

Final 12.2017

Part 001 - General Provisions

§15-10-001 Short Title

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

§15-10-005 Authority

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

§15-10-010 Purpose

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

§15-10-015 Construction

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

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

§15-10-020 Definitions

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

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

- (c) “Adverse impacts” includes, but is not limited to any of the following:
 - (1) Alteration of chemical or physical properties of coastal or marine waters that would impair or prevent the existence of the natural biological habitats and communities;
 - (2) Accumulation of toxins, carcinogens, or pathogens which could potentially threaten the health or safety of humans or aquatic organisms;
 - (3) Disruption of ecological balance in coastal systems and marine waters that support natural biological communities;
 - (4) Addition of man- made substances foreign to the coastal and marine environment for which organisms have had no opportunity for adaptation and whose impacts are largely known;
 - (5) Disruption or burial of bottom communities;
 - (6) Interference with traditional fishing activities;
 - (7) Development or activities which pose unreasonable risks to the health, safety, or welfare of the people of the Commonwealth or conflict with applicable federal or local laws intended to protect public health, safety, and welfare or ecological integrity of sensitive ecosystems; or
 - (8) Impacts to air quality, scenic views, safe transportation, areas of cultural significance, or any other effect(s) as listed in 2 CMC 1511.

- (d) “Affected person” means any person who can demonstrate to the Director the actual or potential bias or conflict of interest of a CRM Agency Official.

(e) “Agency Officials” means designated officials of any CRM agency as set forth in 2 CMC § 1531(a).

(f) “Aggrieved person” means, with respect to a particular project, the following:

- (1) An applicant or person who has been adversely affected by the decision of the coastal resources management regulatory agencies or by the decision of the DCRM, or
- (2) A person who has been negatively affected by a decision of the CRM regulatory agencies or by a decision of the DCRM and can demonstrate that she/he participated in the DCRM hearing process either by submitting written comments or making oral statements during any hearing held on the project and that these comments were not adequately addressed by the final permit decision, and that the failure to adequately address the comments or statements had a material effect on the final permit decision.

(g) “Alternative” means reasonable possible actions that could substitute or replace the proposed action and fulfil the same or a similar purpose. Only a reasonable range of alternatives must be discussed, analyzed, and compared in an environmental impact statement. What constitutes a reasonable range of alternatives depends on the nature of the proposal and the facts in each case.

(h) “Appeals Board” means the appeals board for the CRM as described in 2 CMC § 1541.

(i) “Area of Particular Concern” or “APC” means an area included within CRM jurisdiction that is subject to special management because of its unique and important environmental properties, and is subject to specific criteria permit evaluations under part 300 of these regulations.

(j) “APC permit” means a permit for any development within, partially within, or with potential to have significant adverse impact on an APC that does not meet the criteria for a CRM major siting.

(k) “Aquaculture” or “mariculture facility” means a facility, either land or water based, for the propagation and rearing of aquatic organisms (both marine and freshwater) in controlled or selected aquatic environments for any commercial, recreational, scientific, or public purpose.

(l) “Authorized Representative” means the individual or individuals duly designated by an applicant for a permit or a permittee to represent the permit holder in binding decision-making and correspondence. As specified in § 15-10-205(c) a representative is duly authorized when (i) authorization is made in writing by a permit applicant (ii) specifying either an individual or position having responsibility for the overall submission of a proposal or operations of a project and (iii) written authorization signed by the permittee is submitted to the Director. If an authorization is no longer accurate because a different individual or position has responsibility for overall permit execution for the permit holder, the permit applicant or permittee must submit a new authorization. Authorized representatives are jointly responsible for the certification of the veracity of submitted permitting documents. Authorized representatives are assumed to have the ability to accept service of administrative orders concerning compliance with these regulations and permits issued under the Coastal Resources Management Program.

(m) “Beach” means an accumulation of unconsolidated deposits along the shore with their seaward boundary being at the low tide or reef flat platform level and extending in a landward direction to the strand vegetation or first change in physiographic relief to topographic shoreline.

(n) “Best Management Practices” or “BMP” means a measure, facility, activity, practice, structural or non-structural device, or combination of practices that are determined to be the most effective and practicable (including technological, economic, and institutional considerations) means achieving environmental quality goals.

(o) “Coastal Advisory Council” means the council described in 2 CMC § 1521.

(p) “Coastal High Hazard Area” means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to

high velocity wave action from storms or seismic sources. The coastal high hazard area is identified by FEMA's FIRM maps as Zone V and VE.

(q) "Coastal land" means all lands and the resources thereon, therein, and thereunder located within the territorial jurisdiction of the CRM program, as specified by 2 CMC § 1513.

(r) "Coastal resources" means all coastal lands and waters and the resources therein located within the territorial jurisdiction of the CRM program, as specified by 2 CMC § 1513.

(s) "Coastal Resources Management Agencies" or "CRM Agency Board" or "CRM Agency Officials" means the entities described in 2 CMC §1531.

(t) "Coastal Resources Management program" or "CRM program" means the Coastal Resources Management Program established by 2 CMC § 1501, et seq.

(u) "Coastal resources management program boundaries" means area subject to CRM program territorial jurisdiction, as specified in 2 CMC § 1513.

(v) "Coastal waters" means all waters under the marine resources subject to the territorial jurisdiction boundaries of the coastal resources management program as specified in 2 CMC § 1513.

(w) "Conclusion of law" means a legal decision of a government agency regarding a legal question or controversy made by applying relevant statutes, regulations, rules, or other legal principles to the facts of the case.

(x) "Cumulative Effect" or "Cumulative Impact" means the incremental environmental impact or effect of the proposed action, together with impacts of past, present, and reasonably foreseeable future actions, regardless of what person or agency (Federal or non-Federal) undertakes such other actions. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

(y) “Degradation” means a diminution or reduction of strength, efficacy, value, or magnitude.

(z) “Development” means any of the following:

- (1) The placement or erection of any solid material or structure;
- (2) Discharge or disposal of any dredge materials or of any gaseous, liquid, solid, or thermal waste;
- (3) The grading, removing, dredging, mining, or extraction of any materials;
- (4) A change in the density or intensity of use of land including, but not limited to, subdivision of land and any other division of land including lot parceling;
- (5) A change in the intensity of use of water, the ecology related thereto, or the access thereto;
- (6) A construction or reconstruction, demolition, or alteration of any structure, including any facility of any private or public utility; or
- (7) The removal of a significant amount of vegetation, whether native or non-native.

(aa) “Direct and significant impact” means the result of an action which is causally related to or derives as a consequence of a proposed project, use, development, activity, or structure which contributes to a material change or alteration in the ecological or socio-economic characteristics of any coastal resource.

(bb) “Director” means the Director of the Division of Coastal Resources Management appointed pursuant to EO 2013-24.

(cc) “Division of Coastal Resources Management” or “DCRM” means the entity described in 2 CMC §1512.

(dd) “Effect” or “effects” mean (i) direct effects, which are caused by the action and occur at the same time and place, and (ii) indirect effects, which are caused by the action and are later in time or farther removed in distance but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use,

population density or growth rate, and related effects on air and water and other natural systems including ecosystems and ecosystem services. Effects and impacts are synonymous for the purposes of these regulations and required environmental impact assessment reviews. Effects include ecological (such as the effects of natural resources and on the components, structures, and functioning of affected ecosystem(s)), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects.

(ee) “Endangered or threatened wildlife” means species of plants or animals that are designated as endangered or threatened by the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, or by the Commonwealth’s Division of Fish and Wildlife.

(ff) “Environmental Impact Assessment” (EIA) means a detailed written statement including attachments required in § 15-10-206. As required for Major Siting applications, this report shall include analysis of the proposed action, consideration of adverse effects of the project that cannot be avoided, meaningful discussion of alternatives, consideration of short-term uses of the environment versus the maintenance and enhancement of long-term productivity, and any irreversible and irretrievable commitment of resources.

(gg) “Federally excluded lands” means those federally owned lands excluded from the territorial jurisdiction of the CRM program as specified by 2 CMC § 1513, 16 U.S.C. § 1453(1), and 15 C.F.R. § 923.33.

(hh) “Findings of fact” means determinations of fact by way of reasonable interpretation of evidence.

(ii) “Fluid” means any material or substance which flows or moves, whether in a semisolid, liquid, sludge, gas, or any other form or state.

(jj) “Green Infrastructure” means infrastructure that incorporates best management practices that protect, restore, or mimic natural processes, including water cycles and coastal dynamics, that typically use “soft” or “natural” design elements.

(kk) “Hazardous material” means any item or agent (biological, chemical, physical) which has the potential to cause harm to humans, animals, or the environment, either by itself or through interaction with other factors, when improperly treated, stored, transported, disposed of, or otherwise managed.

(ll) “High tide line” means a line or mark left upon tide flats, beach, or along shore objects indicating the elevation of the intrusion of high water. The mark may be a line of oil or scum on along shore objects, or a more or less continuous deposit of fine shell or debris on the fore shore or berm. This mark is physical evidence of the general height reached by wave run up at recent high waters.

(mm) “Impact” means any modification in an element of the environment, including modification as to quality, quantity, or aesthetics. “Impacts” are the direct result of an action which occurs at the same time and place; or an indirect result of an action which occurs later in time or in a different place and is reasonably foreseeable; or the cumulative results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Also see “effect.”

(nn) “Improvement” means changes to structures, infrastructure, or land intended to enhance quality, quantity, or aesthetics of the property and/or reduce identified impacts.

(oo) “Infrastructure” means those structures, support systems and appurtenances necessary to provide the public with such utilities as are required for economic development, including but not limited to systems providing water, sewerage, transportation and energy.

(pp) “Infrastructure corridors” means a strip or strips of land, not including highways, forming passageways which carry infrastructure.

(qq) “LEED” refers to the “Leadership in Energy and Environmental Design” criteria and Guiding Principles established by the United States Green Building Council.

(rr) “LEED certifiable” means that project proposal meets or exceeds current standardized rating systems for “Leadership in Energy and Environmental Design” (LEED) criteria and Guiding Principles established by the United States Green Building Council as assessed by application of the LEED v4 Building Design and Construction Checklist.

(ss) “Living shoreline(s)” means a shoreline management practice that provides erosion control benefits; protects, restores, or enhances natural shoreline habitat; and maintains coastal processes through the strategic placement of plants, stone, sand fill, and other structural organic materials (e.g. biologs, etc.).

(tt) “Littoral drift” means the movement of sedimentary material within the near-shore zone under the influence of tides, waves and currents.

(uu) “Major siting” means any proposed project which has the potential to directly and significantly impact coastal resources, as provided for in § 15-10-501 of this chapter. The phrase includes, but is not limited to, any of the following if there is a significant potential that the development or project may cause detrimental impacts to coastal resources:

- (1) Energy related facilities, wastewater treatment facilities and associated pipelines or outfalls, transportation facilities, surface water control projects, and harbor structures;
- (2) Sanitary landfills, disposal of dredged materials, mining activities, quarries, basalt or other mineral extraction, incinerator projects;
- (3) Dredging and filling in marine or fresh waters, point source discharge of water or air pollutants, shoreline modification, ocean dumping, large-scale artificial reef construction greater than 300 linear feet or 0.5 acre in area;

- (4) Proposed projects with potential for significant adverse effects on submerged lands, groundwater recharge areas, cultural areas, historic or archeological sites and properties, designated conservation and pristine areas, or uninhabited islands, sparsely populated islands, mangroves, reefs, wetlands, beaches and lakes, areas of scientific interest, recreational areas, limestone, volcanic and coconuts forest, and endangered or threatened species or marine mammal habitats;
- (5) Major recreational developments and major urban or government developments;
- (6) Construction and major repair of highways and infrastructure development;
- (7) Aquaculture or mariculture facilities, and silviculture or timbering operations;
- (8) Any project with the potential for affecting coastal resources which requires a federal license, permit or other authorization from any regulatory agency of the U.S. government;
- (9) Any project, or proposed project, that may cause underground injection of hazardous wastes, of fluids used for extraction of minerals, oil and energy, and of certain other fluids with potential to contaminate ground water. Any such project, or proposed project, shall be primarily governed by the CNMI Underground Injection Control Regulations ((NMIAC, title 65, chapter 90) and supplemented by this chapter;
- (10) Any proposed project having a daily demand of 3,500 gallons of water or sewer, and/ or a peak demand of 500 kilowatts, as established by CUC demand rates for particular types of projects;
- (11) Any proposed project that modifies areas that are particularly susceptible to erosion and sediment loss;
- (12) Proposed projects that would modify areas that provide important water quality benefits and/or are necessary to maintain riparian and aquatic biota and/or necessary to maintain the natural integrity of water bodies and natural drainage systems.
- (13) Land clearing of more than 10 acres of vegetation; and
- (14) Any other proposed project that has the potential for causing a direct and significant impact on coastal resources as determined by the Director or a majority vote of the CRM Agency Officials.

(vv) “Management measures” are economically achievable measures to control the addition of pollutants to surface and ground waters, which reflect the greatest degree of pollutant reduction achievable through the application of the best available nonpoint pollution control practices, technologies, processes, siting criteria, operating methods, or other alternatives.

(ww) “Marine resources” means those resources found in or near the coastal waters of the Commonwealth such as fish, other aquatic biota, dissolved minerals, and other resources.

(xx) “Minor development” includes but is not limited to any of the following developments or projects within an APC:

- (1) Normal maintenance and repair activities for existing structures or developments which cause only minimal adverse environmental impact;
- (2) Normal maintenance and repair of the following: existing rights of way; underground utility lines, including water, sewer, power, and telephone; minor appurtenant structures to such; pad mounted transformers and sewer pump stations, provided that normal maintenance and repair shall not include the extension or expansion of existing lines, structures or right of way;
- (3) Construction of temporary structures, not to exist for more than six months, for fund raising, carnival or cultural activities;
- (4) Construction of *pala-palas*, picnic tables and/or barbecue pits;
- (5) Construction of non-concrete volleyball or tennis courts;
- (6) Temporary structures and constructions for photographic activities (such as advertising sets) which are demonstrated by the applicant to have an insignificant impact on coastal resources;
- (7) Public landscaping and beautification projects;
- (8) Memorial and monument projects covering ten square meters or less;
- (9) Security fencing which does not impede public access;
- (10) Placement of swimming, navigation or temporary or small boat mooring buoys, if such placement does not require a license, permit, or other authorization from any U.S. federal regulatory agency;

- (11) Single family residential construction or expansion including sewer connections within shoreline APC;
- (12) Archeological and related scientific research approved by the Historic Preservation Office (HPO), evaluated on a case-by-case basis, and found by DCRM to cause no significant adverse environmental impacts;
- (13) Agricultural activities;
- (14) Debris incineration, if only vegetative matter is to be incinerated;
- (15) Repair of existing drainage channels and storm drains;
- (16) Strip clearing for survey sighting activities, except in wetland APC;
- (17) Construction of bus stop shelters;
- (18) Construction of an accessory building incidental to an existing acceptable activity in the port and industrial APC; or
- (19) Storage of hazardous or nuisance materials including but not limited to construction chemicals, used oil, automotive fluids, batteries, paints, solvents, unregistered or unlicensed vehicles, accumulation of trash, garbage, or other refuse.

(yy) “Mitigation” is the effort to reduce negative impacts on natural and cultural resources and public infrastructure. In the context of the environmental impact assessment, mitigation means planning actions taken to avoid an impact altogether to minimize the degree or magnitude of the impact, reduce the impact over time, rectify the impact, or compensate for the impact.

(zz) “Nonpoint source” or “NPS” means any source of water pollution that does not fall under the definition of “point source” as defined at § 15-10-020(fff).

(aaa) “Nonpoint source pollution” or “NPS pollution” means pollution or contamination that comes from many diffuse sources rather than from a specific point, such as an outfall pipe, including pollutants contained in runoff and groundwater that do not meet the legal definition of point source in section 502(14) of the Federal Clean Water Act.

(bbb) “Party” means a person, legal or natural, or any department of government, organization or other entity that is a CRM permit applicant or a successor in interest.

(cc) “Permit” or “CRM permit” means a permit that is issued by CRM Agency Officials or the DCRM for a proposed project that is subject to CRM program jurisdiction.

(ddd) “Permittee” or “Permit holder” means a person or entity that holds the beneficial interest in a CRM permit and may be either a CRM permit applicant, a successor in interest if the project site has been sold, leased or otherwise transferred, or a real party in interest if the benefit of the CRM permit is for one other than the applicant or a successor in interest.

(eee) “Person” means the governments or any agency or department thereof; or the government of the Commonwealth or any agency or department or any municipality thereof; any sovereign state or nation; a public or private institution; a public or private corporation, association, partnership, or joint venture, or lessee or other occupant of property, or individual, acting singly or as a group as defined in 16 U.S.C. § 1453 and 2 CMC § 1513.

(fff) “Point source” means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged, or any source as defined in the Federal Clean Water Act, section 502(14), 33 U.S.C. § 1362(14). This term does not include agricultural stormwater discharges and return flows from irrigated agriculture.

(ggg) “Project” means any structure, or use subject to CRM program territorial jurisdiction as specified by 2 CMC § 1513.

(hhh) “Resources” means natural advantages and products including, but not limited to, marine biota, vegetation, minerals, and scenic, aesthetic, cultural and historic resources subject to the territorial jurisdiction of the CRM program.

(iii) “Riparian” means pertaining to the banks and other adjacent, terrestrial (as opposed to aquatic) environs of freshwater bodies, watercourses, and surface-emergent aquifers (e.g.,

springs, seeps), whose imported waters provide soil moisture significantly in excess of that otherwise available through local precipitation.

(jjj) “Seagrass habitat” means seagrass bed(s) or meadow(s) where flowering plants known as "seagrasses" grow in shallow and sheltered coastal marine waters. Seagrasses are flowering plants that grow in shallow and sheltered coastal marine waters with a rhizome root system that anchors them in soft sediments such as sand and mud. The three main species of seagrass found in the CNMI are *Halodule uninervis*, *Enhalus acoroides*, and *Halophila minor*. Seagrass beds may consist of one or more species of seagrass.

(kkk) “Seaweed” means marine macroalgae in general. The term may refer to red, green, brown, or blue-green (cyanobacteria) algae. Seaweeds may attach to hard substrate or other organisms with holdfasts, but they lack a true root system and are free-living (i.e. unattached). Seaweeds may grow in monospecific stands or mixed species assemblages and are often found interspersed within seagrass beds and on coral reefs.

(lll) “Significant” or “significance” of an impact or action is assessed on a case by case basis as defined in 40 CFR § 1508.27, considering two variables: “context” and “intensity.” “Context” means the significance of an action must be analyzed in its current and proposed short- and long-term effects on the whole of a given resource (e.g. affected area or region) and “Intensity” refers to the severity of the effect.

(mmm) “Sustainable” means the ability to be sustained, supported, upheld, or confirmed. This describes the desired state of a resource or system such that it can be used in a way that is not being harmful to the environment or posing threats of depleting or degradation of natural resources, and supporting long-term ecological balance.

(nnn) “Underground injection” means well injection as further defined and regulated under NMIAC, Title 65, Chapter 90.

(ooo) “Under penalty of perjury” means any statement, oral, written, certified as true and correct under penalty of perjury, pursuant to CNMI PL 3-48, 6 CMC § 3306, and which precludes the necessity of a notarized affidavit for written statements, as in the following example:

I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on (date) , at , CNMI.

(Signature)

(ppp) “View corridor” refers to the line-of-sight and viewshed from a specific physical location.

(qqq) “View corridor plan” means a visual representation of how a proposed project is expected to impact the existing line-of-sight and viewshed with respect to the shoreline and reflects efforts to mitigate these impacts if necessary.

(rrr) “Water-dependent use” means a use that needs a waterfront location for its physical function. Such uses include, but are not limited to, seaports, boat launching ramps, and other similar facilities.

(sss) “Water-oriented use” means a use that takes place near the shoreline or waterfront and derives an economic benefit from such a location, but does not require a location directly on the shoreline or waterfront. Such uses include, but are not limited, to restaurants, hotels and residential developments.

(ttt) “Water-related use” means a use that requires water itself as a resource, but does not require a waterfront location; including most industries requiring cooling water, or industries that receive raw material via navigable waters for manufacture or processing. Such uses must have adequate setbacks, as required by DCRM.

(uuu) “Watershed” means all land and water within the confines of a drainage divide.

(vvv) “Water sports” or “marine sports” means commercial water -based recreational activities which take place in CRM regulated waters for which a CRM permit is required. Examples of such water sports are scuba diving, parasailing, jet-skiing, etc.

(www) “Water Sports permit” or “Marine Sports permit” means the permit required for any entity to engage in a commercial business related to water sports within CRM’s territorial jurisdiction. This includes motorized and non-motorized marine sports activities such as but not limited to towed floatation, “underwater breathing apparatus” (UBA), towed floatation, and non-self-propelled devices.

(xxx) “Well” means a bored, drilled or driven shaft, or a dug hole whose depth is greater than the largest surface dimension.

(yyy) “Well injection” means the subsurface emplacement of fluids through a well.

(zzz) “Wetland” means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. The presence or absence of these three criteria (soils, plants, and hydrology) is considered when assessing the presence and value of wetland systems by applying the 1987 U.S. Army Corps of Engineers Wetland Delineation Manual and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Hawaii and Pacific Islands Region, except that no “federal nexus” is required. Wetlands include swamps, marshes, mangroves, lakes, natural ponds, surface springs, streams, estuaries, and similar areas in the Northern Mariana Islands chain.

§15-10-025 Conflicts with regulations of other CNMI government agencies

(a) Conflicts with zoning requirements. Where, in regards to any project or proposed project, zoning standards, having the force of law pursuant to the Zoning Code of the Commonwealth of the Northern Mariana Islands, 2 CMC §§ 7201-7255, overlap and conflict with CRM regulations, as set forth in the Saipan Zoning Law of 2013, the CRM regulations shall supersede the zoning

requirements for any project or proposed project from the high tide line to 150 -feet inland from the high tide line. For projects and proposed projects more than 150 -feet from the high tide line, the zoning standards shall supersede the CRM regulations where the requirements overlap and conflict with one another. In the event that a project or proposed project straddles the 150 -foot boundary, the portion of the project or proposed project within 150 -feet of the high tide line must conform to CRM regulations, and the portion of the project outside the 150 -foot limit must conform to applicable zoning requirements, unless the Zoning agency and the CRM agencies agree otherwise.

(b) Nothing in this section shall be interpreted to prohibit CRM from imposing an additional buffer zone to protect environmentally sensitive resources as appropriate, regardless of any zoning or building regulations pertaining to setbacks and buffer zones.

Part 100 - CRM Permit Requirement

§15-10-101 Types of CRM permits and when permits are required

(a) Types of permits. There shall be three types of CRM permits: temporary permits for emergency repairs, permits for major sitings, and APC permits.

(b) When permits are required. Prior to the commencement of a proposed development or activity wholly or partially within an APC which has or is more likely than not to have an adverse impact on an APC unless mitigated, or which constitutes a major siting under §15-10-501 herein, , the party responsible for initiating the proposed project shall obtain the appropriate CRM permit.

(c) Early action for flood zone risk reduction.

- i. When a major siting proposal falls within a coastal hazard APC or a FEMA designated AE / AO flood zone, the applicant and DCRM shall coordinate with the Zoning Office and Department of Public Works at the earliest possible time to ensure relevant flood hazard reduction standards are met.
- ii. “Soft measures” such as living shorelines, planting native beach vegetation, maintaining or establishing vegetative buffers, or building green swales for water

collection and the like must be considered as alternatives to hard structures, such as sea walls, to limit coastal erosion. If “hard structures” are proposed, application must explain what “soft measures” were considered and why they were determined to be inappropriate.

- iii. Implementation of green infrastructure elements such as permeable paving and roof top gardens and related best management practices must be considered for development projects in listed high priority watersheds with designated conservation management plans including Garapan, Laolao, and Talakaya. If development in these watersheds is less than one acre such that impervious cover greater than 75% may be allowed, the applicant must explain how potential impacts to the watershed have been minimized, what “green infrastructure” interventions were considered, and, if not chosen for implementation, why they were determined to be inappropriate.

§15-10-105 APC Permits for Minor and Other Developments

(a) APC permits may be for minor development or standard APC activities. Applications for APC permits shall be expeditiously processed so as to enable their promptest feasible disposition; minor permit applications shall be processed within ten (10) working days and standard permit applications shall be processed within twenty-one (21) days of receiving a complete application. Where applications are incomplete or additional information is needed, the project applicant shall be informed in writing of this request and the review clock shall be stopped until such time that the required information is received.

(b) Applications for APC permits on Saipan will be received at the DCRM Office and the Director will review and make a determination on the application based on 2 CMC §§1501, et seq. and this chapter.

(c) Applications for APC permits on Tinian or Rota will be received by the Tinian or Rota Coastal Coordinators, respectively, who will review and make a determination on the application based on PL 3-47 (2 CMC §§1501, et seq.) and this chapter.

(d) The office that receives the application for an APC permit, whether the DCRM Office, the Tinian Coastal Coordinator, or the Rota Coastal Coordinator, shall make an initial determination as to whether the project that is the subject of the APC permit is not a major siting based on the definitions in §15-10-020. If there is any question regarding whether the project constitutes a major siting, the Director shall forward the application to the CRM agencies with a recommendation on whether the project should be considered a major siting. If no CRM Agency Official disagrees with the Director's recommendation, then the permit process shall move forward as recommended. If a CRM Agency Official does disagree with the recommendation, then the CRM Agencies shall decide on how to proceed based on majority vote.

(e) Failure to approve or deny an application for a minor development as defined in § 15-10-020(xx) within ten working days from receipt of a complete application by the appropriate office shall be treated as approval of the application, provided that the Director may extend the deadline by not more than an additional ten days where deemed necessary. The relevant DCRM office shall process APC permits other than those for minor developments within 21 days of receiving a complete application.

(f) DCRM APC permit applications will involve a full evaluation of direct and cumulative impacts and include a completed application form and site inspection report including location and assessment of relevant impacts as well as proposed mitigation measures. Based on this information, an APC permit may be granted with the issuance of a standard permit with appropriate conditions. The conditions to be attached to the APC permit will be based on a case-by-case evaluation of each particular project and will be applied in order to avoid, minimize, and mitigate potentially negative direct and/or cumulative immediate or future impacts of the proposed development.

§15-10-110 Temporary Permits for Emergency Repairs

The DCRM Director may issue a temporary permit for emergency repair during or immediately after an environmentally destructive. Such events include, but are not limited to typhoons, tsunamis, storms, earthquakes, shipwrecks, or oil or other hazardous material spills.

- (a) The Director may issue a temporary permit for emergency repairs only if he or she finds that the proposed repair or cleanup is necessary to prevent immediate damage or injury to people, structures, vessels, or the environment.
- (b) The holder of a temporary permit shall file a CRM permit application within twenty days of the issuance of the temporary permit. The temporary permit shall be valid for up to six months, or until another appropriate CRM permit is issued or denied, whichever occurs first.
- (c) A repair permitted under this section shall be limited to the replacement or repair of existing structures.
- (d) Except when specifically made applicable to temporary permits for emergency repairs, all other permit regulations pertaining to permit applications and the permitting process are not applicable to temporary permits for emergency repairs.
- (e) Application process for temporary permit for emergency repairs: The provisions of §15-10-205 shall apply to the process for applying for a temporary permit for emergency repairs, except for those procedures exempted for such a permit. Additional information required for temporary permits for emergency repairs can be found at §15-10-206(c).

§15-10-115 APC, Multiple APC, and Major Siting Permits

All developments as defined in §15-10-020 within an APC, or which have or are more likely than not to have an adverse impact on an APC unless mitigated, must be permitted by DCRM. If a proposed project is to be located in more than one APC, CRM permit standards and policies for each applicable APC shall be evaluated in a single CRM permit decision. Where a project constitutes a major siting as defined in §15-10-020(uu), the applicant must obtain a CRM major siting permit, regardless of whether the project is located within an APC.

§15-10-120 Exceptions from CRM Permit Requirements

(a) Excluded Federal Land. Notwithstanding the language of §15-10-101 and §15-10-115, a CRM permit shall not be required for proposed projects on federally excluded lands provided that all activities on federally-excluded lands which have a direct and significant impact on areas subject to CRM program, as specified in 2 CMC § 1513, 16 U.S.C. § 1453(1), and 15 C.F.R. § 923.33, shall be consistent with these rules and regulations and applicable Federal and Commonwealth laws. While a CRM permit may not be required, a federal consistency determination will be triggered by federal actions under the Coastal Zone Management Act 16 U.S.C. § 1456.

(b) Exceptions from CRM Permit Requirements

(1) A permit is not required for the following types of projects if they do not have a direct and significant negative impact on coastal resources. Any relief from permit requirements does not remove a project proponent's responsibility to comply with CRM program goals and policies, nor does it exempt a project from any other Commonwealth regulatory authority.

- (i) A proposed project situated completely outside of any APC that does not have or present a high likelihood to have a significant adverse impact on an APC and which does not require a major siting permit;
- (ii) Agricultural activities on lands which have been historically used for such activities;
- (iii) Cutting of trees and branches by hand tools, not driven by power or gas;
- (iv) Hunting, fishing, and/or trapping; or
- (v) The preservation of scenic, historic, and conservation areas including wildlife preserves which do not require any development.

(2) The Director may not authorize a permit exemption if he or she determines that a proposed project or expansion, that is otherwise eligible for exemption as described in section § 15-10-120(b) above, may have a direct and significant negative impact on coastal resources.

(3) Should it be found that a particular proposed project exempted by subsection (b)(1) above may or does have a direct and significant impact on coastal resources, the DCRM

Office or its designee shall conduct such investigation(s) as may be appropriate to ascertain the facts and may require the person(s) applying for or conducting such proposed project(s) to provide all of the necessary information regarding the project in order that a determination may be made as to whether the proposed project requires a coastal permit.

Part 200 - CRM Permit Process

§15-10-201 Introduction

All persons proposing any activity, project, or development requiring any CRM permit must apply for the necessary permit. A pre-application conference shall be conducted for a major siting permit at the earliest opportunity and shall to the extent possible involve the Office of Zoning. DCRM promotes a policy of early coordination through a joint pre-application meeting with technical staff from relevant agencies, including, where applicable, the CRM Board Agencies. At the request of the applicant or DCRM, a pre-application conference also may be held with CRM Agency Officials so long as public notice is executed in compliance with the Open Government Act (1 CMC §§ 9901 – 9916). The pre-application conference shall be held to discuss the proposed activity to provide the applicant with information pertaining to the CRM program goals, policies and requirements and to answer questions the applicant may have regarding the CRM program and its requirements. The following permit process shall govern all coastal permit applications except as provided in 15-10-105 for APC permits, unless stated otherwise.

§15-10-205 Permit Application Procedures

CRM permit application forms, including APC permits and temporary permits for emergency repairs, shall be maintained at the DCRM office on Saipan. For activities proposed on Rota or Tinian, copies of the application form shall also be maintained at DCRM Branch Offices on Rota and Tinian. These permit applications shall also be available and can be tracked through the DCRM Online Permitting System. CRM permit applicants shall complete and file an application for each proposed APC permit, temporary permit for emergency repair, or major siting permit. The following conditions shall apply to all CRM permit applications:

(a) Filing and Copies. The applicant shall file a CRM permit application with exhibits and attachments as a digital submission online or as a hard copy with eight copies thereof at the receiving permitting office along with a digital copy of the application file (PDF or Word-readable format) via email, thumb drive, or on a CD with the application package.

(b) Filing location. CRM major siting permit applications shall be filed online or at the CRM Office in Saipan. APC permit applications may be filed at the CRM Branch Office on Rota or Tinian if the proposed project is to be on either of those islands. Digitally submitted applications shall be considered received at the office or offices in which the use or activity is proposed.

(c) Signatories to permit application. All CRM permit applications must be submitted and signed by the project proponent as follows:

- (1) For an individual applicant, signature as the permit applicant is required; or
- (2) For a corporation. Signature must be executed by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
 - (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or
 - (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures. Note that DCRM does not require specific assignments or

delegations of authority to responsible corporate officers identified herein. The Agency will presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions rather than to specific individuals; or

(3) For a limited liability corporation (LLC). Signature must be executed by LLC manager or managing member; or

(4) For a partnership or sole proprietorship. Signature must be executed by a general partner or the proprietor, respectively; or

(5) For a municipality, CNMI, Federal, or other public agency. By either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:

(i) The chief executive officer of the agency, or

(ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(6) Permit applications may be submitted by a duly authorized representative as defined in NMIAC § 15-10-020(1) as described below however no more than one duly authorized representative may be the primary point of contact for permit applications.

Communications and/or supplemental information requests regarding permit processing must occur between the permit signatory or the duly authorized representative or must include these parties via electronic or carbon copy.

A person is a duly authorized representative only if:

(i) The authorization is made in writing by a person described in § 15-10-020(1) ;

(ii) The authorization specifies either an individual or position having responsibility for the overall submission of a proposal and operations of a project (a duly authorized representative may thus be either a named individual or any individual occupying a named position) and;

(iii) The written authorization is submitted to the Director.

- (d) Receipt of service. Permit applicant / permittee and duly authorized representative must acknowledge that they will accept receipt of service of any and all administrative orders or other communications from DCRM in relation to the project for which they are the permit applicant, permittee, or authorized representative.
- (e) Changes to authorization. If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the above requirements must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.
- (f) Signatories to permit report(s). All reports required by permits, and other information requested by the Director shall be signed by a person described in paragraph § 15-10-205(b) of this section, or by a duly authorized representative of that person.
- (g) Certification. CRM permit applications shall be certified by the applicant that the information supplied in the application and its exhibits and attachments is true. The certification shall be by affidavit or declaration under the penalty of perjury. Certification shall include the following testament:
I certify that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. The information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine up to \$10,000 per day per violation.
- (h) Fees. CRM permit applications shall be accompanied by a non-refundable CRM permit application and administrative fee in accordance with the following fee schedule, by check made payable to CNMI Treasurer.
- (1) No fee for government agencies engaging in government projects.
 - (2) \$25.00 fee for temporary permits unless waived by the Director.

- (3) \$200.00 fee for APC development permits. As provided below, a “De Minimis APC Waiver” may be requested and a minor APC permit fee reduction may be granted at the discretion of the Director.
- (i) “De Minimis Fee Waiver” Requests. When an applicant for a Minor APC permit has substantial evidence that the proposed activity or action will have no direct or cumulative impact on coastal resources, a “De Minimis APC Fee Waiver” may be requested in writing through the permitting office. This request must clearly state the reason(s) why the proposed activity will be “*de minimis*” in nature, and include a request for a reduction of up to 50% of APC permitting fees for commercial actions and 100% of APC permitting fees for mitigation, restoration, or non-commercial actions.
- (ii) Review of “De Minimis Fee Waiver” Requests. Such requests must be submitted to the Director with the Permit Manager copied. Permitting staff will review such requests to ensure accurate environmental information has been provided, and the Permit Manager will submit a recommendation to the Director to approve or deny the waiver request within ten working days of receipt of the request at the Saipan DCRM Office. The Director may deny or grant the waiver request, or grant the request with restrictions, conditions, or modifications at their discretion. If a waiver is granted, the Director shall issue a letter to the applicant detailing what, if any, restrictions the waiver is conditioned upon, and a copy of this letter will be retained in the permit file. Any deviation of scope or activities of the subject project will be treated as unpermitted for the purposes of enforcement action, if necessary, as detailed in § 15-10-900. Submission of a “De Minimis APC Fee Waiver” request shall stop the clock on review of the submitted APC permit. If the waiver request is denied, the review period will be restarted upon the date of the issuance of the denial letter.
- (4) \$1,000.00 initial fee and \$750.00 renewal fee for jet ski and motorized commercial water sports and \$200 for non-motorized commercial marine sports operating

permits. One application or renewal fee will cover multiple proposed uses and concurrent operations for up to two licensed and listed boats or six jet skis so long as activities are compliant with any and all permit restrictions. Marine Sports Operators (“MSO”) shall be permitted on a set bi-annual schedule, starting May 30, 2018. Permittees holding permits that expire after May 30, 2018 will pay a prorated fee to extend their permit to May 30, 2019. Permit renewals shall be due on May 30 every year, or, if this date falls on a weekend, the following business day.

(i) Discounted MSO fees for qualifying “green” and “sustainable eco-tour” certifications are available as follows:

MSO Tier 1 Reduction	Membership of the Marine Sports Association in good standing	10% fee reduction
MSO Tier 2 Reduction	Members of the Marine Sports Association in good standing with no reported violations for at least one year	15% fee reduction
MSO Tier 3 Reduction	Members of the Marine Sports Association in good standing with no reported violations for at least one year and completion of qualifying “ecotour” training and / or certification	25% fee reduction

(ii) Qualifying for Discounted MSO permit fee. To qualify for the tiered permit fee reductions listed above, MSO permit applicants must request discount in writing at the time of permit renewal or new permit application. Required documentation includes proof of membership in an active Marine Sports Association and certification of completion of a DCRM-approved “ecotour training” and/or certification program.

(5) Fees for Major Siting projects shall be based upon appraisal of construction costs.

FEE AMOUNT	COST OF PROJECT OR PERMIT AMENDMENT
\$200	less than or equal to \$ 50,000
\$400	value between \$ 50,001 and \$ 100,000
\$1,000	value between \$ 100,001 and \$500,000
\$2,000	value between \$ 500,001 and \$ 1,000,000
\$2,000	For every \$1,000,000.00 cost increment exceeding one million dollars.

(i) Discounted fees for qualifying “green” and/or “low impact development” projects. Discounts may be applied for application and administrative fees at the recommendation of the Permit Manager and approval of the Director.

Discretionary guidance for tier permit reductions are as provided in subparts (1 & 2) below.

(1) Tiered permit discounts for qualifying “Energy Star” rated or “LEED certifiable” projects are available as follows:

Tier 1 Reduction	Building design and construction are “LEED Certifiable”, scoring between 40-49 points on the LEED v4 Building Design and Construction Checklist	10% fee reduction
Tier 2 Reduction	Building design and construction are “LEED Silver Certifiable”, scoring between 50-59 points on the LEED v4 Building Design and Construction Checklist	15% fee reduction
Tier 3 Reduction	Building design and construction are “LEED Gold Certifiable”, scoring between 60-79 points on the LEED v4 Building Design and Construction Checklist	20% fee reduction
Tier 4 Reduction	Building design and construction are “LEED Platinum Certifiable”, scoring between 80-110 points on the LEED v4 Building Design and Construction Checklist	25% fee reduction

(2) Tiered permitting for building redevelopment and best practices are available as follows:

Tier 1 BMP Reduction	<ul style="list-style-type: none"> - Permittee or its operators implements and maintains on-site recycling and composting programs to reduce 50% or more of the waste stream; AND/OR - Project installs, utilizes, and maintains “Energy Star” rated high efficiency / LED lighting and appliances 	5% fee reduction
Tier 2 BMP Reduction	Applicant redevelops or rehabilitates 15% - 25% of the existing building	10% reduction
Tier 3 BMP Reduction	Applicant redevelops or rehabilitates 26% - 50% of the existing building	20% reduction
Tier 4 BMP Reduction	Applicant redevelops or rehabilitates 51% - 74% of the existing building	30% reduction
Tier 5 BMP Reduction	Applicant redevelops or rehabilitates over 75% of the existing building	50% reduction

(ii) Qualifying for Discounted Major Siting permit fee. To qualify for the tiered permit fee reductions listed above, major siting applicants must request discount in writing at least thirty days prior to submitting a major siting application. Applicants are encouraged to discuss proposed fee reduction in advance with Director and Permitting staff to identify any required documentation to support discounted permit fee request. The DCRM Director shall respond to permit fee reduction requests in writing and state whether the request is granted in full, granted in part, or denied and the reasons therefore within thirty days of receiving the request and all required supporting documentation. If no response is received within thirty days of the submission of the request, the request will be considered denied by the DCRM Director. If reduction is approved, agreed upon project implementation will be included as conditions of the major siting permit.

(iii) Forfeiture of applied permit discount. At the DCRM Director's discretion, a violation of major siting permit conditions or engaging in unpermitted activity with a nexus to the permit discount received by the permit applicant or failure to implement improvements for which the discount was granted may result in forfeiture of applied permit discount, and any outstanding balance may become due at the time of the issuance of a Notice of Violation.

(l) Performance bond requirements. A performance bond or equivalent surety may be required by the CRM program if failure to comply with terms of the application or permit may result in environmental damage. For projects with construction costs over \$5 million, there shall be a rebuttable presumption that a bond is required. For projects with constructions costs in excess of \$20 million, a bond shall be required. In the event that the project cannot be completed as permitted, the applicant shall forfeit the bond or surety equivalent or portion thereof needed to mitigate any damage caused by such failure of performance. Any monies obtained from the bond on surety may be used to complete the site preparation and infrastructure requirements, restore the natural appearance and biological character of the project site and its impacts on adjacent properties, or correct any significant adverse impacts to the environment.

§ 15-10-206 Permit Application Contents

The following information and attachments must be included with a permit application submission in order for the application to be received by the DCRM Permitting Section.

(a) Submission of complete application. Details requested in the CRM permit application must be provided unless information is not applicable, in which case "not applicable" shall be indicated in the response. If response to a question is "see attached", a specific document and page number citation is required to support timely review.

(b) Information and Attachments. CRM permit applications shall, to the extent necessary, contain attachments and necessary supporting materials including statements, drawings, maps, etc., which are relevant to the CRM permit application, as outlined below, as well as any other information requested by the DCRM Director to support

meaningful review of project proposal. If the Director requests such supplemental information, applicant must provide the information requested and the clock shall be stopped on permit review until such time that the Director's supplemental information request is satisfied. All permit applications shall be submitted in English units and all dimensions shall be stated in English units (i.e. inches and feet).

(c) For all applications. All DCRM applications must include the following information and attachments for review:

- (1) Applicant's name. Applicant must be the legal entity that owns or is otherwise responsible for the project;
- (2) Applicant's representative (if any), indicated through written notification addressed to the DCRM Director. Applicants must specify no more than one primary point of contact to serve as the duly authorized "representative";
- (3) Owner and proof of valid legal interest in the real property such as Land Title or lease agreement of any real property or properties at the project site;
- (4) Project name and brief summary including project description and size; and
- (5) The following construction plans:
 - (i) Master site plan including architectural features in conceptual form, major infrastructure, and major amenities in schematic or single line form;
 - (ii) Typical floor plans in conceptual format for all structures and major infrastructure; and
 - (iii) Site coverage plan displaying lot density including buildings, infrastructure, amenities, parking area, road networking, and open space.

(d) For all APC applications. All APC applications must include the following additional information and attachments for DCRM review:

- (1) Title documents to all real property and submerged lands including leases or lease applications from the appropriate parties;
- (2) Copies of CNMI and federal permit(s) including business license, Zoning permit and supporting attachments, and other necessary permits or licenses;
- (3) Estimated costs for all improvements affixed to the property;

- (4) Estimates of daily peak demand for utilities including water and electricity and projected usage of utilities and other infrastructure and basis for stated estimates;
- (5) The application shall include the names of the persons responsible for the creation of the plans listed in 15-10-206(b)(5) as well as the professional certification or licensure of those persons, if any; and
- (6) Affidavit or declaration made under penalty of perjury that the application is a statement of truth by the principal or authorized agent.

(e) For major siting applications. If the project meets the definition of a major siting at § 15-10-020(uu), as found by the DCRM Director or CRM Agency Board, or if the DCRM Director deems applicable to APC permits, the applicant shall provide the following information, plans, and details in a report accompanying the permit application. All “major siting applications” must include the submissions listed in parts (b) and (c) above, in addition to the following environmental impact assessment information and supporting attachments:

- (1) Project summary, justification, and size, including map of property lines and distance to APC(s) verified by on the ground delineation, if applicable;
- (2) Adjacent property description(s) with names of adjacent property owners, as defined at § 15-10-020(a) & (b), and copies of letters sent to them notifying them of the proposed project.

(i) Alternative adjacent property owner notification. The application may request an exemption for the adjacent property notification requirement above where notification of every adjacent property owner would not be practical or would create an undue burden. This exemption is intended to be limited to projects such as infrastructure corridors, where the path of the corridor or project may be adjacent to a large number of properties. If the exemption is granted by DCRM Director or a majority vote by the CRM Agency Officials, the applicant must complete an alternative notification as follows. The applicant would be required to publish public notice of the proposed project in a newspaper of general circulation in the CNMI at least twice over a twenty-one-day period prior to further processing of the application. If members of the public request a public

hearing during this time under § 15-10-220(a)(4), the applicant must publish notice of the proposed day and time of the scheduled public hearing and location two times at least one week prior to the public hearing on the proposed project. The public notice shall include the permit number, name of project, name of applicant, map of the proposed project area as approved by DCRM, as well as date, time and place of the public hearing if one has been requested, DCRM contact numbers, and description of the proposed project. The applicant is responsible for all public notice fees and printing, and must submit copies of the published public notice(s) to the DCRM Permitting section for inclusion in the permit file.

- (3) Description of existing environment of the proposed project site including vegetation, wildlife, land uses, soil, geology, topography, water quality if project is proposed in or adjacent to surface waters and/or groundwater protection designation as applicable, and historical and cultural resources;
- (4) Discussion of alternatives to the proposed project size/design considered during project planning and how the preferred alternative was selected;
- (5) Description of the direct, indirect, and cumulative environmental and socio-economic effects, both positive and negative, which may result from the project, including:
 - (i) Impacts to environmental resources i.e. air and water quality, noise and dust levels, sedimentation and erosion, plant and wildlife habitat and populations, and aesthetic impacts of development;
 - (ii) Impacts to cultural resources;
 - (iii) Impacts to government infrastructure capacity (short and long term) including power/sewer/water infrastructures, and road adequacy and traffic, as well as public services including education, law enforcement, fire protection, hospital, and medical facilities; and
 - (iv) Socio-economic characteristics and potential impacts of the project including projected employment and employee compensation rates (hourly or salary ranges).
- (6) Description of how impacts have been avoided or minimized and how any unavoidable impacts will be mitigated;

- (7) Evaluation of alternative management measures to control nonpoint source pollution and a description of management measures selected for incorporation in the proposed project;
- (8) Evaluation of the proposed project based on the Specific Criteria for Major Sitings provision of § 15-10-505, and a description of how those specific criteria will be affected by the project; and
- (9) Project specific plans. Additional types, numbers and/or quality of plans may also be required prior to certification of completeness or permit issuance or as a condition of the permit at the discretion of the DCRM Director or the CRM Agency Officials. At minimum, major siting applications must include:
 - (i) Conceptual site development plan;
 - (ii) Elevation plans of the project including a side profile of the project;
 - (iii) The following conceptual erosion control and drainage plans:
 - (1) Slope and elevation map;
 - (2) Watershed, flow direction, and drainage map;
 - (3) Preliminary drainage and erosion control map; and
 - (4) Preliminary stormwater nonpoint source management plan.
 - (iv) For lots adjacent to the shoreline, development of “high rise” structures equivalent to six stories in height or greater or more than sixty feet above grade requires a view corridor plan indicating projected aesthetic impacts of the proposed development from one datum line perpendicular to the nearest shoreline or beach and providing an inventory of existing views, impacts on existing views, and proposed mitigation measures to protect scenic views;
 - (v) Estimated solid waste production during construction and operations and solid waste management plan;
 - (vi) For major siting projects that propose to provide fifty (50) or more new rooms or twenty-five (25) or more full-time staff positions, a traffic impact assessment; and
 - (vii) For major siting projects that propose to employ fifty (50) workers or more, working housing plan must be provided detailing where staff housing, if any, will be provided (on-site or off-site) and specifying what, if any, transportation services will be available to staff housed off-site.

- (10) If any concerns were raised by the community during required notification process, these concerns and proposed solutions should be summarized in the appropriate subsection of the Environmental Impact Assessment (EIA) report.
- (11) If the DCRM Director or CRM Agency Official requests information regarding any additional application materials, applicant must provide such information as well.

§15-10-207 Certification of Completion of Application.

Within thirty days of the date on which an application for a CRM permit is received by the CRM Office, the DCRM Director shall review the application and either certify its completeness or notify the applicant of any defects or omitted necessary information. After the submission of additional information, the Director shall have fifteen working days in which to assess the completeness of the application or refer the application to the CRM Agency Board for a supplemental CRM Board determination of completeness. The date commencing review of an application specified in §15-10-220 shall begin on the date an application is certified complete. If the application is certified complete upon the condition that additional information be submitted, the date commencing review under section § 15-10-220 shall be the date that all supplemental information is submitted and accepted by the Director. This provision shall not apply to APC and emergency permits.

§15-10-210 Notice of Application

The DCRM Office shall cause notice of each application for a CRM permit, (except for temporary permits, to be published in a newspaper of general circulation in the Commonwealth and to the DCRM website within fifteen days of receipt of the application. The notice shall state the nature, scope, and location of the proposed project, invite comments by the public, provide information on requesting a public hearing and provide information on the procedure for appealing any permit decision.

§15-10-215 Review of Application

- (a) APC Permits. See §15-10-105 for provisions related to review of application APC permits.
- (b) Major Siting Permits

(1) The DCRM Director and the CRM Agency Officials shall have sixty days from the date of the certification of completion of application to grant or deny a major siting permit. For the purposes of section 9(a) of the Coastal Resources Management Act of 1983 (2 CMC § 1532(a)), the term “receipt of any request for review” shall mean CRM certification of completion of a permit application.

(2) The CRM Office shall review the application, publish notice of its contents, schedule a permit hearing, and transmit the application to the CRM Agency Officials for review. The DCRM Office shall provide technical findings on the impacts of proposed projects to assist CRM Agency Officials in reaching a unanimous decision on CRM permit applications and shall ensure compliance of CRM permit decisions with this chapter and 2 CMC §1532(d). Where unanimous decision cannot be reached, the matter shall be submitted to the Governor for his determination pursuant to section 9(d) of 2 CMC §1532(d). If the Governor subsequently approves the project proposal, a permit with appropriate conditions shall be issued by the DCRM Office and signed by the Governor.

§15-10-220 CRM Permit Hearing

When a hearing on a permit application is required or requested pursuant to this section the DCRM Director shall schedule the hearing, inform the party or parties involved of the hearing date and publish notices of the hearing two times in a newspaper of general circulation in the Commonwealth at least fourteen days prior to the hearing. The DCRM Director at his/her discretion may require that notice be posted at the proposed site no later than one week before the scheduled public hearing.

(a) When Permit Hearing Appropriate. The DCRM Director shall schedule a CRM permit hearing if:

- (1) The proposed project is determined to be a major siting by the CRM Agency Officials;
- (2) The proposed project does not constitute a major siting, but falls within one of the coastal APCs and a hearing is required pursuant to subsection (a)(4) below;
- (3) If a CRM Agency Official requires a hearing on a proposed project; or

(4) A petition signed by at least five people requesting a public hearing is received by DCRM within fourteen days of the date the application is published in the newspaper as required in §15-10-215.

(c) Presiding Officer. The DCRM Director or his / her designee shall preside at CRM permit hearings. The presiding officer shall control the taking of testimony and evidence. Evidence offered in a hearing need not conform to any prescribed rules of evidence; further, the presiding officer may allow and limit evidence and testimony in any manner he / she reasonably determines to be just and efficient.

(d) Public Invited. CRM permit hearings shall be open to the public.

(e) Location. Public meetings may be held at any location within the Commonwealth. Public hearings pursuant to permit applications shall be conducted on the island where the proposed project is located. Appellate hearings shall be held on the same island as the permit hearings, or if no CRM permit hearing was held, on the island where the proposed project is located. All other public hearings shall be conducted on Saipan.

(f) Parties. Any party to a hearing on a CRM permit application may appear on his/her own behalf. Parties may appear through an authorized representative of a partnership, corporation, trust or association. An authorized employee or officer of a government department or agency may represent the department or agency in any hearings.

(g) Record. The CRM Office shall provide for an audio recording or a stenographic record of CRM permit hearings. Transcription of the record shall not be required unless requested by a CRM permit applicant, or the Director, and except for the latter, any party requesting transcription shall pay the cost incurred in the preparation of the transcript. Public access to the contents of the record and CRM records retention responsibilities are discussed in part 1200 of this chapter.

(h) Resolution of new issues. If as a result of a public hearing new issues are raised or upon discovery of additional significant impacts not previously addressed by the applicant, the Director may request supplemental information to assist the regulatory agencies in rendering a decision on a major siting permit. This request for supplemental information shall toll the sixty (60) day review period from the date of the request until such time as the applicant has adequately addressed the deficiency by providing adequate information.

§15-10-225 Filing of Documents

Documents filed in support of, or in opposition to, CRM permit applications shall conform to the following standards.

(a) Form and Size. Pleadings and briefs shall be bound by staple in the upper left-hand corner or spiral binding and shall be typewritten upon white paper eight-and-a-half by eleven inches (8^{1/2}" x 11") in size. Tables, maps, charts, exhibits or appendices, if larger, shall be folded to that size where practicable. Text must be double-spaced, except that footnotes and quotations in excess of a few lines may be single-spaced. Pages shall be numbered and if submission exceeds ten pages, a paginated "table of contents" shall be included. Submission of digital copies of such materials is encouraged.

(b) Title and Number. Petitions, pleadings, briefs, and other documents shall show the title and number of the proceeding and the name and address of the party or its attorney.

(c) Content and review policies. Permit applications must contain a sufficient level of detail to support review of potential environmental effects to terrestrial, coastal, and marine resources as well as review of effects of proposed avoidance, minimization, and mitigation activities.

(i) *Full review of environmental effects.* To support full review of a proposed action, all applications must provide a full "application form" as well as any and all attachments required by the DCRM Office, described in § 15-10-206. Environmental effects of proposed actions must be considered together if the actions are functionally or economically related to other actions.

(ii) *Full review of project proposals.* Project proposals may not be submitted "piecemeal" even if the project will be phased; rather, a full proposal must be submitted in order to assess potential direct and cumulative impacts. Investigative soil surveys and archeological surveys may be conducted prior to submission of a major siting application.

(iii) *Independent utility required.* Proposed projects must pass the "independent utility test." To have independent utility, an action must independently fulfill a recognizable purpose, and may not segment a larger action which is designed to accomplish a single purpose.

(d) Completion of materials. All submitted materials must be completed in their entirety. Questions in permit application must be answered directly. Major siting applications must include an "environmental impact assessment" as described in § 15-10-206 that includes analysis of proposed action and alternatives, as well as description of any likely adverse effects of the project that cannot be avoided. Submissions that state "Please refer to Environmental Impact Assessment" or "Attachment" in response to application questions without providing corresponding page numbers will be returned as incomplete.

(e) Signatures. The original of each application, petition, amendment or other legal document shall be signed in ink by the party or its counsel. If the party is a corporation or a partnership, the document may be signed by a corporate officer or partner. Motions, petitions, notices, pleadings and briefs may be signed by an attorney. Certifications as to truth and correctness of information in the document shall be by affidavit or declaration under penalty of perjury by the person charged with making the statements contained therein.

(f) Copies. Unless otherwise required, there shall be filed with the DCRM Office an original as well as a digital copy of the application file (PDF or Word-readable format) via email, thumb drive, or on a CD with the application package. Additional copies of applications, exhibits, plans, etc., must be provided if requested by DCRM.

(g) Application of Open Government Act. Unless otherwise required, all permit applications and supporting documents are considered public records as described in § 15-10-030 and are discoverable under the Open Government Act as established in 1 CMC §§ 9901 - 9916.

§15-10-230 Decision on CRM Application

The CRM Agency Officials shall review the CRM permit application, hearing transcripts, if any, DCRM technical findings, supporting documentation and relevant laws, rules and regulations, and issue a unanimous written decision to grant, deny, or grant with conditions, a CRM permit in accordance with the policies of 2 CMC §§1501, et seq. and applicable rules and regulations. In reviewing a CRM permit application, the following procedures shall apply:

(a) Voluntary Disqualification. CRM Agency Officials participating in decisions regarding CRM permits shall do so in an impartial manner. They shall not contribute to decisions on CRM permits where there exists an appearance of bias, or where actual bias may prevent them from exercising independent judgment. Should a CRM Agency Official determine, after considering the subject matter of a CRM permit application, that bias, or the appearance of bias, might appear to prevent him from exercising independent judgment, he or she shall excuse themselves from that decision and appoint an alternate with comparable qualifications to act in his or her stead.

(b) Disqualification by Challenge. If a CRM Agency Official refuses to disqualify himself or herself under subsection (a), an applicant or affected person may petition the DCRM Director at any time prior to the issuance of a permit decision for disqualification of a CRM Agency Official because of bias or the appearance of bias. A petition for disqualification shall be accompanied by a declaration under the penalty of perjury containing facts supporting the assertion of bias. The Director shall review the petition and determine whether the facts give rise to a significant inference of bias, and if so, he or she shall inform the challenged CRM Agency Official that he/she is disqualified. If a CRM Agency Official is disqualified the DCRM Director shall appoint a qualified alternate from the same department to act in the disqualified CRM Official's stead. Alternates are also subject to disqualification by challenge of a party or affected person.

(c) Quorum for Decision. At least four CRM Agency Officials qualified to vote on the permit application at hand are required for a quorum to grant or deny that permit application.

(d) Unanimous Decision Required. Decisions regarding issuance or denial of CRM permits by the CRM Officials shall be by unanimous vote. Attendance for all CRM officials at the meeting to vote on the permit is not required, but the decision shall be by unanimous vote of the attending Officials. Disagreements among the CRM Agency Officials shall be mediated by the DCRM Director, and he or she shall assist in the preparation of a joint decision in order to achieve unanimous consent.

(1) The fact that an agency declines to vote for or against the issuance of a permit shall not affect whether a unanimous decision has been made, but a decision regarding the issuance of a permit must be made by at least four voting CRM Officials, and the vote must be unanimous amongst all voting CRM Agency Officials.

(2) The determination on whether CRM Agency Officials have unanimously agreed to the issuance of a CRM permit is based on the vote by CRM Officials in attendance at the meeting to vote on whether to issue the permit. If there was a unanimous decision to award or not award a permit, that decision is deemed as a unanimous vote by all CRM Regulatory Agencies.

(3) If, after the vote and while a permit is being sent to CRM Agency Officials to be signed, a CRM Agency Official that had voted to issue a permit refuses to sign, that will be considered a vote against the measure, and there will no longer be a unanimous decision regarding the issuance of a permit. In that case, the Director shall forward the application to the Governor to resolve the deadlock, as per part (f) below.

(4) The permit does not need to be signed by a non-voting CRM Agency Official in order to be valid.

(e) Compliance with Coastal Resource Management Act. The Director shall certify that each CRM permit decision complies with 2 CMC §§1501, et seq. and applicable rules and regulations.

(f) Deadlock Resolution by Governor. In the event that the unanimity required by subsection (d) is not obtained, and/or the DCRM Director is unable to certify that a unanimous decision of CRM Agency Officials complies with 2 CMC 1501, et seq. and/or applicable rules and regulations, the Director shall forward the CRM permit application to the Governor for resolution of the deadlock.

(1) Referral. Determination that a deadlock exists regarding a decision over a CRM permit application shall be made by the Director within the sixty -day period of review by CRM Agency Officials specified by §15-10-215. A deadlocked CRM permit application shall be referred to the Governor for resolution within ten days following this determination.

(2) Supporting Documentation. In addition to the deadlocked CRM permit application, the Director shall forward all supporting documentation, including additional briefs, if any, filed by the applicant, and statements of support or opposition by CRM Agency Officials. If a deadlock results solely from the Director denial of certification of compliance with CRM laws, then he or she shall supply a statement of his or her objections. If a deadlock results from dispute among CRM Agency Officials, then statements reflecting the divergent views on the CRM permit application shall be obtained from the CRM Agency Officials and forwarded with CRM permit application to the Governor for his or her review.

(3) Decision. After receipt of the deadlocked CRM permit application and accompanying documents, briefs and statements referred to above, the Governor shall have thirty days to render his or her decision. He or she may grant, deny or conditionally grant a CRM permit. He or she must issue written findings of facts and conclusions of law for his or her decision.

- (4) Review. The decision of the Governor in a deadlock resolution under this section shall be conclusive for purposes of permit issuance or denial. Parties objecting to the Governor's decision may, if they seek review of the Governor's decision, appeal directly to the Appeals Board.
- (g) Written Findings and Conclusions. Decisions rendered by the CRM Agency Officials on granting, denying or conditionally granting CRM permits shall be accompanied by written findings of facts and conclusions of law. The DCRM Office shall assist the Agency Officials in preparing a consensus draft of findings of fact and conclusions of law for signature by CRM Agency Officials and the Director.
- (h) Issuance of CRM Permit. If the CRM Agency Officials unanimously agree on the issuance or conditioned issuance of a CRM permit and the DCRM Director certifies that the CRM permit complies with 2 CMC §§1501, et seq. and applicable rules and regulations, the CRM permit shall be issued. The DCRM Office shall prepare a written CRM permit stating the terms and conditions of issuance and obtain the signatures of the following on the CRM permit:
- (1) All CRM Agency Officials that voted for the issuance of the permit; and
 - (2) The Director.
- (i) Issuance of CRM Permit in case of Deadlock. In the case of a deadlocked decision on a CRM permit application, if the Governor finds that it is proper to grant or conditionally grant a CRM permit, then the DCRM Office shall prepare a written CRM permit stating the terms and conditions of issuance and obtain the signature of the Governor.
- (j) He/She Who Decides Must Hear. In those cases where a public hearing is held on a CRM permit application, the CRM Agency Officials shall review and consider the matters discussed or presented at the hearing. To this end, CRM Agency Officials shall, whenever practicable, attend CRM permit hearings, and if unable to attend a hearing, they shall listen to the audio recording of the hearing, or obtain and read a stenographic transcript prior to rendering any decision on the affected CRM permit application.

- (k) Notice. Within fourteen days of the issuance of a CRM permit decision, CRM shall publish notice of such issuance in a newspaper of general circulation in the Commonwealth.

§15-10-235 Appeal of CRM Permit Decision

Any aggrieved person as defined at §15-10-020 may appeal the decision of CRM Agency Officials or in the case of a APC development, the DCRM Director decision to grant, deny, or condition a new CRM permit to the CRM Appeals Board by filing a notice of the appeal with the DCRM Office within thirty days of the issuance of the CRM permit decision. In the absence of an appointed CRM Appeal Board at the time that the appeal is filed, the appeal shall be to the Superior Court as set forth in Administrative Procedure Act 1 CMC §§ 9101 et seq. The DCRM Director shall then schedule an appellate hearing before the CRM Appeals Board.

- (a) Disqualification; Voluntary or by Challenge. In the same manner and for the same reasons specified for CRM Agency Officials in §15-10-230, the three members of the CRM Appeals Board shall render decisions on CRM permit applications in an impartial manner. They shall voluntarily disqualify themselves for bias or the appearance of bias, and they are subject to disqualification by challenge in the manner prescribed for CRM Agency Officials in §15-10-230.
- (b) Quorum, Vote. At least two members of the CRM Appeals Board shall constitute a quorum and must be present to act upon review of the CRM Agency Officials' decision and the vote of at least two members is necessary for board action on the appeal.
- (c) Briefs, Statements. Any aggrieved person who requests an appeal before the CRM Appeals Board shall file with the DCRM Office within fifteen days following its request for appeal a written statement of objections to the CRM permit decision. In addition, any existing party may within ten days of receipt of appellant's statement, submit to the DCRM Office a statement or brief providing arguments in support of or in opposition to the permit decision. Statements filed under this subsection shall be filed in accordance with the format and standards listed in §15-10-225 and will be included in the CRM permit application file.

- (d) Contents of Notice of Appeal. Any notice of appeal filed with the CRM Office shall contain all of the following:
- (1) The nature of the petitioner's interest in the CRM permit;
 - (2) The effect of the CRM permit on the petitioner's interest; and
 - (3) The extent that the petitioner's interest is not represented by CRM, the applicant or other aggrieved persons.
- (e) Service of Papers. All parties to an appeal shall serve all other parties with any papers that are required to be filed at the DCRM Office and such service shall occur on the same day as filing at the DCRM Office.
- (f) Papers Considered by CRM Appeals Board. For the purpose of reviewing the CRM permit application decision, the CRM Appeals Board shall receive and review all of the following:
- (1) Findings of facts and conclusions of law adopted by the CRM Agency Officials;
 - (2) CRM permit application;
 - (3) CRM permit, if issued;
 - (4) Record of the CRM permit hearing, if any;
 - (5) Statements filed with the DCRM Office in support of, or in opposition to, the appeal;
and
 - (6) Any other documents, correspondence, or testimony considered in the permit decision-making process.
- (g) Oral Argument. Upon written request to the DCRM Office by the appellant or other party to the appeal, oral argument shall be permitted. The scope of the oral argument shall be limited to the written statements in support of, or in opposition to, the appeal. Oral argument shall be scheduled by the DCRM Director before the full membership of the CRM Appeals Board. Oral argument shall be heard after the submission of written statements by the appellant and opponents, if any, and within twenty-five days after the issuance of the CRM permit by CRM Agency Officials.

- (h) **Scope of Appeal.** In reviewing the CRM permit decision of CRM Agency Officials, the CRM Appeals Board shall reverse the decision below, and remand if necessary when:
- (1) It is clearly erroneous in light of CRM rules and regulations and the policies established in 2 CMC §§1501, et seq.; or
 - (2) It is in violation of applicable federal law or CNMI constitutional or statutory provisions; or
 - (3) It is arbitrary or capricious; or
 - (4) It was not issued in accordance with required procedures.
- (i) **Written Decision.** After reviewing the record and considering the arguments, the CRM Appeals Board shall render a written decision detailing the reasons in support of its determination. The decision of the Board shall be the final administrative decision, subject to judicial review. In drafting its decision, the Appeals Board may utilize the resources of the DCRM Office.
- (j) **Automatic Affirmance.** If no decision is rendered by the CRM Appeals Board within thirty days of the date of the hearing, the DCRM Director shall issue a notice of summary affirmance of the CRM permit decision. The party or parties aggrieved by the CRM permit decision, as defined at §15-10-020, may then appeal to the Commonwealth Superior Court, pursuant to §15-10-245.

§15-10-240 Commonwealth Superior Court

Any person aggrieved by a final decision of the CRM Appeals Board may seek judicial review in accordance with 2 CMC §§1501, et seq.

Part 300 - Standards for CRM Permit Issuance

§15-10-301 General Standards for all CRM Permits

In the course of reviewing all APC permits and major siting permits, the CRM Agency Officials and the DCRM Director shall require the applicant to demonstrate by a fair preponderance of evidence that the project will not have a significant adverse impact on the coastal environment or its resources.

§ 15-10-303 Standards to avoid adverse impacts

The CRM Agency Officials and DCRM shall also base their decisions on technical findings and the policy set out in section 3 of 2 CMC § 1511. Adverse impacts may include but are not limited to those defined at § 15-10-020(c).

§15-10-305 General Criteria for CRM Permits

The CRM Agency Officials and the DCRM Director shall consider all of the following when evaluating CRM permit applications, including those for APC developments permits, APC permits, and major siting permits:

(a) Cumulative Impact. The DCRM Director and CRM Agency Officials shall assess the “cumulative impact” of proposed projects as defined in § 15-10-020(x). This determination shall consider the impact of existing uses and activities on coastal resources and determine whether the added direct and secondary impact(s) of the proposed project seeking a CRM permit will result, when added to the existing use, in a significant degradation of the coastal resources. Consideration shall include potential coastal nonpoint source pollution, watershed setting, and receiving waters of the watershed in which a project is situated, and ability to accommodate future climatic change where relevant information is available. Where applicable, cumulative impact analysis should also consider, and minimize potential negative impacts to cultural resources and aesthetic enjoyment of coastal resources. Development proposals shall incorporate measures to avoid or minimize adverse impacts of the project. These measures shall be implemented at the applicant’s expense, and may include actions that minimize or avoid adverse impacts by limiting the magnitude or degree of the action or mitigation to restore the ecosystem functions or values of the affected environment.

(b) Compatibility. The DCRM Director and CRM Agency Officials shall determine, to the extent practicable, whether the proposed project is compatible with existing adjacent uses and is not contrary to designated land and water uses being followed or approved by the Commonwealth government, its departments or agencies.

- (c) Alternatives. The DCRM Director and CRM Agency Officials shall determine whether or not a reasonable alternative site exists for the proposed project.
- (d) Conservation. The DCRM Director and CRM Agency Officials shall determine, to the extent practicable, the extent of the impact of the proposed project, including construction, operation, maintenance and intermittent activities, on its watershed and receiving waters, marine, freshwater, wetland, and terrestrial habitat, and preserve, to the extent practicable, the physical and chemical characteristics of the site necessary to support water quality and living resources now and in the future.
- (e) Compliance with Local and Federal Laws. The DCRM Director and CRM Agency Officials shall require compliance with federal and CNMI laws, including, but not limited to, air and water quality standards, land use, federal and CNMI constitutional standards, and applicable permit processes necessary for completion of the proposed project.
- (f) Right to a Clean and Healthful Environment. Projects shall be undertaken and completed so as to maintain and, where appropriate, enhance and protect the Commonwealth's inherent natural beauty and natural resources, so as to ensure the protection of the people's constitutional right to a clean and healthful environment.
- (g) Effect on Existing Public Services. Activities and uses which would place excessive pressure on existing facilities and services to the detriment of the Commonwealth's interests, plans and policies, shall be discouraged.
- (h) Adequate Access. The DCRM Director and CRM Agency Officials shall determine whether the proposed project would provide adequate public access to and along the shoreline.
- (i) Setbacks. The DCRM Director and CRM agency officials shall determine whether the proposed project provides adequate space between the building footprint of a project and identified hazardous lands including floodplains, erosion-prone areas, storm wave

inundation areas, air installation crash and sound zones, and major fault lines, unless it can be demonstrated that such development does not pose unreasonable risks to the health safety, and welfare of the people of the Commonwealth, and complies with applicable laws.

(j) Management Measures for Control of Nonpoint Source Pollution. The DCRM Director and CRM Agency Officials shall determine if the management measures outlined in the permit application are adequate for the control of nonpoint source pollution resulting from project construction, operations, and maintenance, including intermittent activities such as repairs, routine maintenance, resurfacing, road or bridge repair, cleaning, and grading, landscape maintenance, chemical mixing, and other nonpoint sources. DCRM may impose additional conditions to include management measures for control of nonpoint source pollution that are a result of particular site conditions, such as soil type, soil erodibility, soil permeability, slope, drainage patterns and other issues, in order to prevent potential nonpoint source pollution impacts on adjacent or downstream APCs.

(k) Buffers for environmentally sensitive areas. The DCRM Director and CRM Agency Officials shall determine the adequacy of vegetative buffer zones between the project footprint and environmentally sensitive areas including high risk flood zones, wetlands, and highly erodible slopes, and shorelines, considering current conditions and future projections as they are available and applicable.

§15-10-310 Specific Criteria; Areas of Particular Concern; Generally

Prior to the issuance of any APC permit for a proposed project within an APC, the Director, with support of the DCRM Permitting Section and Technical Staff, shall evaluate the proposed project in terms of its compatibility with the standards and relative priorities listed below in this part and the general standards provided above in § 15-10-305. If a proposed project is to be located in more than one APC, CRM permit standards and policies for each applicable APC shall be evaluated in a single CRM permit decision. If more than one project requiring a CRM permit is proposed for a particular location, the project determined by the CRM Agency Officials to be the most compatible with the general and specific standards provided herein shall be given priority

over the less compatible project. The Permit Manager and Technical Staff shall make recommendations to the DCRM Director to grant, deny, or issue an APC permit with conditions. CRM Agency Officials may be included in APC review at the request of their offices or the DCRM Director, and may incorporate conditions into APC permits to address specific resource management concerns at the discretion of the DCRM Director.

§15-10-311 Specific Criteria; Areas of Particular Concern; Impact Avoidance, Minimization, and Mitigation Required

If a proposed project or activity is likely to have negative impacts to coastal resources within an APC, avoidance, minimization, and mitigation of impacts shall be required.

- (a) Development of Mitigation Guidance. DCRM shall develop and publish policy guidance to support wise management of coastal resources, and will require mitigation of impacts through permit conditions for proposed projects or through enforcement actions for permit violations or unpermitted activities.
- (b) Payments, Fees, and Offsets. DCRM may develop policies to support offsets or fees to minimize and mitigate impacts where impacts are unavoidable. Where quantifiable, values of ecosystem services may be assessed and may be included in mitigation requirements in order to protect and enhance coastal resource management within Areas of Particular Concern.

§15-10-315 Specific Criteria; Areas of Particular Concern; Lagoon and Reefs

(a) Area Defined. The area consisting of a partially enclosed body of water formed by sand spits, bay mouth bars, barrier beaches, or coral reefs within the Commonwealth.

(b) Management Standards. Any project proposed for location within the lagoon and reef APC shall be evaluated to determine its compatibility with the following standards:

- (1) Subsistence usage of coastal areas and resources shall be ensured;
- (2) Living marine resources, particularly fishery resources, shall be managed so as to maintain optimum sustainable yields;
- (3) Significant adverse impacts to reefs and corals shall be prevented;

- (4) Lagoon and reef areas shall be managed so as to maintain or enhance subsistence, commercial and sport fisheries as well as commercial marine sports operations;
- (5) Lagoon and reef areas shall be managed so as to assure the maintenance of natural water flows, natural circulation patterns, natural nutrient and oxygen levels and to avoid the discharge of toxic wastes, sewage, petroleum products, siltation and destruction of productive habitat;
- (6) Areas and objects of historical and cultural significance shall be preserved and maintained; and
- (7) Lagoon and reef preservation areas shall be designated where practicable.

(c) Use Priorities. Activities listed within a use priority category are neither priority-ranked nor exhaustive. Use priorities categories for the Lagoon and Reef APCs of the Northern Mariana Islands are as follows:

- (1) Highest:
 - (i) Projects promoting conservation of open space, high water quality, important ecosystem qualities or historical and cultural resources;
 - (ii) Projects promoting or enhancing public recreation and access;
 - (iii) Water-dependent projects which are compatible with adjacent uses;
 - (iv) Sport and small-scale taking of edible marine resources within sustainable levels;
 - (v) Sustainable operation of commercial water sports activities;
 - (vi) Activities related to the prevention of beach erosion; or
 - (vii) Projects preserving high value coral reef and seagrass areas supporting fish and wildlife habitat.
- (2) Moderate:
 - (i) Commercial taking of edible marine resources within sustainable levels;
 - (ii) Aquaculture projects which do not adversely affect the productivity of coastal waters or natural beach processes; or
 - (iii) Piers and docks which are constructed with floating materials or which, by design, do not impede or alter natural shoreline processes and littoral drift.
- (3) Lowest:

- (i) Point source discharge of drainage water which will not result in significant permanent degradation in the water quality of the lagoon; or
 - (ii) Dredging and filling to construct piers, launching facilities, and boat harbors, if designed to prevent or mitigate adverse environmental impacts.
- (4) Unacceptable:
- (i) Discharge of untreated sewage, petroleum products or other hazardous materials;
 - (ii) Taking of sand and aggregate materials not associated with permitted activities and uses;
 - (iii) With the exception of permissible fishing activities, no harassing or taking of protected marine species;
 - (iv) Destruction of coralline reef matter not associated with permitted activities and uses;
 - (v) Dumping of trash, litter, garbage or other refuse into the lagoon, or at a place on shore where entry into the lagoon is likely;
 - (vi) Dredge and fill activities not associated with permitted construction of piers, launching facilities, infrastructure and boat harbors.

(d) Seagrass habitat within Lagoon and Reef APC.

- (1) Management standards. Any proposed project within any seagrass APC shall thoroughly document existing configuration and composition of seagrass habitat within the proposed project area prior to any modifications through the submission of a biological assessment prepared by a marine biologist or similarly qualified professional shall be submitted to the DCRM office to support project review. Proposed modification(s) shall be evaluated to determine its compatibility with the following standards, as well as the management standards for the lagoon and reef APC as listed at §15-10-315(b).
- (2) Use priorities. Activities listed within a use priority category are neither priority ranked nor exhaustive. Use priority categories for sea grass habitat areas are as follows:
- (i) Highest: Preservation of natural seagrass beds, which protect the shoreline from erosion and prevent the movement of sand in the lagoon.

(ii) Moderate: Projects that are designed to enhance tourism in the CNMI directly by making swimming areas in front of hotels more appealing to hotel guests and other tourists but minimize any reduction or modification in seagrass habitat.

(iii) Lowest: Projects that do not directly enhance the CNMI as a tourist destination and that have the effect of modifying and or reducing a seagrass habitat.

(iv) Unacceptable

(A) Any project that does not minimize damage to sea grass habitat areas.

(B) Any project that violates the moratorium on seagrass or sea cucumber harvest provision of 2 CMC §5601, to the extent that the moratorium is current and applicable.

(C) Any project not associated with permitted dredging that allows for the motorized removal of seagrass.

(e) Seagrass habitat modification

(1) To the extent practicable, reduction in the area of seagrass habitat by direct actions associated with a permitted project shall be avoided.

(2) In the event that reduction in the area of seagrass habitat by direct actions associated with a permitted project are unavoidable, the following shall apply: Permit applicants must document existing configuration and composition of seagrass habitat within the proposed project area prior to any modifications. In the case of safe swimming zones designated by Department of Public Safety where hotels are directly fronting or adjacent to the Saipan Lagoon, a given swimming zone may be cleared only to the point that 50% of a given swimming zone is clear of seagrass and seaweed, as authorized by Public Law 15-41. Mitigation of removed seagrass may be required to reduce impacts to coastal resources. If seaweed, algae, and seagrass are present in a swimming area, removal of seaweed or algae should be conducted before seagrass is removed. In the event that 50% or more of a given swimming zone is naturally barren of seagrass and seaweed, no further removal is permitted. No permit for the removal of seagrass will be issued unless a hotel swimming zone is properly demarcated with appropriate buoys

pursuant to Department of Public safety designation and in consultation with the DCRM, Marianas Visitor Authority and adjacent land owners. Under no circumstances will motorized removal of sea grass of any kind be permitted.

§15-10-320 Specific Criteria; Areas of Particular Concern; Managaha and Anjota Islands

(a) Management Standards. Management standards for Managaha Island and Anjota Island shall be the same as the managements standards applied to Lagoon and Reefs, at §15-10-315(b).

(b) Use Priorities, Managaha Island. Use priority categories for Managaha Island (Saipan), in addition to those listed for general lagoon and reef APCs, shall be as follows:

- (1) Highest. Maintenance of the island as an uninhabited place used only for cultural and passive recreational purposes.
- (2) Moderate. Improvements for the purposes of sanitation and navigation.
- (3) Lowest. Commercial activity situated on the island related to cultural and passive recreational pursuits.
- (4) Unacceptable. Development, uses or activities which preclude or deter or are unrelated to the use of the island by residents of the Commonwealth for cultural or passive recreational purposes.

(c) Use Priorities, Anjota Island (Rota). Use priority categories for Anjota Island shall be as follows:

- (1) Highest. Maintenance of that part of the island outside the port and industrial APC as a wildlife sanctuary and for passive recreation.
- (2) Unacceptable. Expansion of the port and industrial section of Anjota Island which would encroach upon or have significant adverse impact upon the maintenance of a wildlife preserve or upon recreational uses of the island.

§15-10-325 Specific Criteria; Areas of Particular Concern; Coral Reefs.

(a) Management Standards: Management standards for Coral Reefs shall be the same management standards applied to Lagoon and Reefs, at §15-10-315(b).

(b) Use priorities: The use priority categories for the coral reefs of the Northern Mariana Islands chain shall be as follows:

(1) Highest:

(i) Maintenance of highest levels of primary productivity; or

(ii) Creation of underwater preserves in pristine areas or restoration projects in impacted areas.

(2) Moderate(i) Mitigation or experimental coral enhancement projects; or

(ii) Dredging of moderately productive corals and reefs associated with permitted uses and activities, and associated mitigation activities (3) Lowest. Taking of corals for cultural use (i.e. production of lime).

(4) Unacceptable:

(i) Destruction of reefs and corals not associated with permitted projects; or

(ii) Taking corals for other than scientific study.

§15-10-330 Specific Criteria; Areas of Particular Concern; Wetlands and Mangroves

(a) Area Defined. The geographic area of particular concern which includes areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. The presence or absence of these three criteria (soils, plants, and hydrology) is considered when assessing the presence and value of wetland systems by applying the 1987 U.S. Army Corps of Engineers Wetland Delineation Manual and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Hawaii and Pacific Islands Region. Wetlands include swamps, marshes, mangroves, lakes, natural ponds, surface springs, streams, estuaries, and similar areas in the Northern Mariana Islands chain.

(b) Management Standards. Any project proposed for location within the wetland and mangrove APC shall be evaluated to determine its compatibility with the following standards:

(1) Significant adverse impact on natural drainage patterns, the destruction of important habitat and the discharge of toxic substances shall be prohibited; adequate water flow, nutrients and oxygen levels shall be ensured;

- (2) The natural ecological and hydrological processes of mangrove areas shall be preserved;
- (3) Critical wetland habitat shall be maintained and, where possible, enhanced so as to increase the potential for survival of rare and endangered flora and fauna;
- (4) Public landholding in and adjacent to the wetland and mangrove APC shall be maintained and, to the extent possible, increased, for the purpose of access and/or hazard mitigation, through land trades with the Department of Public Lands or any of its successor agencies, land purchases, creation of easements or through taking by eminent domain;
- (5) Ecologically protective buffers shall be established and maintained based on wetland valuation and environmental considerations, with a standard 50-foot minimum buffer requirement for all wetlands over 300 square feet, and up to 200 feet depending on wetland valuation and the need for protection. If this buffer would result in the taking of all economic value and use from the property, the minimum buffer size may be adjusted at the discretion of the DCRM Director and mitigation may include off-site or in-kind compensatory mitigation proposals; and
- (6) Wetland resources shall be utilized for appropriate agriculture, recreation, education, public open space and other compatible uses which would not degrade ecosystem functions and productivity.
- (7) Wetland delineations shall be completed using the current approved federal manual and supplements.
- (8) Wetland valuations shall be completed using the current rule on “CNMI Rapid Assessment Methodology (RAM).” RAM reports shall be submitted with wetland determination requests to DCRM Permitting Section’s Wetland Specialist for confirmation. Minimum buffers for wetlands with the following RAM classifications are:
 - A. “Low” - 50-foot minimum buffer;
 - B. “Medium” – 75-foot minimum buffer; and
 - C. “High” – 100-foot minimum buffer.
 - D. The DCRM Director may consider proposals to average buffer area that include enhancement and maintenance proposals of vegetated buffers or that may

otherwise support use priorities and further the “no net loss” policy, which aims to preserve overall functions and values of wetland systems in the CNMI.

(9) To further the CNMI “no net loss” policy, any loss of wetlands shall be compensated or replaced at a minimum 2:1 replacement ratio. No-net-loss does not mean no-loss.

Wetlands may still be impacted but those impacts must be mitigated by compensation or replacement of wetland functions and values as guided by federal policies from the Army Corps of Engineers and the U.S. Environmental Protection Agency.

(c) Use Priorities. Activities listed within a use priority category are neither priority ranked nor exhaustive. Use priority categories for the wetland and mangrove APC are as follows:

(1) Highest:

- (i) Preservation and enhancement of wetland and mangrove areas; or
- (ii) Preservation of wildlife, primary productivity, conservation areas and historical properties in wetland and mangrove areas.

(2) Moderate:

- (i) Non-intensive agriculture benefitted by inundation, low density grazing;
- (ii) Infrastructure corridors designed to avoid significant adverse impacts to natural hydrological processes and values as wildlife habitat;
- (iii) Non-commercial recreation including light duty, elevated, non-permanent structures such as footbridges, observation decks, and similar non-enclosed recreational and access structures; or (iv) Construction of “green infrastructure” measures to reduce flood risks, improve water quality, and enhance buffer areas or wetland habitat.

(3) Lowest:

(i) Residential development designed to avoid adverse environmental impacts and which is not susceptible to damage by flooding; or (ii) Filling activities associated with flood control or necessary infrastructure corridors.

(4) Unacceptable:

- (i) Land fill and dumping not associated with flood control and infrastructure corridors or other allowable activities and uses;
- (ii) Land clearing, grading or removal of natural vegetation not associated with allowable activities, which would result in extensive sedimentation of wetland, mangrove areas and coastal waters;
- (iii) Development of commercial or industrial structures within the wetland without appropriate on- or off-site mitigation; or
- (iv) Development of structures within the wetland buffer that would significantly impair or threaten the ecological and hydrological functions of the adjacent wetland system.

§15-10-335 Specific Criteria, Areas of Particular Concern; Shorelines

(a) Area Defined. The geographic area of particular concern consisting of the area between the high tide line or the edge of a shoreline cliff and one hundred fifty feet inland on the islands of the Northern Mariana Islands chain.

(b) Management Standards. Any project proposed for location within the shoreline APC shall be evaluated to determine its compatibility with the following standards:

- (1) The impact of onshore activities upon wildlife, coastal and marine systems, or aesthetic resources, as well as natural coastal processes shall be minimized;
- (2) The effects of shoreline development on natural beach processes shall be minimized;
- (3) The effects of onshore and nearshore activities or development shall minimize changes to existing shoreline morphology and vegetation;
- (4) The unpermitted taking of sand, gravel, or other aggregates and minerals from the beach and near shore areas shall not be allowed including sand, gravel, or other aggregates and minerals within the APC; and
- (5) Where possible, public landholding along the shore shall be maintained and increased, for the purpose of access and hazard mitigation, through land trades with the Department of Public Land, or its successor agency, land purchases, creation of easements, and where no practicable alternative exists, through the constitutional authority of eminent domain.

(c) Additional Considerations for permits on shorelines. In addition to deciding whether the proposed project is consistent with the above standards, CRM agency officials shall consider the following in their review of coastal permit applications:

- (i) Whether the proposed project is water-dependent or water-oriented in nature;
- (ii) Whether the proposed project is to facilitate or enhance coastal recreational, subsistence, or cultural opportunities. (i.e., docking, *utt*, fishing, swimming, picnicking, navigation devices);
- (iii) Whether the existing land use, including the existence of roadways, has irreversibly committed the area to uses compatible with the proposed project, particularly water oriented uses, and provided that the proposed project does not create adverse cumulative impacts;
- (iv) Whether the proposed project is a single-family dwelling in an existing residential area and would occur on private property owned by the same owner as of the effective date of the program, of which all or a significant portion is located in the shoreline APC, or no reasonable alternative is open to the property owner to trade land, relocate or sell to the government;
- (v) Whether the proposed project would be safely located on a rocky shoreline and would cause significant adverse impacts to wildlife, vegetation, marine or scenic resources;
- (vi) Whether the proposed project is designed to prevent or mitigate shoreline erosion; and
- (vii) Whether the proposed project would be more appropriately located in the port and industrial APC.

(d) Evaluation of marina and small boat harbor project permits. In addition to deciding whether the proposed project is consistent with the above standards, marina and small boat harbor projects shall be evaluated for consistency with the following performance standards and goals:

- (1) Effective runoff control shall be implemented which includes the use of pollution prevention activities and the proper design of hull maintenance areas;
- (2) Shoreline stabilization shall be implemented has contributed to nonpoint source pollution or where erosive forces are contributing to chronic shoreline retreat. Where ever

possible, soft stabilization using re-vegetation measures, green infrastructure, and other “living shoreline” alternatives should be implemented instead of hard stabilization and shoreline armoring;

(3) Effective fuel station design shall be implemented to prevent spills and leaks and allow for efficient and effective cleanup of spills;

(4) Effective sewage management facilities shall be installed where needed to reduce the release of sewage to surface waters. Facilities shall be designed to allow for efficient and effective maintenance and signage shall be posted to facilitate the public’s use of the facility;

(5) Effective fish waste management shall be implemented through restrictions, public education, and/or facilities for proper disposal of fish waste;

(6) Petroleum control shall be implemented to reduce the amount of fuel and oil from boat bilges and fuel tank air vents and other vessel activities from entering marina and surface waters;

(7) Boat cleaning operations shall minimize, to the extent practicable, the release of harmful cleaners and solvents as well as paint from in-water hull cleaning;

(8) Public education management, outreach, and training shall promote marina activities that minimize environmental impact; and

(9) Boating activities within marina areas shall conform to the Department of Public Safety Boating Safety Regulations (NMIAC, Title 150, Chapter 20).

(e) Use Priorities. Activities listed within a use priority category are neither priority ranked nor exhaustive. Use priority categories for the shoreline APCs of the entire Northern Mariana Islands chain are as follows:

(1) Highest:

(i) Public recreational uses of beach area, including resource conservation, the creation of public shoreline parks, and construction of permittable structures enhancing access and use in the shoreline setback area, such as barbecue grills, picnic tables, or shelters;

(ii) Compatible water-dependent development which cannot be reasonably accommodated in other locations;

- (iii) Traditional cultural and historical practices;
- (iv) Preservation of fish and wildlife habitat;
- (v) Preservation of natural open areas of high scenic beauty and scientific value;
- (vi) Activities related to the prevention of beach erosion through non-structural means;
- (vii) Floating, non-permanent docks or boardwalks that are designed to withstand long-term impacts of natural coastal processes and that are compatible with other relevant regulations; or
- (viii) Beach habitat enhancement and removal of debris. Removal of debris such as unexploded ordinance, marine and other debris from beaches and coastal areas in consultation with DCRM to mitigate unavoidable impacts.

(2) Moderate:

- (i) Single-family dwellings in existing residential areas;
- (ii) Agriculture/aquaculture which requires or is enhanced by conditions inherent in this APC;
- (iii) Improvements to or expansion of existing water-oriented structures which are compatible with designated land uses and do not otherwise conflict with or obstruct public recreational use of coastal areas or other water-dependent or water-related uses; or
- (iv) Projects that result in enhancements of existing structures that may include upgraded building standards or on-site hazard mitigation or adaptation projects.

(3) Lowest:

- (i) Projects which result in growth of existing commercial, non-recreational, or multi-unit residential uses; or
- (ii) Water related and new water-oriented development compatible with designated land uses, which cannot be accommodated in other locations and which neither conflicts with recreational uses nor restricts access to or along the shoreline.

(4) Unacceptable:

- (i) New commercial structures, industrial structures, or non-recreational public structures which are not water-dependent, water-oriented or water-related;

- (ii) Disposal of litter and refuse; or
- (iii) The taking of sand for other than cultural usage, and mining of gravel and extraction of minerals, oil and gas, or other extractive uses.

§§ 15-10-340 Specific Criteria; Areas of Particular Concern; Ports and Industrial Areas

(a) Area defined. The land and water areas of particular concern surrounding the commercial ports of the Northern Mariana Islands which consists of projects, industrial uses and all related activities.

(b) Management Standards. Any project proposed for location within the port and industrial APC shall be evaluated to determine its compatibility with the following standards:

- (1) Projects shall be undertaken and completed so as to maintain and, where appropriate, enhance and protect the Commonwealth's inherent natural beauty and natural resources and so as to ensure the protection of the people's constitutional right to a clean and healthful environment;
- (2) In the siting of port and industrial development, its suitability in terms of meeting the long-term economic and social expectations of the Commonwealth;
- (3) Recognize the limited availability of the port and industrial resources in making allocation decisions;
- (4) Ensure that development is done with respect for the Commonwealth's inherent natural beauty and the people's constitutionally protected right to a clean and healthful environment;
- (5) Develop improvements to infrastructure in the port and industrial APC;
- (6) Prohibit projects which would result in significant adverse impacts, including cumulative impacts on coastal resources outside the port and industrial APC;
- (7) Conserve shoreline locations for water-dependent projects;
- (8) Consider and assist in resolution of possible conflicts by identifying and planning for the potential exercise of military retention area options affecting port resources;
- (9) Locate, to the maximum extent practicable, petroleum based coastal energy facilities within the port and industrial APC;

- (10) Consider development proposals from the perspective of federal port related opportunities and constraints which are applicable to the Commonwealth; and
- (11) The amount of shoreline frontage utilized by any project, regardless of the extent to which the project may be water-dependent, shall be minimized to the greatest extent practicable.

(c) Use Priorities. Activities listed within a use priority category are neither priority ranked nor exhaustive. Use priority categories for the port and industrial APCs in the entire Northern Mariana Islands chain are as follows:

(1) Highest:

- (i) Water-dependent port and industrial activities and uses located on the APC shoreline;
- (ii) Industrial uses that are not water-dependent but would cause significant adverse impacts if situated outside the port and industrial APC and would not be sited directly on the port and industrial APC shoreline, and would not preclude the opportunity for water-dependent activities and uses; or
- (iii) Industries and services that support water-dependent industry and labor, which are not located on the port and industrial APC shoreline and do not interfere with water-dependent uses.

(2) Moderate:

- (i) Recreational boating facilities; or
- (ii) Clearing, grading or blasting which does not have long-term adverse effects on environmental quality, drainage patterns or adjacent APCs, so long as the activity is related to the permitted project.

(3) Lowest:

- (i) Indefinite storage or stockpiling of hazardous materials;
- (ii) Indefinite storage of goods, not awaiting water-borne transport, in a shorefront location; or
- (iii) Uses or activities which are acceptable in other APCs and which do not enhance or are not reasonably necessary to support permissible uses, activities and priorities in the port and industrial APC.

- (4) Unacceptable:
 - (i) Non-port and industrial related activities and uses which, if permitted, would result in conversion to other uses at the expense of port and industrial related growth, or would induce port and industrial related growth into other APCs or areas; or
 - (ii) Uses and activities which would have a significant adverse impact on other APCs, the American Memorial Park, Anjota Preserve, historical properties, and other significant coastal resources.

§15-10-345 Specific Criteria; Areas of Particular Concern; Coastal Hazards

- (a) Area Defined. Areas identified as a coastal high hazard flood zones (V & VE) in the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRMs), shall be considered a coastal hazards APC.
- (b) Management Standards. Any project proposed for location within the coastal hazards APC shall be evaluated to determine its compatibility with the following standards:
 - (1) If the project will have a detrimental impact on existing landforms or coastal processes that provide natural resistance from the forces of coastal hazards such as beaches, wetlands, shoreline / strand vegetation, and cliff lines, impacts to these coastal resources shall be avoided to the maximum extent possible;
 - (2) If the project is located in a geologically unstable zone such as cliff lines, severe slopes (greater than 30%), coastal headlands or outcroppings, appropriate mitigation to prevent threat to human life, safety and the environment must be applied;
 - (3) If the project is located within an area which has historically been known to flood or be at high risk to storm wave inundation or erosion, all design plans must be approved by the DPW Building Control Officer for compliance with the applicable building code; and
 - (4) If construction of the project may endanger human life or safety due to its design or siting it shall not be allowed.

(c) In addition to deciding whether the proposed project is consistent with the above standards, the CRM Agency Officials and the DCRM Director shall consider the following in their review of coastal applications:

- (1) Whether the project is shoreline dependent;
- (2) Whether the project is located in an area where potentially hazardous construction or unsafe structures already exist;
- (3) Whether the project is receiving funding by any entity of the federal or local government for its design or construction;
- (4) Whether the project will enhance or facilitate recreational or cultural opportunities;
- (5) Whether access to or from the shoreline is enhanced or the level of safety to or along the shoreline is increased;
- (6) Whether the project has been reviewed and certified by a coastal engineer to ensure reduced risks to public safety and the environment;
- (7) Whether the project is designed to prevent or mitigate for shoreline erosion; and
- (8) Whether the project meets the requirements of the applicable building code for structures in flood or storm hazard zones that include elevated walls or floors, or areas designed to mitigate run-off.

(d) Use Priorities. Activities listed within a use priority category are neither priority ranked nor exhaustive. Use priority categories for the Coastal Hazard APCs of the entire Northern Marianas Island chain are as follows:

- (1) Highest:
 - (i) Projects which preserve or enhance the natural defense of the shoreline against storm wave attack and flooding without the use of shoreline hardening/armoring;
 - (ii) Public recreational uses of beach area, including the creation of public shoreline parks and the preservation of open space and vegetation along the shoreline;
 - (iii) Traditional cultural and historical practices;
 - (iv) Preservation of fish and wildlife habitat or native vegetation; or

(v) Preservation of natural open areas of high scenic beauty and/or scientific value.

(2) Moderate:

(i) Projects which promote pedestrian access to and from shoreline areas; (ii)

Projects which conserve or enhance native coastal vegetation or mitigate impacts of natural coastal processes;

(iii) Projects which conserve or enhance native coastal vegetation or reduce risks of impacts through implementation of adaptation projects;

(iv) Projects which result in the improvement of existing structures in terms of increasing resilience to coastal hazards; or

(v) Improvements to, or expansion of, existing water oriented structures which are located in low risk hazard areas, are compatible with designated land uses and do not pose a risk to the health and safety of the public.

(3) Lowest:

(i) Transportation facilities, public infrastructure or shoreline dependent projects which cannot be reasonably accommodated in other areas;

(ii) Projects which modify natural shoreline features such as cliffs, beaches, vegetative buffers, or rocky shorelines; or

(iii) Projects which result in the installation or placement of commercial, public, or multi-unit/single residential uses in areas identified or known to be in coastal hazard zones.

(4) Unacceptable:

(i) Projects which degrade or modify natural shoreline protective feature such as beaches, cliffs, vegetative buffers, or rocky shorelines;

(ii) Projects which require hard shore protection to facilitate or accommodate the development, unless these developments are associated with boating or marine based facilities; or

(iii) Projects which interfere or disrupt the natural shoreline processes such as littoral transport or coastal dynamics.

§15-10-350 Height Density, Setback, Coverage, and Parking Guidelines

(a) Application of guidelines, generally. The following building design and site utilization guidelines will be applied to all projects requiring a CRM permit unless governed by zoning law, as set forth in § 15-10-025. The CRM Agency Officials with concurrence by DCRM Director may grant an exception in writing with concurrence by the Director. An exception may only be granted when the applicant can demonstrate that there will be no significant impacts on scenic, historical, coastal, biological, and water resources. No exception may be granted for shoreline setbacks. In order to be consistent with the latest adopted CNMI Building Code 2 CMC §§7101, et seq. building heights will be measured according to the definition provided by the appropriate sections of the applicable building code.

(b) Shoreline Setbacks.

(1) Scope of Regulations. The shoreline setback regulations herein prescribed apply to all coasts of the Commonwealth except for the port and industrial APCs where no shoreline setback regulations shall apply. Shoreline setbacks shall be measured inland from the high tide line. For purposes of the regulations in this section the front of any lot shall be that side parallel to the coastline and/or ocean.

(2) Shoreline Setbacks:

(i) Shoreline setback A, from 0-35 feet. Beach and shoreline reservation zone for use as public access and recreation. Generally, structures are prohibited.

(ii) Shoreline setback B, from 35-100 feet. No vertical construction, which will obstruct the visual openness and continuity of the shoreline area, is permitted. Open space, rest and recreation areas, swimming pools, terraces, landscaping and related outdoor improvements are allowed. Parking areas are not permitted.

(iii) Shoreline setback C, from 100-125 feet. Single-story structures, covered porches, trellises and similar improvements not to exceed 12-feet in height measured from the natural grade line. Parking is permitted if otherwise allowed by law, however, negative impacts to water quality and shoreline dynamics must be avoided, minimized, and mitigated.

(iv) Shoreline setback D, greater than 125 feet. Building height based on §15-10-360(c). If the building is higher than 2 stories, 150 feet from high tide line shall be considered the property line.

(3) Setbacks for Special Shoreline Lots. For any lot where thirty percent or more of the land area of the lot is affected by the mandatory shoreline setback above, such shoreline setback regulations are modified as follows:

- (i) Shoreline setback A-1, from 0-30 feet. Beach recreation zone for use as public access and recreation.
- (ii) Shoreline setback B-1, from 30-70 feet. Shall be open space with no vertical construction or parking permitted.
- (iii) Shoreline setback C-1, from 70-100 feet. Single and two-story structures only, with the total height not to exceed 20 feet.
- (iv) Shoreline setback D-1, greater than 100 feet. Building height based on §15-10-350(c).

(c) Height and Side Yard Setback.

(1) High Rise Development. All high rise developments defined as a structure more than six stories or more than sixty feet above grade are encouraged to locate in areas of existing high rise development. High rise construction is only permissible subject to the following conditions:

- (i) High rise structures proposed seaward of any coastal road must be set back one foot from the front and back property lines for each one foot in the overall height of the building;
- (ii) In order to create view corridors, the applicant for high rise development on a lot adjacent to the shoreline will be required to draw one datum line perpendicular to the shoreline or beach. All high rise structures shall be orientated so that the longest lateral dimension is parallel to the datum line;
- (iii) The project design shall incorporate substantial landscaping and tree planting to reduce/screen the visual bulk and mass of buildings as seen from public places such as roads, parks, and other public areas; and
- (iv) At the DCRM Director's discretion, the applicant may be asked to prepare a view corridor plan which shall include an inventory of existing views,

impacts on existing views, and proposed mitigation measures to protect scenic views.

- (2) Multi-unit Residential. Multi-unit residential buildings must be setback one foot from the front and back of property lines for each one foot in the overall height of the building. All multi-unit residential buildings must be set back at least 10 feet from the side property lines.
- (3) Commercial. Commercial buildings must be setback one foot from the front and back property lines for each one foot in the overall height of the building. All commercial buildings must be setback at least 10 feet from the side property lines. The DCRM Director may allow a smaller side setback upon a determination that the adjacent property is being or is substantially likely to be used for commercial or industrial purposes.
- (4) Hotel & Resort. Hotel and resort buildings must be setback one foot from the front and back property lines for each one foot in the overall height of the building.
- (5) Industrial. Industrial buildings shall be setback a minimum of 20 feet from all property lines. The DCRM Director may allow less than a 20 -foot setback upon a determination that the adjacent property is being or is substantially likely to be used for industrial purposes.

(d) Lot Coverage Density and Parking Guidelines. Lot coverage for structures means the footprint of buildings on the site and does not consider the floor area of upper floors or the overall density of the development. Where the first floor is elevated above the ground level, its lot coverage ratio shall be based on the proposed use for the area below the structure. The lot coverage ratio for open space is considered to include plazas, terraces, decks, and other outdoor areas which are not covered or walled, landscaped areas, recreation and open space improved or unimproved natural areas, covered storm water disposal areas, and pedestrian walkways. The continuity, conservation, and maintenance of open space must be provided for; any later modification must be first approved.

(1) One and Two Family Residential:

- (i) Maximum lot coverage by buildings is 40% for lots on which not all dwellings are connected to a public sewer and 60% for lots on which all dwellings are connected to a public sewer.

- (ii) In developments consisting of more than four lots, the developer and/or subdivider must provide common use open space at a ratio of one acre of common use open space per every five acres of private lots. Up to 50% of the required common open space may be open space useable by the community included in public schools or similar public facilities.
- (2) Multi Unit Residential. Maximum lot coverage by buildings is 60%. A minimum of 1.25 parking spaces must be provided for each dwelling unit.
- (3) Commercial. Maximum lot coverage by structures is 75%. A minimum of one parking space must be provided for each 200 square feet of commercial space; one parking space for each 150 square feet of office space; and one parking space for every four restaurant seats.
- (4) Hotel & Resort:
 - (i) For buildings exceeding 35 feet in height. Maximum lot coverage by structures is 20%. Maximum lot coverage by parking, roads, and service entries is 35%. Minimum lot coverage for open space is 45%.
 - (ii) For buildings less than 35 feet in height. Maximum lot coverage by structures is 35%. Maximum lot coverage by parking, roads and service entries is 35%. Minimum lot coverage for open space is 30%.
 - (iii) A minimum of 1 parking space for every 5 guest units must be provided.
- (5) Industrial. An adequate number of parking spaces for employees and customers must be provided.

(e) Nothing in this section shall be interpreted to prohibit DCRM from imposing additional buffer zones to protect environmentally sensitive resources as appropriate.

Part 400 - Standards for APC Creation and Modification

§15-10-401 Authority

The CRM Agency Officials or the DCRM Director may seek designation of any area within the Commonwealth as an APC or propose a change in any APC boundary. Further, the DCRM Director may review requests from private parties for designation or modification of APCs.

§15-10-405 Procedure

Requests for new or modified APCs shall include detailed documentation supporting the APC designation or boundary change. The documentation shall be based on criteria set forth in §15-10-410 below, but may include other information pertinent to the area nominated or proposed boundary change. Within thirty days of a nomination or proposed boundary change, the DCRM Director shall circulate it to the CRM Agency Officials. The DCRM Director shall, within that same period, publish notice of the nomination or proposed boundary change, describing the area involved, in a newspaper of general circulation within the Commonwealth. The DCRM Office shall be available to receive public comment for a period of thirty days from the date such notice is published. Within the thirty-day minimum comment period, the CRM Agency Officials shall submit to the DCRM Office comments and recommendations, and a public hearing shall be conducted by the DCRM Office. Within thirty days after the closure of the comment period the CRM agency officials shall make the final decision regarding the proposed creation or modification.

§15-10-410 Criteria for Creation and Modification

In reviewing a request for designation or modification of an APC, the DCRM Director and the CRM Agency Officials shall consider whether the areas require special management because they are:

- (a) Areas of unique, scarce, fragile, or vulnerable natural habitat; have a unique or fragile physical configuration (e.g. Saipan lagoon); are of historical significance, cultural value or scenic importance (including resources on or determined to be eligible for the National or CNMI Register of Historic Places);

- (b) Areas of high natural productivity or essential habitat for living resources, including fish, wildlife and endangered species and the various trophic levels in the food web critical to their well-being;

- (c) Areas of substantial recreational value or potential;

(d) Areas where developments and facilities are dependent either upon the utilization of, or access to, coastal waters, or of geographic significance for industrial or commercial development or for dredge spoil disposal;

(e) Areas of urban concentration where shoreline utilization and water uses are highly competitive;

(f) Areas which, if development were permitted, might be subject to significant hazard due to storms, slides, floods, erosion, stormwater, sedimentation, settlement, or salt water intrusion;

(g) Areas needed to protect, maintain, or replenish coastal lands or resources, including coastal flood plains, aquifers and their recharge areas, estuaries, sand dunes, coral and other reefs, beaches and offshore sand deposits; or

(h) Areas needed for the preservation or restoration of coastal resources due to the value of those resources for conservation, recreational, ecological, or aesthetic purposes.

§15-10-415 New APC Standards and Use Priorities

Upon a determination to designate a new APC, the DCRM Director shall draft management standards and use priorities. Designation of the area as an APC and publication of the new standards and use priorities shall be effected by publication of the designated APC and standards and use priorities in the Commonwealth Register pursuant to 1 CMC 9101, et seq.

Part 500 - Standards for Determination of a Major Siting

§15-10-501 Determination of Major Siting

(a) The determination of whether a proposed project, inside or outside a coastal APC, constitutes a major siting shall be issued by the DCRM Director if clearly covered by 15-10-020(uu). The Director may refer permit applications to the CRM Agency Board in cases where determination of whether a project proposal is not straightforward or where further consideration or review of an application has been requested by a CRM Agency Official. Where any CRM

Agency Official questions a major siting determination, the issue shall be resolved by majority vote of the CRM Agency Officials.

(b) All major sitings shall be in conformity with the policy enumerated in section 2 CMC §1511.

(c) Any project determined to be a major siting must apply for a major siting permit.

§15-10-505 Specific Criteria for Major Sitings

The CRM Agency Officials and the DCRM Director shall evaluate a proposed project found to constitute a major siting based on the specific criteria listed below, as well as the general criteria for all major siting and APC permits at §15-10-301 and general standards at §15-10-305. A major siting application must contain an evaluation by the applicant of the proposed project based on the criteria below, as required by §15-10-206.

(a) Project Site Development. The proposed project site development shall be planned and managed so as to ensure compatibility with existing and projected uses of the site and surrounding area.

(b) Minimum Site Preparation. Proposed projects shall, to the extent practicable, be located at sites with pre-existing infrastructure, or which require a minimum of site preparation (e.g. excavation, filling, removal of vegetation, utility connection).

(c) Adverse Impact on Fish and Wildlife. The proposed project shall not adversely impact fragile fish and wildlife habitats, or other environmentally sensitive areas.

(d) Cumulative Environmental Impact. The proposed project site shall be selected and developed in order to avoid and minimize adverse primary, secondary, or cumulative environmental impacts.

(e) Full project proposal required. Environmental effects of proposed actions must be considered together if the actions are functionally or economically related to other actions. Project proposals must not be submitted "piecemeal" even if the project will be phased; rather, a full proposal must be submitted in order to assess potential direct and cumulative impacts.

(f) Future Development Options. The proposed project site shall not unreasonably restrict the range of future development options in the adjacent areas.

(g) Mitigation of Adverse Impacts. Wherever practicable, adverse impact(s) of the proposed project on the environment shall be mitigated. Mitigation shall include the incorporation of management measures for the control of nonpoint source pollution and with general management objectives to limit risk of loss and damage from sea level rise and coastal flooding. Where data is available, current and future risks should be considered when assessing potential direct, indirect, and cumulative impacts, and proposing avoidance, minimization, and mitigation measures. To limit avoidable impacts from coastal hazards, major siting proposals must meet or exceed flood hazard reduction standards as codified in Chapter 155-10.2 Part 200.

(h) Cultural-historical/Scenic Values. Consider siting alternatives that promote the Commonwealths goals with respect to cultural, historical, and scenic values.

(h) Watershed Conservation. In regard to site development (including roads, highways, and bridges), avoid development, to the extent practicable, of areas that are particularly susceptible to erosion and sediment loss; preserve areas that provide important water quality benefits and/or are necessary to maintain riparian and aquatic biota; and/or protect to the extent practicable the natural integrity of water bodies and natural drainage systems.

Part 600 - CRM Permit Conditions

§15-10-601 Use of Conditions in CRM Permits

CRM Agency Officials may delineate the scope of an approved activity, or otherwise limit CRM permits by issuing conditions to CRM permits. The conditions shall be set out individually in writing, shall be accompanied by a specific reason for each condition, and shall be issued

contemporaneously with the CRM permit. In permitted projects of an ongoing nature, the requirement for satisfaction of or compliance with the CRM permit conditions shall continue for the duration of the permitted activity. Violation of a CRM permit condition at any time shall be cause for the DCRM Director to take enforcement action pursuant to parts 800 and 900.

§15-10-605 Purpose and Scope

The purpose of issuing CRM permits subject to specific conditions is to ensure that a permitted project complies with part 300, Standards for CRM Permit Issuance, and CRM program policies. Any lawful requirement consistent with the standards and policies referred to above may be the basis of a CRM permit condition.

§15-10-610 Mandatory Conditions

All CRM permits shall contain at least the following conditions:

(a) Inspection. The DCRM Director or his designee shall have the right to make reasonable inspections of the out-of-doors portions of a permitted project site at any reasonable time in order to assess compliance with the CRM permit and its conditions.

(b) Timing and Duration.

(1) Permitted physical development of the project site subject to a CRM permit shall begin within the time frame specified for project commencement on the permit. The maximum time allowed for project commencement shall be one year. The construction of the project shall be completed within the time frame specified on the permit for project completion. The maximum time allowed for construction shall be three years unless it can be demonstrated that the construction requires additional time. Upon project completion, the permittee shall deliver a completion certificate to the DCRM Office that issued the permit. If the construction is not completed within the time frame specified in the permit, the permit condition specifying expiration will be reviewed by the DCRM Director who may extend or amend the permit condition for good cause.

(2) All conditions attached to the permit shall be of perpetual validity unless action is taken to amend, suspend, revoke or otherwise modify the CRM permit.

(c) Duty to Inform. The CRM permit holder, whether it be the applicant or a successor in interest, shall be required to notify the DCRM Director in writing if he/she has knowledge that any information in the CRM permit application was untrue at the time of its submission or if he/she has knowledge of any unforeseen adverse environmental impacts of the permitted project. A CRM permit holder shall further have the duty to inform any successor in interest of the permit granted and the conditions attached thereto, if any; and the successor in interest shall, within five days thereafter, advise the DCRM Office of his/her interest in writing.

(d) Compliance with Other Law(s). The CRM permit is valid only if the permitted project is otherwise lawful and in compliance with other necessary governmental permits.

(e) The following conditions will be included in every permit involving construction of any kind:

(1) The permittee shall be responsible for preventing discharge of construction site chemicals through the proper use of best management practices as described in the document Construction Site Chemical and Material Control Handbook for the following activities: material delivery and storage; material use, spill prevention and control; hazardous waste management; concrete waste management; vehicle and equipment cleaning, maintenance and fueling; and

(2) Where appropriate, the project shall preserve, enhance, or establish buffers along surface water bodies and their tributaries.

§15-10-615 Insurance Condition

(a) When a permit is granted with a condition that permittee must obtain insurance for the activities engaged in by permittee, that insurance must be obtained from an insurer licensed by the CNMI Department of Commerce to sell and supply such insurance in the Commonwealth, and otherwise legally competent to sell and supply such insurance. The failure to obtain such insurance is grounds for non-issuance or revocation of permit.

(b) When a permit contains a condition requiring the permittee to obtain insurance, the permittee must include proof of insurance provided by the insurer with its permit application. Such proof of information must include the name of the insurer, the name of the insured, the policy number, the effective date and expiration date of the policy, a coverage and limit of liability description if applicable, and a contact address and telephone number for the insurer. The failure to provide such documentation is grounds for non-issuance or revocation of permit.

(c) The submittal of insurance information to the DCRM or any CRM agency in a permit application shall be considered a grant of permission by the permittee to the DCRM or any CRM agency the authority to contact the insurer listed to make inquiries as to the insurance policy listed in the permit application.

Part 700 - CRM Permit Amendment

§15-10-701 CRM Permit Amendment

(a) Amendment of permit for change in scope or nature of project. An amended DCRM permit shall be required of all permitted projects before they are significantly altered or substantially expanded. Such an amendment shall require submittal of a revised DCRM permit application to the DCRM Office. Significant alterations and substantial expansions requiring amended DCRM permits include, but are not limited to, project changes which exceed \$50,000.00 of the monetary value of the permitted project as described in the original DCRM permit application. Fees for the amended permit fees will be based on the fee structure described in § 15-10-205(h)(5), with a minimum \$200 administrative fee assessed for all major siting permit amendments. Where multiple proposals indicate a “piecemeal” development approach, the DCRM permitting section may recommend that the DCRM Director table all applications until they can be considered as a full project proposal, and a new major siting application fee may be assessed. Where a substantially new project is proposed, a new and different permit must be obtained, following the CRM application protocols for major siting proposals as outlined in § 15-10-200.

(b) At the recommendation of the DCRM Director or at the request of a CRM Agency Board member, other project amendments may require an application for an amendment. In these cases, permit amendment proposals shall be publically noticed as specified in § 15-10-220. Following

the CRM permit hearing, at the discretion of the DCRM Director or request of the CRM Agency Board, the CRM Agency Board may convene to issue permit amendment or the DCRM Office may issue the amended permit for the Agency Board to review.

(c) Amendment of permit on request of CRM Agency Official. A CRM Agency Official may request the inclusion of a condition to a permit, after the decision to award the permit but prior to actual issuance of permit to permittee, or at any time after the issuance of the permit. The permit shall be amended by the inclusion of the proposed condition if the CRM agency officials decide to include the condition through the same process as the original permit, as set forth in § 15-10-235.

(d) New Environmental Impact. If the permitted project has a newly discovered adverse environmental impact, corrective action(s) and/or permit amendment or modification may be required.

§15-10-705 Transfer of Interest

If a property interest in the project is transferred and permitted use remains unchanged, DCRM shall be notified of the transfer in writing upon execution or within 30 days thereof. The CRM Office shall issue a new permit in the name of the successors in interest within 30 days of receiving notice of the transfer. A permit issued under this section shall be identical in respect to terms and conditions to the permit issued to the predecessor in interest. If transferee proposes to alter currently permitted use, a letter with supporting information including transfer execution and explaining proposed change must be submitted to DCRM. Failure to notify DCRM of a transfer of interest or substantial change in project scope may result in revocation of the existing permit, notice of violation under § 15-10-900, and/or reapplication requirements.

Part 800 - Enforcement of CRM Permits

§15-10-801 Purpose

The provisions of this part are intended to establish procedures whereby the DCRM Director may enforce the terms and conditions of CRM permits. Final actions of the DCRM Director

based upon this part are final agency action reviewable directly by the Commonwealth Superior Court pursuant to the Administrative Procedure Act, 1 CMC §§9101, et seq.

§15-10-805 Grounds for Action

The DCRM Director shall take action to enforce compliance with CRM program policies and CRM permit conditions for violation of permit conditions, regulations, or material misstatement.

§15-10-810 Warning

The DCRM Director, upon a determination that a permitted project is in violation of §15-10-805, may issue a warning and require the CRM permit holder to accomplish corrective measures within seven days. The DCRM Director may extend the time for compliance at his / her discretion. This warning procedure shall neither affect nor limit the DCRM Director's duties, powers, and responsibilities under §15-10-815. If public health and/or safety is threatened, immediate corrective action may be required. Where no feasible corrective action will remedy the violation, DCRM may proceed directly to an enforcement action under § 15-10-815. If the CRM permit holder has failed to take corrective action, or continues to be in violation of its CRM permit, the DCRM Director may issue a written permit enforcement notice to the CRM permit holder.

§15-10-815 Permit Enforcement Notice

A Permit Enforcement Notice may be issued by the DCRM Director for any permit violation in accordance with § 15-10-805. The DCRM Director shall issue a written permit enforcement notice to the CRM permit holder as follows:

(a) Content of Notice. A permit enforcement notice shall include a statement of facts or conduct constituting the violation and shall indicate the intended action to be taken by the DCRM Director. The permit enforcement notice may require the permittee to cease and desist activities and undertake corrective actions. If the DCRM Director intends to impose a fine for the violation(s), the permit enforcement notice shall state the proposed amount of the fine. A permit enforcement notice shall provide for permit enforcement hearings, if requested, and inform the CRM permit holder of their responsibilities and rights under this part. The notice

shall inform the permit holder that unless they request a permit enforcement hearing within 30 days, in writing, the proposed sanction will be imposed.

(b) Service. A permit enforcement notice shall be delivered by the CRM Office staff in person to the CRM permit holder, or served by certified U.S. mail addressed to the CRM permit holder, or their designated agent.

(c) Response to Notice. If the CRM permit holder believes the statement of facts or conduct constituting violation in the permit enforcement notice is inaccurate, and desires a permit enforcement hearing, he/she shall respond in writing to the DCRM Director within thirty days of service of the permit enforcement notice. This response shall include a written statement indicating the CRM permit holder's arguments.

§15-10-820 Enforcement Action and Suspension

If the DCRM Director determines that a CRM permit holder has willfully violated a provision of § 15-10-805, or if the public health, safety, or welfare considerations require immediate action, the DCRM Director may order suspension of a CRM permit pending proceedings for revocation or other action, notwithstanding, any notice requirement under § 15-10-815. The Director may issue a fine with the suspension of the permit with cause. If a permit enforcement hearing is requested, the proceeding shall be promptly instituted and determined pursuant to § 15-10-825.

§15-10-825 Permit Enforcement Hearing

Upon receipt of a request for permit enforcement hearing, the DCRM Director shall schedule a hearing within forty-five days. The request for an enforcement hearing shall not stay the imposition of specified penalties. The DCRM Director or their designee shall preside at CRM enforcement hearings, shall control the taking of testimony and evidence and shall cause to be made an audio recording or stenographic record of CRM enforcement hearings. Evidence presented at such hearings need not conform with any prescribed rules of evidence but may be limited by the DCRM Director in any manner she/he reasonably determines to be just and efficient and promote the ends of justice. Permit enforcement hearings shall conform to the provisions of the Administrative Procedure Act, 1 CMC §§9108, et seq. The DCRM Director

shall issue a decision within fifteen days of the close of the enforcement hearing and all orders shall be in writing and accompanied by written findings of fact and conclusions of law. The standard of proof for such hearing shall be by the preponderance of the evidence.” The decision of the DCRM Director shall be final as within the CRM program. Appeal from an enforcement decision shall be to the Commonwealth Superior Court within thirty days following service of the DCRM Director’s written enforcement decision on the offending party.

§15-10-830 Remedies

Upon a determination by the DCRM Director and/or CRM agency officials that a violation did occur, the DCRM Director may order any or all of the following remedies:

- (a) Revocation. The CRM permit may be revoked in its entirety.
- (b) Suspension. The CRM permit may be temporarily suspended for a given period, or until the occurrence of a given event or satisfaction of a specific condition.
- (c) Corrective Measures. Measures may be ordered of the CRM permit holder so that the project conforms to the CRM permit terms and conditions.
- (d) Civil Fines. The DCRM Director may impose a civil fine in an amount not to exceed \$10,000 per day for each day the violation of the CRM permit occurred pursuant to 2 CMC §1543(a). For purposes of computing a fine, any day that the DCRM Director finds that a violation of the CRM permit occurred may be counted. The DCRM Director shall, in his or her discretion, set fines in an amount calculated to compel compliance with DCRM permit conditions, applicable law, and any order issued by the Director, taking into consideration the value of the existing and potential damage to the environment caused by the violation, efforts at compliance, and/or any other factors that the Director finds relevant to the calculation.
- (e) Supplemental environmental projects. The DCRM Director may allow supplemental environmental projects to address environmental impacts of a violation in lieu of penalties or portions of penalties assessed. These measures may be proposed by the alleged violator to

mitigate damages that may otherwise be assessed. If a supplemental environmental project or projects is proposed by the alleged violator and approved by the DCRM Director, outcomes for the project or projects will be detailed in the final settlement agreement and the project proponent will bear any and all project implementation costs unless otherwise agreed. Any actions or duties required by law shall not form the basis of a supplemental environmental project.

Part 900 - Enforcement of CRM Standards and Policies

§15-10-901 Purpose

The provisions of this part are intended to establish procedures whereby the DCRM Director and/or CRM agency officials may enforce penalties against persons conducting activities or participating in projects within the jurisdiction of the CRM program without a required CRM permit. The actions of the DCRM Director and/or CRM agency officials based upon this part are agency action reviewable by the Commonwealth Superior Court.

§15-10-905 Investigation

The DCRM Director shall have the authority to investigate suspected violations of 2 CMC §§1501, et seq. or the regulations promulgated in this chapter. If voluntary production of or access to the information is not forthcoming, the DCRM Director may apply to the Superior Court for a search warrant.

§15-10-910 Conditions Warranting Investigation

The DCRM Director may act pursuant to this part upon reasonable determination that a violation of 2 CMC §§1501, et seq., or the regulations promulgated in this chapter, or CRM administrative orders issued under this chapter, has occurred. Such violations include, but are not limited to, projects undertaken without a required CRM permit and activities that otherwise violate these regulations.

§15-10-915 Warning

Upon a determination that a violation of law subject to CRM program jurisdiction has occurred, the DCRM Director may issue a warning to the person(s) responsible for the violation and state

the intent to undertake legal proceedings unless corrective measures are undertaken. The warning shall state the corrective measures necessary and shall provide for a period in which compliance shall be effected.

§15-10-920 Enforcement

Upon a determination that a person other than a CRM permit holder is in violation of 2 CMC §§1501, et seq., or applicable rules and regulations or administrative orders issued there under, the DCRM Director may promptly issue an enforcement notice to the offending party. The enforcement notice shall be delivered personally to the offending party or, if such service is not reasonably possible, it may be sent by certified mail to his or her residence or place of business.

(a) Content of Enforcement Notice.

(1) Completed Violation. If acts constituting a violation are complete and the violation is not of an ongoing nature, the enforcement notice shall include a statement of the facts and conduct constituting the violation, the amount of an imposed fine, if any, a warning not to repeat the unlawful activity and a statement that a hearing on the findings of violation or of size of the fine is available if the DCRM Director is so requested, in writing, within seven days of service of the enforcement notice.

(2) Continuing Violation. If acts constituting a violation are of an ongoing nature or likely to be repeated, the enforcement notice shall include a statement of facts and conduct constituting the violation, a statement of an imposed, continuing fine, if any, an order to cease and desist the activity giving rise to a violation, a warning that additional fines may be imposed for failure to cease and desist the prohibited activity and a statement that an enforcement hearing on the finding of violation or size of the fine is available if the DCRM Director is so requested, in writing, within seven days of service of the enforcement notice.

(b) Response to Notice. If the party to whom enforcement notice is sent objects to the finding of violation, or seeks an enforcement hearing on the fine, he shall submit a written response to the enforcement notice within seven days of service of the enforcement notice. Failure to provide written response or to demand an enforcement hearing within the prescribed period shall

be deemed a waiver of defenses and the right to an enforcement hearing and the fine, as set in the enforcement notice, shall upon expiration of the seven day period, become immediately due and payable to the CNMI Treasurer. All fines shall be paid by check made payable to the Treasurer of the CNMI. A copy of the payment receipt shall be provided to the CRM Office by the violator.

§15-10-925 Determination of Fines and Penalties

The DCRM Director shall, in his / her sound discretion, set fines in an amount calculated to compel compliance with applicable law and administrative orders and shall consider the value of the existing and potential damage to the environment proximately caused by the violation described in part 800 and part 900. In no event however, shall any fine imposed exceed the ceiling imposed by 2 CMC §1543. In addition, the DCRM Director may order the offending party to cease and desist from the activity that is in violation, take mitigation measures to cure the violation, or seek any other remedy available at law or in equity.

§15-10-930 Enforcement Hearing

If a written response to an enforcement notice is filed with the CRM Office requesting an enforcement hearing, it shall be conducted by DCRM Director pursuant to §15-10-825.

§15-10-935 Enforcement by Commonwealth Superior Court

Fines and cease and desist orders issued by the DCRM Director for purposes of enforcement constitute official agency orders and must be complied with, by persons determined in violation of CRM program policies or CRM permit conditions. In the event fines are imposed or cease and desist orders are issued, and compliance with either is refused, the DCRM Director may file in Commonwealth Superior Court seeking court enforcement.

§15-10-940 Enforcement by Criminal Prosecutions

If the DCRM Director has reason to believe that a person in violation of CRM program policies or CRM permit conditions or administrative orders issued there under has committed criminal offense within the definition provided in 2 CMC §1543(b), (d), he / she shall promptly submit a report of the violation to the Attorney General.

Part 1000 - Public Information and Education

§15-10-1001 Public Information and Education

The DCRM Office shall make information and educational materials available to the public and CRM Agency Officials. The CRM Office, under the direction of the DCRM Director, shall assist a CRM permit applicant, CRM Agency Officials, the Governor and the CRM Appeals Board, by explaining the policies and procedures of the CRM permit process.

(a) Vernacular. When requested and reasonably necessary, the DCRM Office shall provide translation of official business into the appropriate vernacular.

(b) Media. The DCRM Office shall, to the extent practicable, develop and maintain a continuing program of public information and education. Information regarding coastal resources management and conservation shall be disseminated through newspapers, television, radio, posters, and brochures supplied by the DCRM Office.

(c) Public Hearings. Any hearing or meeting held for purposes of the CRM permit or enforcement process, or the Coastal Advisory Council, shall be open to the public.

(d) APC Maps. The DCRM Office shall maintain a current series of island maps clearly showing the areas of particular concern.

Part 1100 - CRM Coastal Advisory Council

§15-10-1101 Creation

Pursuant to 2 CMC §§1521-22, a CRM Coastal Advisory Council (CAC) shall be established, consisting of those members listed in §15-10-020.

§15-10-1105 Adopt Internal Procedures

The CAC shall adopt internal procedures which shall govern its meetings.

15-10-1110 Advise CRM

The CAC shall advise the DCRM Office and the DCRM Director on any proposed change in the CRM program or the CRM permit process or any proposed rules and regulations considered useful for implementing the CRM program.

15-10-1115 Conduct Meetings

The CAC shall conduct meetings from time to time in public sessions, in order to receive information from the public on the impact or advisability of programs and policies in the CRM program. Meetings shall be scheduled by the Council or as requested by the DCRM Director, as he or she deems necessary for purposes of obtaining input and advice, and shall be scheduled at least twice each calendar year.

Part 1200 - CRM Public Records

§15-10-1201 Retention

The DCRM Office shall retain and preserve the following documents for nine years following their receipt or acquisition, unless the DCRM Office determines that they shall be retained for a longer period of time. After nine years, all pertinent materials shall be safely stored. Files may be retained digitally and/or as paper copies.

- (a) CRM Permit Application Materials. All applications, permits, variances, pleadings, motions, affidavits, charts, petitions, statements, briefs or other documentation submitted in support of or opposition to applications for CRM permits or variances, or prepared by the DCRM Office in the course of the CRM permit process, shall be retained and preserved.

- (b) CRM Hearing Records. Stenographic or tape recordings of all CRM permit or enforcement hearings and written minutes of Agency Board meetings shall be retained and preserved.

- (c) Coastal Resources Materials. All studies, guides, plans, policy statements, charts, special reports, or educational materials shall be retained and preserved.

(d) Best Management Practices. DCRM shall provide access to reference documents, including, Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters published under the authority of section 6217(G) of the Coastal Zone Management Act Reauthorization Amendments of 1990, United States Environmental Protection Agency Office of Water, Washington, DC, and relevant best management practices (BMP) documents published by Office of Ocean and Coastal Resources Management, Environmental Protection Agency, Natural Resources Conservation Service and other local and federal agencies.

§15-10-1205 Public Access to CRM Records

All CRM government records shall be available for inspection by any person during established business hours at the DCRM Office in Saipan except as otherwise provided by law.

(a) Public Information Requests. All official records including official correspondence, permit applications, and final issued permits shall be made available to the public upon submission of a written request, pursuant to the “Open Government Act” as established in 1 CMC §§ 9901 - 9916. Requests may be submitted to the DCRM Director, with Legal Counsel copied. If the request is for permitting or federal consistency information, Permit Manager may also be copied on the request. If request is for enforcement information, the Chief Enforcement Officer may be copied on the request. Requests will be considered “received” on the date when request letter(s) has/have been stamped by DCRM’s Administrative section.

(a) Minutes and Transcripts. Minutes of CRM Agency Board meetings and transcripts or tapes of CRM permit or enforcement hearings shall be made available upon request to the public within thirty days after the meeting or hearing involved, except where the disclosure would be inconsistent with law. All CRM permit or enforcement hearings are open to the public, and all transcripts of the hearing shall be made available upon request; provided, however, that those persons requesting transcription shall pay the costs of transcription at the time of the request.

(b) Copies of Documents. Copies of government records shall be made available to any member of the public requesting them provided that reasonable fees or costs incurred in reproducing the records shall be paid by check into the CNMI Treasury by the requesting party.

(c) Denial of Inspection. Any person aggrieved by a denial of access to government records, or transcription or copying thereof, may apply to the Commonwealth Superior Court for an order directing inspection or copies or extracts of DCRM program public records. The court shall grant the order after hearing upon finding that the denial was not for just and proper cause.

Part 1300 - CRM Access to Records

§15-10-1310 Private Records

The DCRM Director may request from interested parties only such records and documents deemed necessary for the CRM permit process.

§ 15-10-1315 Public Records

All coastal resource related studies, data, including geospatial information, reports, and records developed using federal or state funding are public record(s) and shall be made available upon request in accordance with applicable federal requirements.

Part 1400 - Computation of Time

§15-10-1401 Computation of Time

In computing any period of time under this chapter, the time begins with the day following the act, event or default, and includes the last day of the period unless it is a Saturday, Sunday, or legal holiday, in which event, the period runs until the end of the next work day. When the prescribed period of time is ten days or less, Saturdays, Sundays, or holidays within the designated period shall be excluded from the computation. Where time is computed using business days, time shall be computed as Monday – Friday, excluding government holidays.

Part 1500 - Federal Consistency

§15-10-1501 General Law

Pursuant to the requirements of Section 307 of the federal Coastal Zone Management Act of 1972, as amended, and its implementing regulations found at 15 C.F.R. Part 930, Federal actions which may have reasonably foreseeable effects on uses or resources of the coastal zone must be undertaken in a manner which is consistent with the CRM enforceable polices as approved by the National Oceanic and Atmospheric Administration.

§15-10-1505 Standard for Determining Consistency

The DCRM shall apply the following enforceable standards in making consistency determinations:

- (a) The goals and policies set forth in CNMI Public Law 3-47 (2 CMC §§1501, et seq.);
- (b) The standards and priorities set forth in this chapter;
- (c) Federal air and water quality standards and regulations, to the extent applicable to the Commonwealth of the Northern Marina Islands; and
- (d) Air and water quality standards and regulations of the CNMI, including, but not limited to, the CNMI Underground Injection Control Regulations ((NMIAC, Title 65, Chapter 90) and the CNMI Drinking Water Regulations ((NMIAC, Title 65, Chapter 20); and
- (e) Any additional policies, regulations, standards, priorities and plans that are enforceable and incorporated into any amendment of the CRM program in the future as approved by the National Oceanic and Atmospheric Administration.

§15-10-1510 Federal Activities and Development Projects

- (a) Actions undertaken by federal agencies that may have reasonably foreseeable effects on uses or resources of the coastal zone are subject to review for consistency with the CRM enforceable policies. Actions undertaken by a federal agency include development projects such as the planning, construction, modification, or removal of public works, facilities, or other structures; and the acquisition, utilization or disposal of land or water resources. Actions by

federal agencies may also include funding assistance to parties other than state or local government entities when such activities may have reasonably foreseeable effects.

(b) Although federal lands in the CNMI are excluded from the CRM program jurisdiction pursuant to section 2 CMC §1513, federal activities occurring on federal lands which result in spillover impacts which may affect the Commonwealth's coastal zone are subject to review pursuant to the Coastal Zone Management Act of 1972, as amended, and must be consistent, to the maximum extent practicable, with the enforceable policies of the CRM program.

(c) In the event that a federal agency plans to undertake a federal activity, including a development project, which may have reasonably foreseeable effects on uses or resources of the coastal zone, the federal agency must submit a consistency determination for the proposed activity to DCRM of the proposal at least ninety days before any final decision on the federal action, unless both the federal agency and DCRM agree to an alternative notification schedule. Such notification must include a brief statement indicating how the proposed project will be undertaken in a manner consistent, to the maximum extent practicable, with the CRM program. The federal agency's consistency determination must be based upon an evaluation of the relevant provisions of the CRM program. Consistency determinations must include:

- (1) A detailed description of the proposed project;
- (2) The project's associated facilities;
- (3) The combined, cumulative coastal effect of the project; and
- (4) Data and information sufficient to support the federal agency's conclusion.

(d) If DCRM does not issue a written response within sixty days from the receipt of the federal agency notification, the federal agency may presume that DCRM agrees that the activity is consistent with the CRM program. The Commonwealth may extend the review time period by not more than fifteen days, unless the federal agency agrees to longer or additional extension requests. DCRM agreement shall not be presumed if DCRM requests an extension of time within the sixty day review period.

(e) DCRM's concurrence with or objection to a federal agency's consistency determination must be set forth in writing with reasons and information supporting the agreement or disagreement and sent to the federal agency. In case of disagreement, DCRM will attempt to resolve its differences with the federal agency's consistency determination within the ninety day notification period.

(f) In the event that the DCRM and the federal agency are unable to come to an agreement on the manner in which a federal activity or development project may be conducted or supported in a manner consistent, to the maximum extent practicable, with the DCRM enforceable policies, the DCRM or federal agency may request mediation of the disagreement pursuant to the procedures set forth in section 307 of the Federal Coastal Zone Management Act of 1972 (PL 92-583, as amended) and 15 CFR 930, subpart H.

§15-10-1515 Federal Licenses and Permits

(a) Federal licenses and permits include any authorization, certification, approval or other form of permission which any federal agency is empowered to issue to an applicant.

(b) An applicant includes any individual or organization, except a federal agency, which, following management program approval, files an application for a federal license or permit to conduct an activity affecting the coastal zone.

(c) If an applicant for a federal permit is not required to obtain a permit under these regulations, the applicant for a federal license or permit for an activity affecting the coastal zone must file, along with the application, a certification that the activity will be conducted in a manner consistent with the CRM enforceable policies. A copy of the application and certification, along with all necessary data and information as approved by the National Oceanic and Atmospheric Administration, should also be sent to the DCRM. The federal agency shall not issue the license or permit unless DCRM concurs in the consistency certification or its concurrence is presumed because DCRM has failed to respond in six months. The applicant's consistency certification statement, which will then be reviewed along with the application by DCRM, must be accompanied by sufficient information to support the applicant's consistency determination.

(d) Listed Federal Agency Licenses and Permits.

(1) The federal agency licenses and permits that the DCRM will review for consistency with the DCRM enforceable policies are those listed in the Procedures Guide for Achieving Federal Consistency with the CNMI DCRM enforceable policies (available from DCRM), incorporated and made a part hereof. If, in the future, it is found that the issuance of other types of federal permits and licenses may have reasonably foreseeable effects on uses or resources of the coastal zone, DCRM may request approval from the National Oceanic and Atmospheric Administration to review the activity as provided at 15 C.F.R. 930.54.

(2) DCRM shall be responsible for providing the above list to the relevant federal agencies that in turn shall make the information available to applicants.

(e) For projects or developments that require a permit under the Coastal Resource Management Rules and Regulations, the issuance or denial of a DCRM permit will indicate consistency or the lack of consistency with the CRM program and the DCRM shall notify the federal agency of the DCRM permitting decision for its use in its federal permitting decision.

(f) Certification of Consistency.

(1) A certification of consistency shall include the following clause: “The proposed activity complies with the CNMI CRM program and will be conducted in a manner consistent with such program.”

(2) Supporting information must be attached to the certification. This information will include a detailed description of the proposal, a brief assessment of the probable coastal zone effects and a brief set of findings indicating that the proposed activity, its associated facilities and their effects, are all consistent with the provisions of the CRM program, including the application standards listed in 15-10-1505 above.

(g) Interested parties may assist the applicant in providing information to the DCRM. In addition, the DCRM will, upon the request of the applicant, provide assistance to the applicant in developing the assessment and findings required.

(h) DCRM review begins at the time the office receives both the applicant's consistency certification and the supporting information and determines that the information is complete. Timely public notice of the proposed activity will be made by DCRM. The public notice will include a summary of the proposal, an announcement that information submitted by the applicant is available for public inspection, and a statement that public comments are invited.

(i) Certification of Consistency Decisions.

(1) At the earliest practicable time and within six months after the date of receipt, DCRM will notify the issuing federal agency of its concurrence or objection. If DCRM has not issued a decision within three months after the date of receipt, it must notify the applicant and the federal agency of the status of the matter and the basis for further delay, if any.

(2) In the event that DCRM objects to the applicant's consistency determination, the office must set out its objection, in writing, with reasons and supporting information and alternative measures, if they exist, which, if adopted, would permit the activity to be conducted in a manner consistent with the CRM program. A DCRM objection will include a statement informing the applicant of a right to appeal to the Secretary of Commerce as provided in section 307 of the Federal Coastal Zone Management Act, as amended.

§15-10-1520 Federal Assistance

(a) Federal assistance means assistance provided under a federal grant program to an applicant agency through grant or contractual agreements, loans, subsidies, guarantees, insurance or other forms of financial aid for activities which affect the coastal zone.

(b) An applicant refers to any unit of the CNMI government, which, following CRM program consistency concurrence, submits and application for federal assistance.

(c) The DCRM shall be notified of any application which meets or exceeds listed federal assistance thresholds submitted to the Planning and Budget Affairs Office for any federal

assistance program listed in the Catalog of Federal Domestic Assistance or an application to the Office of Ocean and Coastal Resource Zone Management for Coastal Energy Impact Program grants.

(d) Application for federal assistance for activities affecting the coastal zone must go through the clearinghouse notification and review process to ensure that the DCRM has an opportunity to review the proposed action for consistency with the CRM program. Such applications must include a certification of consistency which meets the information requirements set out in this chapter.

(f) In the event that DCRM finds that the proposed federal assistance is not consistent with the CRM program during the 90-day review timeframe, the application shall not be approved unless the DCRM's objection is resolved through informal discussions among the federal program agencies, the applicant, and the DCRM, or unless the objection is set aside on appeal to the Secretary of Commerce pursuant to section 307 of the Federal Coastal Zone Management Act. The DCRM's objection must be set forth in writing with reasons, supporting information and alternative measures. The DCRM must then notify the applicant agency and the federal agency of DCRM's objection and must inform the applicant agency of its right to appeal to the Secretary of Commerce. If DCRM does not object to an application proposal during the clearinghouse process, the federal agency may grant the federal assistance.