni mapega mona gi halum i Commonwealth Code iningklusi, lao ti chi-na para, 1 CMC § 2553, 1 CMC § 2557, 1 CMC § 25201, 4 CMC § 1 104, 4 CMC § 1402, 4 CMC § 1425 yan 4 CMC § 1 820.

I TEMA YAN SVST ANSIAN I P ALARRA SIHA: I intensiona i amendasion siha para i Customs Service Regulations Chapter 70-10 para u ma'estapblesi i policy yan i manera siha ni para u ma'implimenta ya mapribeni unifotmi na enforcement i lai I Commonwealth gi Sangkattan na Islas Marianas ni mamanenea gi Customs; manisisita i Customs para u gubietna i imports i todu articles, fektus, pat kosas para i ibaluasion yan kuleksion i tax siha; yan para i inturompi i piligru na elements yan otru contraband.

DIREKSION PARA V MAPO'LV YAN MAPUPBLIKA: Esti i manmaproponi na amend as ion siha debi na u mapupblika gi hruum i Rehistran i Commonwealth gi halum i seksiona ni maproponi yan nuebu na ma'adapta na regulasion siha (1 CMC § 91 02(a)(1)) yan u mapega gi hl1lum i kumbinienti na lugat gi halum civic center yan gi hruum ufisinan gubietnarnentu siha gi halum distritun senadot, parehu Englis yan gi lingguahln natibu (1 CMC § 9 104(a)(1)).

UPINON SIHA: I manintirisao na petsona siha sina manna'halum tinigi' upinon ni manmaproponi na regulasion siha para i Sekriwian i Finansiat, Tracy B. Norita, via U,S. mail para Dipattamenton i Finansiat, P.O, Box 5234 CHRB, Saipan, MP 96950, pat intrega halum gi Ufisinan i Sekritarian Finansiat. I upinon, data, views, pat agumentu siha nisisita u fanhruum gi halum trenta (30) dihas ni tinattitiyi gi fetchan kalendariu gi pupblikasion nu esti na nutisia. 1 CMC 91 04(a)(2).

Department of Finance
P O Box 5234 CHRB Saipan, MP 96950
670-664-1100 **info@dof.gov.mp**

Nina' halum as:

TRACY B. NORITA
Sekritarian I Finansiilt

10/9/2024
Fetcha

Rinisibi as:

OSCAR BABAUTA
Ispisiat Na Ayudanti Para
Atministrasion

10/09/24
Fetcha

Pine'lu yan
Ninota as:

ESTHER SAN NICOLAS
Rehistran Commonwealth

10.15.2024
Fetcha

Sigun i 1 CMC § 2153(e) yan i 1 CMC § 9104(a)(3) i manmaproponi na regulasion siha ni manechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligat ginin i Abugadu Henerat CNMI yan debi na u mapupblika, 1 CMC § 2153(f).

EDWARD MANIBUSAN
Abugadu Henerat

10/10/2024
Fetcha

SUBCHAPTER 70-10.1
CUSTOMS SERVICE REGULATIONS

Part 1000 - Custom Bonded Warehouses

Subpart A - Introduction

§ 70-10.1-1001 Authority

The authority for the promulgation and issuance of this part is derived from the Commonwealth Code, including, but not limited to, the following sections: 1 CMC § 2553; 1 CMC § 2557; 4 CMC § 1104; 4 CMC § 1402(b); 4 CMC § 1818; 6 CMC § 2304; and 6 CMC § 2305.

§ 70-10.1-1002 Purpose

(a) To defer the payment of excise tax on goods prior to their formal entry into the local stream of commerce, thus reducing administrative costs in processing excise tax refunds, and increasing business cash flow.

(b) To exempt from excise tax imported goods that will eventually be either exported in the same condition or used, consumed, or expended in the processing of other goods for export.

(c) To regulate the authorized removal of suspicious cargo from official points of entry to other locations prior to inspection and clearance, thus providing more thorough and complete customs inspection of incoming freight and enhancing homeland security.

§ 70-10.1-1004 Definitions

(a) "Applicant" means a person or corporation with a business license who applies to operate as a licensed customs bonded warehouse.

(b) "Customs bonded warehouse" or "bonded warehouse" is a building or other secured area, licensed as a bonded warehouse by the Director of Customs, or Secretary of Finance, in which dutiable goods may be stored, manipulated, or undergo manufacturing operations without payment of excise tax prior to such time as the goods are withdrawn from the warehouse for local consumption. Any such area will be considered an extension of the points of entry for purposes of customs jurisdiction.

(c) "CNMI" means the government of the Commonwealth of the Northern Marianas Islands with jurisdiction over its own customs territory.

(d) "Director" means the director of the Division of Customs in the CNMI Department of Finance.

(e) "Department" means the CNMI Department of Finance.

(f) "Secretary" means the Secretary of Finance.

(g) "Permit" means a permit to operate a place as a bonded warehouse.

(h) "Permittee" means a person, or corporation, who is the operator of a bonded warehouse.

Subpart B - Bonded Warehouses; Designation; Bonding Requirements; Supervision; Preconditions

§ 70-10.1-1006 Establishment of Bonded Warehouse

Buildings or parts of buildings and other enclosures may be designated by the Director as a bonded warehouse, upon submission of an application and granting of a license. Any such area will be considered an extension of the points of entry for purposes of customs' jurisdiction.

§ 70-10.1-1008 Classes of Bonded Warehouses

The following classes of bonded warehouses are hereby created:

(a) Class A. A "class A" bonded warehouse is a private bonded warehouse used by an importer for the storage of merchandise exclusively belonging or consigned to the proprietor thereof.

(b) Class B. A "class B" bonded warehouse is a public bonded warehouse used exclusively for the inspection and storage of merchandise from different importers, or for inspection and storage by the Department of incompletely cleared merchandise, or suspicious merchandise as authorized by 6 CMC § 2304.

(c) Class C. A "class C" bonded warehouse is an in-bond manufacturing warehouse used solely for production of articles made in whole or in part of imported materials. Class C warehouses may not be used to manufacture or assemble garments. The Director shall issue CNMI country of origin certificates when necessary and proper.

(d) Class D. A "class D" bonded warehouse is a bonded warehouse established for the cleaning, sorting, re-packing, or otherwise changing the condition of, but not the manufacturing of, imported merchandise, under Customs supervision, and at the expense of the proprietor. Such class D designation may be in conjunction with any of the above designations.

§ 70-10.1-1010 Bonding Requirement

Before any imported merchandise, not finally released from the Department's custody, shall be stored in any such bonded warehouse the owner or permittee thereof shall give a bond in such sum and with such sureties as may be approved by the Director of Customs

to secure the government against any loss of excise tax or expense connected with or arising from the deposit, storage, or manipulation of merchandise in such warehouse. Such bond shall conform to the requirements of subpart D.

§ 70-10.1-1012 Staffing Requirement

(a) CNMI Customs Officer. Except as otherwise provided in the regulations in this part, bonded warehouses shall be used solely for the storage of imported merchandise and shall be placed in the charge of a CNMI customs officer, who, together with the proprietor thereof, shall have joint custody of all merchandise stored in the warehouse. The customs officer assigned to a bonded warehouse shall have total access to, without limitation, such licensee's books, records and receipts relating to the entry and withdrawal of merchandise from such customs bonded warehouse. The compensation of such customs officer and other customs employees appointed to supervise the receipt of merchandise into any such warehouse and deliveries therefrom shall be reimbursed to the government by the proprietor of such warehouse. Each bonded warehouse shall be assigned a customs officer by the Director.

(b) Private Staff. A licensed bonded warehouse shall provide all labor and management on the merchandise so stored by hiring private staff. Such licensee shall also maintain all records necessary for the customs officer assigned to that customs bonded warehouse to assess inventory levels and whether merchandise is withdrawn and excise taxes payable thereon. The customs officer assigned to that bonded warehouse may enter the premises at any time to inspect operations and records.

(c) Compensation of Private Staff. Permittees of a class A and B customs bonded warehouse shall pay their employees, agents, and contractors a wage at least equal to the federal minimum wage currently prevailing in the United States.

§ 70-10.1-1014 Accounting Forms

The Director of Customs shall from time to time prescribe such forms as may be necessary to account for the deposit and withdrawal of merchandise in bonded warehouses.

§ 70-10.1-1016 Permitting of Bonded Warehouse

The Director of Customs, or Secretary may issue a permit to an applicant who:

(a) Completes an application in accordance with subpart C;

(b) Provides such security or bond as may be required under § 70-10.1-1010 and in accordance with subpart D; and

(c) Pays any fee required to be paid under subpart E.

§ 70-10.1-1018 Cap on Authorized Permits

The following number of bonded warehouse permits are hereby authorized:

SENATORIAL DISTRICT	#1	#2	#3
CLASS A	4	4	12
CLASS B	4	4	12
CLASS C	5	5	15
CLASS D	5	5	15

§ 70-10.1-1020 Prohibition on Owning Cartage Company

No license shall be issued to any applicant involved directly or indirectly, or through third parties in cartage, common carrier, inland trucking, unloading, or transportation of the merchandise from importation point.

Subpart C - Application to Conduct Business as a Bonded Warehouse

§ 70-10.1-1022 Application Requirements

Any applicant who wishes to apply for a license to operate a bonded warehouse shall summit a completed application on a form to be prescribed by the Director, together with a detailed plan of the proposed bonded warehouse, to the Director.

(a) Such plan shall detail the following information:
(1) Whether the place proposed to be operated as a bonded warehouse exists or is to be constructed;
(2) The type of construction of the facility regardless of whether or not it already exists;
(3) The area, within the facility, that is to be used for the storage of goods;
(4) The amount and policy holder of fire and general liability insurance covering the value of the merchandise to be stored;
(5) Whether or not the applicant intends to store any hazardous materials, and what type;
(6) Affidavit that applicant has no ownership, directly, indirectly or through related third parties of cartage per § 70-10.1-1020.

(b) The Director shall not issue a license to an applicant unless:
(1) The applicant is of good character and has not been convicted, found guilty or pled guilty to any criminal act;
(2) The site of the proposed bonded warehouse is within an area served by a customs office;
(3) The applicant has sufficient financial resources to lease or purchase the facility;
(4) The applicant will provide conditions suitable for the safekeeping of goods, including any hazardous materials;

(5) The Department is able to provide customs services with respect to the proposed bonded warehouse;
(6) The terms and conditions under which a license may be issued are included, such as the extent and circumstances to which, in accordance with § 70-10.1-1070 goods may be manipulated, unpacked, packed, altered, or combined with other goods while in bonded warehouse; and
(7) The applicant certifies that he or she shall comply with the federal minimum wage law requirements of § 70-10.1-1012 for class A and B customs bonded warehouses.

(c) All bonded warehouse facilities operating for the storage, treatment or handling of hazardous waste shall also attach a copy of their permit to operate such a facility as required by the laws and regulations of U.S. Environmental Protection Agency and CNMI environmental agencies.

Subpart D - Bonds and Other Security

§ 70-10.1-1024 Requirement of Bond

The Director may require such bonds or other security as s/he, or the Secretary, may deem necessary for the protection of the revenue or to assure compliance with any provision of law, regulation, or instruction which the Secretary or the Department may be authorized to enforce.

§ 70-10.1-1026 Conditions and Form of Bond

Whenever a bond is required under the regulations in this part, the Secretary may require:

(a) Cash or cash equivalent in lieu of bond. The Secretary is authorized to permit the deposit of money or obligation of the United States, in such amount and upon such conditions as he may prescribe, in lieu of sureties on any bond required or authorized by regulation or instruction which the Director of Customs is authorized to enforce;

(b) Letter of credit issued yearly, or otherwise, by an acceptable banking institution;

(c) Personal guarantees in a form acceptable to the Director;

(d) A bond issued by a company that is licensed or otherwise authorized under the laws of the CNMI or United States to carry on the fidelity or surety class of insurance business and that the Director and the Secretary recommended in writing as acceptable as an institution whose bonds may be accepted by the CNMI;

(e) Except as otherwise specifically provided by law, prescribe the conditions and form of such bond and the manner in which the bond may be filed, and fix the amount of penalty thereof, whether for the payment of liquidated damages or of a penal sum;

(f) The approval of the sureties on such bond, without regard to any general provision of law;

(g) Authorization, to the extent that s/he may deem necessary, for the taking of a consolidated bond (single entry or term), in lieu of separate bonds to assure compliance.

§ 70-10.1-1028 Cancellation of Bond

The Secretary may authorize the cancellation of any bond provided for in this subpart, or any charge that may have been made against such bond, in the event of a breach of any condition of the bond, upon the payment of such lesser amount of penalty or upon such other terms and conditions as he may deem sufficient. In order to assure uniform, reasonable, and equitable decisions, the Secretary shall publish guidelines establishing standards for setting the terms and conditions for cancellation of bonds or charges thereunder.

Subpart E - License and Fees

§ 70-10.1-1030 License Requirement

All bonded warehouses shall be licensed by the Department prior to engaging in such business.

§ 70-10.1-1032 License Fee

(a) Every licensee shall pay to the Department an annual fee for the license, for the period beginning on the day on which the license is issued and ending on September 30th. Annual fees will be prorated on the portions of the year remaining after the license is issued. The annual fee will be determined on the basis of the amount of security deposit under subpart D, in accordance with the table to this section.

TABLE

Amount of Security Deposited	Amount of Fee Payable Per Fiscal Year
Up to $10,000	$1,000
$10,001 to $50,000	$1,500
$50,001 to $200,000	$2,000
$200,001 to $500,000	$3,000
More than $500,000	$5,000

(b) The fee for each subsequent year will be paid by October 1st, and no license will be issued without the fee being paid.

§ 70-10.1-1034 Amendment of License

The Director may amend a license only where the name of the licensee has changed legally, or change of ownership requiring new owner to meet the terms and conditions of subpart D.

§ 70-10.1-1036 Cancellation or Suspension of Licenses

(a) The Director may cancel a license where the licensee:
(1) No longer owns or leases the place that is licensed as a bonded warehouse;
(2) Requests the Director in writing to cancel the license; or
(3) Declares bankruptcy.

(b) Subject to § 70-10.1-1038 the Director may suspend or cancel a license where the licensee:
(1) Is the subject of a receivership in respect of the licensee's debts;
(2) Fails to comply with any laws enacted by the CNMI to prohibit, control, or regulate the importation or exportation of goods;
(3) Has, in the course of operating the bonded warehouse, acted dishonestly in business dealings with customs brokers, importers, carriers, and other appointed officials;
(4) Has been incompetent in the operation of the bonded warehouse;
(5) The volume of goods being received in the bonded warehouse is no longer sufficient to warrant the continued operation of the bonded warehouse;
(6) There is no longer a need for a bonded warehouse in the area in which the bonded warehouse is located;
(7) The Department is no longer able to provide customs services with respect to the bonded warehouse;
(8) The licensee manipulates, unpacks, packs, alters, or combines the goods with other goods while in the bonded warehouse other than in accordance with the terms and conditions set out in the license.

(c) Following the suspension or cancellation of a license:
(1) An officer may lock and seal the bonded warehouse and keep it locked and sealed during the period of suspension.
(2) The Director shall immediately after suspending a license, give to the licensee a notice confirming the suspension and providing all relevant information concerning the grounds on which the Director has suspended the license.
(3) The licensee may, within ninety days after the day on which the license is suspended, make representation to the Director regarding why the license should be reinstated.
(4) Director shall, before canceling a license under this section, give the licensee ninety days notice of the proposed cancellation and provide the licensee with all relevant information concerning the grounds on which the Director proposes to cancel the license.
(5) The licensee may, within 90 days after the day on which the notice referred to in subsection (c)(4) is given, make representation to the Director regarding why the license should not be cancelled.
(6) A decision to cancel or suspend a license by the Director shall be subject to review pursuant to the Administrative Procedure Act, 1 CMC §§ 9101, et seq.

(7) Upon a final determination by the Director to cancel a license, all excise tax on taxable merchandise stored in a bonded warehouse shall become immediately payable.

§ 70-10.1-1038 Reinstatement of Suspended Licenses

The Director may reinstate a suspended license where the cause for the suspension no longer exists. In no event shall a license be suspended for longer than ninety days from the date of final determination to suspend by the Director.

Subpart F - Bonded Warehouse Operations and Facilities

§ 70-10.1-1040 Security

Every licensee shall provide at the bonded warehouse such facilities, equipment, and personnel as are sufficient to control access to the bonded warehouse premises and provide secure storage of the goods in it including:

(a) Doors and other building components of sturdy construction;

(b) Secure locks on doors and windows;

(c) Signs that indicate the security requirements applicable to the premises; and

(d) Where the bonded warehouse will be used for the storage of designated goods, such additional facilities and equipment as may be required by the Director to ensure the secure storage of those goods.

§ 70-10.1-1042 Facilities

Every licensee shall provide at the bonded warehouse such facilities to provide:

(a) Adequate space for the examination of goods by officers; and

(b) Where a bonded warehouse forms only part of a building, the licensee shall, if so requested by the Director, keep the bonded warehouse separate from the remainder of the building by a partition or other structure.

§ 70-10.1-1044 Personnel and Equipment

Every licensee shall provide at the bonded warehouse:

(a) The personnel and equipment necessary to ensure that the goods to be examined by a customs officer are made available to the customs officer for examination; and

(b) The personnel necessary to furnish information, for audit purposes, to a customs officer with respect to the bonded warehouse operations and inventory system.

§ 70-10.1-1046 Operation and Maintenance Standards

(a) Every licensee shall ensure that the goods received in the bonded warehouse are:
(1) Stored safely and securely in the area designated for that purpose in the plan referred to in § 70-10.1-1022; and
(2) Clearly identified to allow customs officers to easily locate the goods and verify them against the relevant documentation. This identification must include a label showing the bill of lading number, the arrival date, and the deadline for removal.

(b) No person, other than the licensee, an employee of the licensee, or an employee of a carrier engaged in the delivery of goods to, or the removal of goods from, the bonded warehouse shall enter any place in it where goods are stored, without the written authorization or the attendance of a customs officer.

(c) Every licensee of a bonded warehouse shall have in place:
(1) Procedures to maintain the security of, and restriction of access to, the bonded warehouse; and
(2) Procedures to ensure that personnel working in the bonded warehouse are aware of and follow the procedures referred to in this section.

§ 70-10.1-1048 Penalty for Non-compliance with this Subpart

A bonded warehouse may be locked and sealed by a customs officer where the Director requested that the bonded warehouse be locked and sealed, for the purpose of verifying that the licensee is in compliance with this subpart.

Subpart G - Entry and Withdrawal of Merchandise

§ 70-10.1-1050 Receipt of Goods

All containers shall remain under seal until they arrive at the bonded warehouse. A customs officer shall be present to break the container seal. Every licensee shall acknowledge receipt of imported goods into the bonded warehouse in respect of which their license was issued by:

(a) Endorsing the transportation document(s) presented to the licensee by the carrier (including invoices and bills of lading);

(b) Recording on a form to be prescribed by the Director, which shall include the quantity, description, value, and estimated tax of the imported goods.

§ 70-10.1-1052 Incomplete Entry

(a) Customs shall notify the bonded warehouse of unentered merchandise whenever the entry of any imported merchandise is not made within the time provided by law because:

(1) In the opinion of the Department, the entry of imported merchandise cannot be made for want of proper documents or other cause;
(2) Customs Service discovers or has probable cause to believe that contraband has entered the Commonwealth; or
(3) The Department believes that any merchandise is not correctly and legally invoiced.

(b) If the merchandise is not intended to be stored at any particular bonded warehouse, such unentered, suspicious, or contraband merchandise may be stored and inspected at a class B bonded warehouse.

(c) After notification under subsection (a), the bonded warehouse shall arrange for the transportation and storage of the merchandise at the risk and expense of the consignee. The merchandise shall remain in the bonded warehouse until entry is made or completed and the proper documents are produced, or disposed of in accordance with Part 600 of these regulations. Such merchandise shall accrue interest on excise taxes owed and storage fees.

§ 70-10.1-1054 Withdrawal of Merchandise; Time; Payment of Charges

(a) Any merchandise subject to excise tax (including international travel merchandise), with the exception of perishable articles and explosive substances, may be entered for warehousing and be deposited in a bonded warehouse at the expense and risk of the owner, purchaser, importer, or consignee. Such merchandise must be withdrawn within six (6) months from the date of importation for consumption in the Commonwealth with payment of the excise tax and storage fees due upon withdrawal.

(b) Any merchandise so deposited may be withdrawn from a bonded warehouse for exportation or for transportation and exportation to a foreign country, or the shipment or for transportation and shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or the island of Guam, without the payment of excise tax thereon, or for transportation and re-warehousing at another port or elsewhere, or for transfer to another bonded warehouse at the same port; except that the total period of time for which such merchandise may remain in bonded warehouse shall not exceed six (6) months from the date of importation.

(c) A processing fee of $75.00 will be assessed for each withdrawal of merchandise from a bonded warehouse for exportation.

(d) Payment of excise tax, exportation processing fees, and storage fees must be made to the Department at the time the merchandise is withdrawn from the bonded warehouse. The bonded warehouse shall contact the designated customs officer prior to withdrawal.

§ 70-10.1-1056 Destruction of Merchandise at Request of Consignee

Merchandise entered under bond, under any provision of law, may, upon payment of all charges other than excise tax on the merchandise, be destroyed, at the request and at the

expense of the consignee, within the bonded period under customs supervision, in lieu of exportation, and upon such destruction the entry of such merchandise shall be liquidated without payment of excise tax.

§ 70-10.1-1058 Transfer and Removal of Goods

(a) Where there is a transfer of ownership of goods stored in a bonded warehouse, the importer or owner of the goods shall submit a transfer document in the prescribed form to an officer at the customs office where the goods were entered.

(b) Where the importer or owner of goods stored in a bonded warehouse wants the goods removed from the bonded warehouse in smaller units, the importer or owner shall submit to the Director:
(1) Where the goods are to be released, an amended accounting in a form to be prescribed by the Director; or
(2) Where the goods are not to be released, an amended description in the prescribed form.

Subpart H - [RESERVED]

Subpart I - Manipulation in Public or Private Warehouse

§ 70-10.1-1068 Original Packaging Requirement

Unless by special authority of the Director, no merchandise shall be withdrawn from a bonded warehouse in less quantity than an entire bale, cask, box, or other package. All merchandise so withdrawn shall be withdrawn in the original packages in which imported.

§ 70-10.1-1070 Manipulation Allowed for Class D Bonded Warehouses

Every licensee shall ensure that goods are not manipulated, altered, or combined with other goods while in a bonded warehouse, except for class D bonded warehouses for the purpose of, or in the course of:

(a) Disassembling or reassembling goods that have been assembled or disassembled for packing, handling, or transportation;

(b) Displaying;

(c) Inspecting;

(d) Marking, labeling, tagging, or ticketing;

(e) Packing, unpacking, packaging, or re-packing;

(f) Removing from the warehouse, for the sole purpose of soliciting order for goods or services, a small quantity, or a portion, a piece or an individual object, that represents the goods;

(g) Storing;

(h) Testing; or

(i) Any of the following that do not materially alter the characteristics of the goods:
(1) Cleaning;
(2) Diluting;
(3) Normal maintenance and servicing;
(4) Preserving;
(5) Separating defective goods from prime quality goods,
(6) Sorting or grading; and
(7) Trimming, filing, slitting, or cutting.

Subpart J - Allowance for Loss; Liens; Hearings

§ 70-10.1-1072 Allowance for Loss, Abandonment

In no case shall there be any abatement or allowance made in the excise tax for any injury, deterioration, loss, or damage sustained by any merchandise while remaining in Department custody, except that the Secretary is so authorized, upon production of proof satisfactory to him or her of the loss or theft of any merchandise while in the Department's custody. The decision of the Secretary as to the abatement or refund of duties on any such merchandise shall be final and conclusive upon all persons.

§ 70-10.1-1074 Liens

Whenever a customs officer shall be notified in writing of the existence of a lien for freight, charges upon any imported merchandise sent to the bonded warehouse, or taken possession by the Department, he shall refuse to permit delivery thereof from the bonded warehouse until proof shall be produced that the said lien has been satisfied or discharged. The rights of the CNMI shall not be prejudiced nor affected by the filing of such lien, nor shall the Department or its officers be liable for losses or damages resulting from such refusal to permit delivery. If merchandise, regarding which such notice of lien has been filed, shall be forfeited or abandoned and sold, the freight, charges, or contribution in general average due thereon shall be paid from the proceeds of such sale in the same manner as other lawful charges and expenses are paid therefrom.

§ 70-10.1-1076 Procedures for Hearing

Unless a provision of the regulations in this part specifies that the decision of the Director shall be final and conclusive, any person aggrieved under these regulations may request a hearing. Procedures for hearings shall be conducted in accordance with the Administrative Procedure Act (APA), 1 CMC §§ 9101, et seq., and shall be conducted in

front of the Director, unless such grievance concerns a decision by the Director, in which case the hearings shall be conducted in front of the Secretary.

Subpart K - Cartage

§ 70-10.1-1078 Licensed and Bonded Cartage

(a) The cartage of merchandise entered for warehouse shall be done by
(1) Cartmen appointed and licensed by the Director; and
(2) Carriers designated to carry bonded merchandise.

(b) Such cartmen and carriers shall give bond, in a penal sum to be fixed by the Department, for the protection of the CNMI against any loss of, or damage to, the merchandise while being so carted and necessary for the protection of the CNMI revenue or to assure compliance with any provision of law, regulation, or instruction which the Secretary or the Department may be authorized to enforce. Such cartmen and carriers shall also be in compliance with all applicable environmental laws and regulations concerning the transport of hazardous materials.

§ 70-10.1-1080 Prohibition on Operating Bonded Warehouses

Persons engaged in the cartage, inland freight trucking, common carrier, unloading, or transportation of merchandise from importation are prohibited from being licensed bonded warehouse operators, either directly or indirectly.

CNMI DEPARTMENT OF LABOR

ADMINISTRATIVE HEARING OFFICE

In Re Matter of: Maria C. Pangelinan, Appellant, v. CNMI Department of Labor, Appellee.	**PUA Case No. 23-0260** **ADMINISTRATIVE DECISION GRANTING PARTIES REQUEST FOR DISMISSAL**

On September 13, 2024, the Department filed a Motion to Dismiss stating that Appellant has reviewed and agreed with the Department's Notice of Overpayment for the weeks appealed and has agreed to a repayment plan. On September 18, 2024, Appellant filed a request to withdraw her appeal because she understands the Department's decision and no longer wants to pursue her Appeal.

In consideration of the above, there are no issues for the undersigned to resolve and the undersigned finds that dismissal is appropriate. Accordingly, this appeal is hereby **DISMISSED**. Further, the September 19, 2024 Administrative Hearing is **VACATED** and shall be taken off calendar. In the event that the Appellant disagrees with a subsequent determination or notice, Appellant may file a new appeal.

So ordered this **18th** day of September, 2024.

JACQUELINE A. NICOLAS
Chief Administrative Hearing Officer

Jen DLCruz
hearing@dol.gov.mp

CNMI DEPARTMENT OF LABOR

ADMINISTRATIVE HEARING OFFICE

In Re Matter of: Hua Jin, Appellant, v. CNMI Department of Labor, Appellee.	**PUA Case No. 23-0266** **ADMINISTRATIVE DECISION GRANTING APPELLANT'S REQUEST FOR DISMISSAL**

On August 22, 2024, Appellant filed a written request to voluntarily dismiss her appeal so she can pursue reconsideration with the Department. The Department does not oppose dismissal.

In consideration of the above, there are no issues for the undersigned to resolve and the undersigned finds that dismissal is appropriate. Accordingly, this appeal is hereby **DISMISSED**. Further, the November 7, 2024 Administrative Hearing is **VACATED** and shall be taken off calendar. In the event that the Appellant disagrees with a subsequent determination or notice, Appellant may file a new appeal.

So ordered this **23rd** day of August, 2024.

JACQUELINE A. NICOLAS
Chief Administrative Hearing Officer

CNMI DEPARTMENT OF LABOR

ADMINISTRATIVE HEARING OFFICE

In Re Matter of:	)	**PUA Case No. 23-0267**
	)	
Heeyeon Cabrera,	)	
	)	
Appellant,	)	**ADMINISTRATIVE DECISION GRANTING APPELLANT'S REQUEST FOR DISMISSAL**
	)	
v.	)	
	)	
CNMI Department of Labor,	)	
	)	
	)	
Appellee.	)	
	)	

On August 28, 2024, Appellant filed a written request to voluntarily dismiss her appeal so she can pursue reconsideration with the Department. The Department does not oppose dismissal.

In consideration of the above, there are no issues for the undersigned to resolve and the undersigned finds that dismissal is appropriate. Accordingly, this appeal is hereby **DISMISSED**. Further, the December 19, 2024 Administrative Hearing is **VACATED** and shall be taken off calendar. In the event that the Appellant disagrees with a subsequent determination or notice, Appellant may file a new appeal.

So ordered this **16th** day of September, 2024.

JACQUELINE A. NICOLAS
Chief Administrative Hearing Officer