

Chapter 15-20 ~~Jet Ski~~ Water Sports and Recreational Activities Rules and Regulations

Part 001 - General Provisions

§ 15-20-001 Short Title

These rules and regulations shall be known and cited as the “Water Sports Regulations.”

§ 15-20-005 Authority

(a) These regulations are issued pursuant to 2 CMC § 1531(d); 2 CMC § 1532(c); 1 CMC § 9115; the federal Coastal Zone Management Act (16 U.S.C. § 1451 *et seq.*); and the Statement of Mutual Agreement and Memorandum of Understanding entered into by and between the Commonwealth and the National Oceanic and Atmospheric Administration (NOAA) by and through the Office of Oceans and Coastal Resources Management (OCRM), which delegated to the Division, all authority respecting Water Sports and Recreational Activities, such as:

- i. The issuance of permits;
- ii. The enforcement of existing policies, guidelines, and procedures regarding coastal management matters particularly as they relate to public safety and coastal environment protection, including:
 1. emphasizing the protection of threatened and endangered species, marine habitat conservation, and underwater marine life preservation;
 2. conducting regular monitoring to further ensure public safety and the balance of public enjoyment and coastal environment preservation;
 3. developing major program changes on matters concerning such activities or operations; and
 4. formulating additional guidelines as the Division may seem fit due to arising needs, changes and transition in different scales regarding such activities or operations.
- iii. The performance of all other powers, duties, and functions inherent or incidental thereto for the interest of the general public and the people of the CNMI.

(b) Furthermore, these regulations are issued pursuant to the laws of the Commonwealth, in particular, the provisions of the Division of Coastal Resources Management’s power to promote the economic development of coastal resources consistent with coastal resources management policies, 2 CMC 1512(k), including the coastal resources management policy to encourage the development of recreation facilities which are compatible with the surrounding environment and land uses, 2 CMC 1511(a)(20).

§ 15-20-010 Purpose and Scope

(a) In general, these rules and regulations focus on the continued protection of marine life, particularly those of endangered and threatened species; the concern of environmental protection; the promotion of compatible and beneficial use of marine resources; and the protection of public safety as it pertains to ~~marine and W~~ater Sports and Recreational Activities.

(b) The rules are intended to ensure the implementation of the Commonwealth policies on coastal resources management. Furthermore, they are promulgated to better coordinate the

planning and implementation of the coastal resources management policies by the Commonwealth government agencies; to ensure the consistency of permit decisions with the Commonwealth coastal resources management policies; and to better coordinate the permit processing by:

- i. Providing for necessary reorganization of regulations and requirements in order to address the existing and increasing complexities affecting Water Sports and Recreational Activities;
- ii. Reducing conflicts among ocean water users, especially in areas of high activity; and
- iii. Prescribing procedures and requirements regarding the issuance of commercial permits or licenses for the conduct of Water Sports and Recreational Activities within the coastal waters of the Commonwealth.

These Rules and Regulations are adopted to ensure that all these matters in all instances are safeguarded to balance public enjoyment, economic development, ecological conservation, and equitable use and enjoyment of coastal resources.

§ 15-20-[Reserved.]

015 Definitions

- (a) **Business Entity** means a partnership, firm, corporation, association or other legal entity.
- (b) **Commercial** means the conduct of an activity for hire in exchange for compensation including pay or wages, payment through services or goods, or barter of goods and services, including but not limited to a rental, lease, or charter related to Water Sports and Recreational Activities.
- (c) **Commonwealth** means the Commonwealth of the Northern Marianas Islands.
- (d) **Director** means the Director of DCRM appointed pursuant to EO 2013-24.
- (e) **Division of Coastal Resources Management or DCRM or Division** means the entity described in 2 CMC § 1512.
- (f) **Motorized Activities** includes any water-based recreational activity other than a water-jet craft that depends on the use of a motorized Vessel (except those Vessels that are used solely for transportation of passengers by an Operator credentialed pursuant to § 15-20-130(e), such as ferries, sightseeing boats, and sunset cruises), including any Vessel with an inboard or outboard motor, whether powered by gasoline or electricity (including but not limited to pontoon boats, fishing boats, motorized kayaks, barbeque donut boats, and hot tub boats).
- (g) **Non-Motorized Activities** includes any water-based recreational activity that does not depend on the use of a motorized Vessel (except for transportation of participants to the location of the activity), including Snorkeling, UBA Activities, windsurfing and kite-boarding, or operation of a non-motorized Vessel (including but not limited to an Aqua-cycle water trike, rowboat, canoe, kayak, scull boat, surfboard, bodyboard, or stand-up paddleboard).
- (h) **Operator** means the person who is in control or in charge of a Vessel while it is in use.
- (i) **Owner** means a person who claims lawful possession of a Vessel by virtue of legal title or equitable interest which entitles such person to possession of that Vessel.
- (j) **Parasailing** means the activity in which an individual is transported or carried aloft by a parachute, parasail, kite, wing, or other similar equipment attached to a tow-line which is towed by a Vessel.
- (k) **Permittee** means a Person to which a Water Sports Permit is issued.

- (l) **Person** means an individual or Business Entity.
- (m) **Snorkeling** means the activity in which a swimmer uses a mask, snorkel (a special tube that makes it possible for a swimmer to breathe with the swimmer's face in the water), and/or fins.
- (n) **Towed Floatation** means the activity in which an individual is towed behind a Vessel, whether barefoot skiing or with waterskis, a wakeboard or kneeboard, or a floating device (including but not limited to a tube or banana boat).
- (o) **UBA Activities** means the activity in which an individual uses underwater breathing apparatus (UBA) equipment, whether in the form of self-contained air (including but not limited to Self-Contained Underwater Breathing Apparatus (SCUBA), a Breathing Observation Bubble (BOB), or Supplied Air Snorkeling for Youth (SASY)) or surface-supplied air (including but not limited to Surface Nexus Underwater Breathing Apparatus (SNUBA)).
- (p) **Vessel** means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on the water in connection with Water Sports and Recreational Activities.
- (q) **Water Sports and Recreational Activities** means Motorized Activities, Non-Motorized Activities, Parasailing, Snorkeling Water-Jet Craft, and Towed Floatation.
- (r) **Water Sports Permit** means a privilege granted by the Division of Coastal Resources Management Division to a qualified Person to conduct Commercial Water Sports and Recreational Activities in DCRM-regulated waters, for a particular category of Water Sports and Recreational Activity.
- (s) **Water-Jet Craft** means the activity in which an individual operates any craft that is self-propelled by means of water or hydro jet propulsion (including but not limited to a Jet Ski®, WaveRunner®, Sea-Doo, jet bike, flyboard, Jetovator or other jet pack, Seabreacher or other submersible, or jet board/jet surf).

Part 100 - Jet Ski Operations Permit Issuance

§ 15-20-101 Application Requirement to Obtain a Water Sports Permit

Commercial operation of Water Sports and Recreational Activities is prohibited except as authorized by a Water Sports Permit issued by DCRM.

§ 15-20-105 Restrictions to Issuance of Water Sports Permits

- (a) No person may hold more than one Water Sports Permit in each of the various categories of Water Sports and Recreational Activity-category as described in NMIAC § 15-20-115.
- (b) One Water Sports Permit may authorize a Permittee to conduct Commercial activity in more than one category of Water Sports and Recreational Activities. A permit that authorizes activity in more than one category will count as a permit in each category for purposes of the maximum number of permits under NMAIC § 15-20-115.

§ 15-20-110 Water Sports Permit Renewal

DCRM shall evaluate each Permittee's application for renewal of an existing Water Sports Permit based on the overall performance rating of the Permittee, in consideration of the number of warnings and enforcement notices issued to the Permittee under NMIAC § 15-20-610. Each

warning and enforcement notice shall have a weight factor to be determined by the Director based on the severity of the incident or violation. In the event a Permittee's overall performance rating exceeds the maximum threshold established by DCRM, the Permittee's permit shall not be renewed.

§ 15-20-115 Maximum Number of Permits

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

i. <u>Saipan</u>	
Water-Jet Craft	14
Parasailing	12
Towed Floatation	24
Non-Motorized Activities	no limit
Motorized Activities	no limit
ii. <u>Rota</u>	
Water-Jet Craft	6
Parasailing	4
Towed Floatation	10
Non-Motorized Activities	no limit
Motorized Activities	no limit
iii. <u>Tinian</u>	
Water-Jet Craft	4
Parasailing	2
Towed Floatation	6
Non-Motorized Activities	no limit
Motorized Activities	no limit

(b) DCRM shall process all timely applications for renewal of existing Water Sports Permits prior to processing applications for new Water Sports Permits. As a result, there may be some permit terms in which DCRM is unable to issue new Water Sports Permits.

(c) Unless otherwise provided by law, all applications for new Water Sport Permits shall be processed by DCRM on a first-come, first-served basis (i.e., in the order each complete application is received by DCRM).

§ 15-20-120 Duration and Terms of Permit

(a) All ~~jet skis~~ Water Sports Permits shall expire on the 30th of May of each year, per NMIAC § 15-10-205(h)(4).

(b) All Water Sports Permits shall be renewable under the conditions set forth in NMIAC § 15-20-110.

(c) All Water Sports Permits for which a complete renewal application is not timely received by DCRM shall terminate automatically upon expiration of the permit. Any application submitted late will be treated by DCRM as an application for a new Water Sports Permit.

§ 15-20-125 Fees

Fees associated with a Water Sports Permit are set forth in NMIAC § 15-10-205(h)(4).

§ 15-20-130 Registration of Commercial Vessels and Operators

- (a) ~~All subject to this part and all~~ Vessels used in connection with Commercial Water Sports and Recreational Activities shall be registered with the Commonwealth's Department of Public Safety Bureau of Motor Vehicles in compliance with its rules and regulations. The Vessel's registration information shall be listed within the issued Water Sports Permit and only the listed Vessel may be used by the Permittee to conduct the permitted Water Sports and Recreational Activity. No Water Sports Permit may be issued to a permit applicant unless at least one registered Vessel used in connection with each permitted Water Sports and Recreational Activities is listed in the permit application.
- (b) A Water Sports Permit may list multiple registered Vessels. Up to five (5) registered Vessels may be listed for Parasailing operations. There is no limit to the number of registered Vessels that may be listed for other categories of Water Sports and Recreational Activities.
- (c) At all times a Water Sports Permit for Water-Jet Craft operations is in effect, at least four (4) operational Water-Jet Craft shall be made available for operation by participants during the hours of operation listed in the Water Sports Permit. At all times a Water Sports Permit for other categories of Water Sports and Recreational Activities is in effect, at least one (1) registered Vessel used in connection with each permitted Water Sports and Recreational Activities shall be available for operation by participants during the hours of operation listed in the Water Sports Permit.
- (d) At all times a Vessel is being used in connection with Commercial Water Sports and Recreational Activities, the Vessel shall be marked to identify the Permittee for which the Vessel is operating. Temporary markings including flags, banners, or signage are sufficient to meet this requirement.
- (e) All Operators of each Vessel used in connection with Commercial Water Sports and Recreational Activities (other than Vessels operated by customers) must hold a Merchant Mariner Credential (MMC) issued by the U.S. Coast Guard. The applicant for a Water Sports Permit shall submit a copy of the MMC for each Operator as an attachment to the permit application. No Water Sports Permit may be issued for a Vessel used in connection with Water Sports and Recreational Activities unless at least one Operator holding an MMC is listed in the permit application. The Operator(s) shall be listed within the issued Water Sports Permit and only a listed Operator may operate a Vessel in connection with the permitted Water Sports and Recreational Activities. DCRM understands that an Operator may be employed to operate multiple Vessels and therefore may be listed as an Operator on multiple Water Sport Permits.

§ 15-20-135 Property Rights

A Water Sports Permit does not give the Permittee any vested property right in the continued Commercial operation of a Water Sport and Recreational Activity. DCRM reserves the right not to issue or renew any Water Sports Permit(s) at the Director's discretion, and to revoke any issued Water Sports Permit(s) if upon presentation of evidence that any of the grounds for action under NMIAC § 15-20-605 are present.

Part 200 - ~~applicable parts of~~ Commercial Water Sports Operations

§ 15-20-201 General Applications

(a) Public Policy Statement – In all cases and all instances, the Permittee shall:

- i. Always observe public safety first above all.
- ii. Always take into account environmental protection and conservation concerns by proper dissemination of information emphasizing such concerns to the Permittee's participants and by participation in environmental protection and conservation campaigns, particularly focusing on the importance and protection of marine and wildlife species and habitat; preservation of coral reefs and other maritime habitat; and conservation and preservation of all other coastal and marine resources.
- iii. Commit to a drug-free environment at all times participants are on the Vessel.
- iv. Strictly observe and comply with all rules prohibiting or regulating pollution; help the campaign on anti-pollution for the protection of marine life, including marine habitat, within the coastal and marine environment; and work to reduce land-based pollution that may negatively impact these regulations and the resources.
- v. Commit to a "nefarious activity-free zone" to avoid involvement with activities that may cause destruction and devastation to the territorial coastal and shoreline expanse.

(b) Safety Measures

i. Regular Operations

1. All Vessel Operators and Permittees shall ensure that all Vessels operating in connection with Water Sports and Recreational Activities are seaworthy to protect the life and property of persons at sea. Among others, this includes:
 - a. Conducting regular and routine check-ups, as far as practicable, regarding the Vessel's condition (particularly its engine) and all related equipment, tools, and related amenities.
 - b. Exercising reasonable care during operations, and
 - c. Ensuring compliance with all other relevant boater safety requirements.
2. All Operators and Permittees shall, before operating, check all facilities and equipment on board a Vessel necessary for its operation in connection with Water Sports and Recreational Activities and ensure its completeness and functioning condition, including but not limited to life jackets, life rafts, and all other forms of life preservers or life saving device.
3. All Operators and Permittees shall ensure that each patron is given enough safety information to protect the safety of life at sea and during the course of the permitted Water Sports and Recreational Activities.
4. All Operators and Permittees shall comply with and ensure that participants comply with life jacket requirements in accordance with Commonwealth Boating Safety Act of 1982 as amended and USCG rules and regulations.
5. DCRM may from time to time curtail Water Sports and Recreational

Activities operations within the designated areas for the activities set forth in NMIAC § 15-20-401 as necessary to avoid possible adverse impacts to protected marine life.

6. Insurance. Each Permittee shall secure and maintain for the entire duration of the Water Sports Permit insurance coverage with a minimum coverage of \$50,000 for property damage and \$1,000,000 bodily injury per occurrence. The liability insurance shall name the Commonwealth as an additional insured. Upon request by the Permittee, DCRM may waive the requirement to maintain insurance provided that Permittee submits evidence satisfactory to DCRM that the Permittee has sought to obtain insurance coverage from no less than three (3) insurance companies and has received documentation that the Water Sports and Recreational Activities to be conducted by Permittee is not eligible for coverage.

ii. Prohibited Operation/Activities

1. No person may permanently moor rafts or platforms for use in any Water Sports and Recreational Activities within the Lagoon and Reef APC. All persons using rafts and platforms in connection with Water Sports and Recreational Activities shall remove all such rafts and platforms daily from the Commonwealth waters, unless the raft or platform is located in a designated anchorage or harbor in accordance with a valid permit issued by DCRM. Ground tackle for mooring of rafts and platforms shall be placed in areas that will not cause damage to live corals or sea-grass beds.
2. No person shall operate or manipulate any Vessel or Water Sports and Recreational Activity equipment or device(s) in a reckless or negligent manner so as to endanger the life, limb, or property of any person or marine life in a way that may cause harm to any environmentally-sensitive area such as coral or sea-grass beds.
3. No person shall operate any commercial Vessel while under the influence of alcohol or any other controlled substance such as a narcotic drug, barbiturate, or marijuana.
4. No Vessel except Water-Jet Craft and Vessels used for Towed Floatation and Non-Motorized Activities may be driven onto or launched from the shore except from established boat ramp facilities. No Vessel except those used for Non-Motorized Activities may be anchored in the Lagoon and Reefs APC. No fueling or refueling activities shall be conducted for any Vessel in the water, except in such areas so designated hereunder for each category of Water Sports and Recreational Activity.

No refueling activities shall be conducted within an APC except at the designated location in a bermed

~~§ 15-20-105~~ **Exclusion Areas**

No jet ski may be landed, launched, or operated within the following areas:

- (a) — North Lagoon. All of the water extending from the mean high water line seaward to the outer shelf of the barrier reef north of a line beginning at the tip of Punta Flores and extending due north.

- (b) — ~~South Lagoon. All of the water extending from the mean high water line seaward to the outer shelf of the barrier reef south of a line beginning at a point on the shoreline thirty feet south of Sugar Dock and extending due west.~~
- (c) — ~~Micro Beach. An area extending two hundred yards seaward from the mean low water line from the northern end of the Dai Ichi Hotel tennis courts north to the tip of Point Muchot.~~
- (d) — ~~Hafa Adai Beach. An area extending two hundred yards seaward from the mean low water line from the drainage channel north of the Carolinian Utt to the southern edge of the Hafa Adai Beach Hotel.~~
- (e) — ~~Grand/Saipan World Resort Hotel. An area extending two hundred yards seaward from the mean low water line from the southern edge of the Saipan Grand Hotel north to the northern edge of the Saipan World Resort Hotel.~~
- (f) — ~~Tachungnya/Kammer. An area extending seventy-five yards seaward from the mean low water line from the southern edge of Tachungnya Beach to the northern edge of Kammer Beach adjacent to the Tinian harbor dock.~~
- (g) — ~~Marina/Harbor/Shipping Channel. An area extending from the mean low water line seaward at the Tinian Marina including the entire area within the Tinian harbor breakwater and the Tinian shipping channel.~~
- (h) — ~~Managaha. An area surrounding Managaha Island bounded by lines running at latitude 15° 14' 0" N; latitude 15° 14' 45" N; longitude 145° 41' 30" E; longitude 145° 42' 50" E.~~
- (i) — ~~Lake Susupe. The entire area of Lake Susupe.~~

~~Part 200 — Jet Ski Rental Operations~~

~~§ 15-20-201 — Definitions~~

~~"Jet ski rental operation" means the rental of a jet ski to others on a regular basis for the purpose of operating the jet ski.~~

~~§ 15-20-205 — Launching and Landing~~

~~5. Jet ski rental operations shall only stage their operation and allow the launching and landing of their jet skis at the following locations: ramp or as otherwise specified in the Water Sports Permit.~~

- (a) — ~~The Chalan Kanoa — Susupe Regional Park;~~
- (b) — ~~The southern end of Civic Center Beach;~~
- (c) — ~~The public beach at the Samoan housing in Garapan north of the Hafa Adai Hotel;~~

§ 15-20-205 Operations of Specific Water Sports and Recreational Activities

Water-

- (d) ~~The public beach adjacent to Martin's Bar and Grill;~~
- (e) ~~The South Sea plane ramp;~~
- (f) ~~Off Taga Beach as designated by the Coastal Resources Management Office with jet skis to be launched from a floating dock; and~~
- (g) ~~The public beach adjacent to the Carolinian Utt in Garapan.~~

§ 15-20-210 Operation

(a) Jet ski rental Craft

i. Areas of Operations.

1. Water-Jet Craft operations shall only allow their patrons to be conducted in the designated areas for Water-Jet Craft set forth in NMIAC § 15-20-401, unless additional areas are specifically authorized by the Water Sports Permit.

Water-Jet Craft may only operate jet skis on marked courses in the areas of the lagoon established or approved by DCRM that are adjacent to the launching and landing areas set forth in The Permittee

2. ~~§ 15-20-205~~ as specified in the operator's coastal permit issued by the coastal resources management program. The jet ski rental operators shall be responsible for installing and maintaining all required buoys and other lagoon course markings required for their operations by permit or law.

ii. ~~§ 15-20-215~~ Hours of Operations. Water-Jet Craft operation shall only be conducted between 8:00 a.m. and 6:00 p.m.

iii. Prohibited Operation/Activities.

1. No Permittee may operate or allow the operation of any water-propelled craft that carries more than four (4) persons, provided that only those sit-down jet skis capable of carrying no more than two (2) persons are permitted.
2. No Permittee may operate or allow the operation of more than two (2) Sea Breacher or similar devices (i.e., submersible personal watercraft) on a designated course.
3. No Permittee may operate or allow the operation of any Water Jet Craft on a designated course unless at least one Operator is present on the course to monitor safety at all times participants are on the course, on behalf of the Permittee or Permittees operating or allowing the operation of the Water Jet Craft.
4. No more than a total of four (4) Water Jet Craft may be operated on a designated course at one time, whether operated or allowed by a single Permittee or multiple Permittees, provided that a fifth (5th) device used by an Operator to monitor the safety of the Permittee's operations shall be allowed and will not be counted toward this limit.

(b) Parasailing Activities.

i. Areas of Operations.

1. Parasailing operations shall only be conducted in the designated areas for Parasailing set forth in NMIAC § 15-20-401, unless additional areas are specifically authorized by the Water Sports Permit.
 2. All Vessels used for Parasailing operations shall only access the designated areas from established marinas, harbors, or boat ramp facilities or from outside the reef, by the most direct route consistent with safety considerations.
 3. No Parasailing operations shall carry passengers in the air within the shipping channel area.
- ii. Hours of Operation. Parasailing operations shall only be conducted between 8:00 a.m. and 6:00 p.m.
 - iii. Prohibited Operation/Activities.
 1. No Vessel may tow any Parasailing device at a speed in excess of twenty-five (25) knots, and no Vessel may transport participants from the shoreline to the designated area for Parasailing at a speed in excess of fifteen (15) knots or other applicable limits such as slow/no-wake zones, whichever is less.
 2. No Parasailing operations may be conducted if winds are gusting above the safe limit proscribed by the equipment manufacturer.
 3. No Vessel may tow any Parasailing device at the same time as that Vessel is towing any Towed Flotation device.
 4. No Permittee shall operate more than two (2) Vessels identified in its Water Sports Permit at one time.
- (c) Towed Flotation Device Activities
- i. Areas of Operations.
 1. Towed Flotation operations shall only be conducted in the designated areas for Towed Flotation set forth in NMIAC § 15-20-401, unless additional areas are specifically authorized by the Water Sport Permit.
 2. Towed Flotation operations may be conducted within or outside DCRM's Lagoon and Reefs Area of Particular Concern.
 - ii. Hours of Operations. Towed Flotation Device operation shall only be conducted between 8:00 a.m. and 6:00 p.m.
 - iii. Prohibited Operation/Activities.
 1. Notwithstanding any of the other provisions herein, no Vessel may tow any Towed Flotation device carrying passengers within 200 feet of the high tide line at speeds exceeding 5 mph or creating a wake.
 2. No Vessel may tow any Towed Flotation device that exceeds twenty-five (25) feet in length or carries or has the capacity to carry more than six (6) passengers.
- (d) Non-Motorized Activities.
- i. Areas of Operations. Non-Motorized Activities shall only be conducted in the designated areas for Non-Motorized Activities set forth in NMIAC § 15-20-401, unless additional areas are specifically authorized by the Water Sport Permit.
 - ii. Hours of Operations. Non-Motorized Activities shall only be conducted between 8:00 a.m. and 6:00 p.m., unless additional hours are specifically authorized by the Water Sport Permit.
 - iii. Prohibited Operation/Activities.
 1. The Vessel Operator of any Vessel transporting a Snorkeling or UBA Activity participant to the location of the activity shall not at any time leave the Vessel while any Snorkeling or UBA Activity participant is in the water.

2. No Snorkeling or UBA Activity participant entering the water from a Vessel may be allowed in the water unless a certified lifeguard is present on the Vessel.
3. No Non-Motorized Activities may be conducted in locations that have been closed by the Commonwealth due to unsafe weather conditions.
4. No Non-Motorized Activities may be conducted in areas without cell coverage unless radio communications are available in case of emergencies.

(e) Motorized Activities.

- i. Areas of Operation. Motorized Activities shall only be conducted in the designated areas for Motorized Activities set forth in NMIAC § 15-20-401, unless additional areas are specifically authorized by the Water Sport Permit.
- ii. House of Operation. Motorized Activities shall only be conducted between 8:00 a.m. and 6:00 p.m., unless additional hours are specifically authorized by the Water Sports Permit.
- iii. Prohibited Operation/Activities.
 1. No Permittee may rent any Vessel used in connection with Motorized Activities for operation by the customer without first verifying that the customer is at least 16 years old and holds any license otherwise required by applicable CNMI law or regulation to operate the type of Vessel.
 2. No Motorized Activities may be conducted in locations that have been closed by the Commonwealth due to unsafe weather conditions.
 3. No Motorized Activities may be conducted in areas without cell coverage unless radio communications are available in case of emergencies.

Part 300 - Change in Ownership or Information

§ 15-20-301 Transferability of Commercial Use Permits

- (a) A Water Sports Permit is issued to a specific Permittee and is not transferable to a new Permittee.
- (b) As provided in NMIAC § 15-20-130, a Water Sports Permit identifies specific Vessels that are authorized for Commercial use relating to Water Sports and Recreational Activities. Whenever the Permittee named in the Water Sports Permit parts with possession of or sells, assigns, leases, or otherwise transfers the title to or interest in the identified Vessel to another Person, the Water Sports Permit shall terminate with respect to that Vessel. The new possessor, transferee, or owner of the transferred Vessel shall have no right to use the Water Sports Permit. Notwithstanding this general prohibition on transfer of Water Sports Permits, DCRM will allow the one-time transfer of ownership of a Vessel titled in the name of an individual to a Business Entity without terminating the rights to operate that Vessels under the Water Sports Permit, provided that (i) the individual holds a majority interest in the Business Entity, and (ii) the Permittee notifies DCRM within seven (7) days after the one-time transfer of the conversion to corporate ownership.

§ 15-20-305 Change in Ownership of Business Entity or Information

- (a) For any Water Sports Permit issued to a Business Entity that remains in effect and has not yet expired, transfer of any interest in the Business Entity that results in a change

of the individual or entity holding the majority interest in the Business Entity shall be considered a transfer of the Water Sports Permit and the permit shall terminate automatically upon transfer: provided, however, that any Person owning an interest in a Business Entity named as the Permittee of an issued Water Sports Permit may transfer any or all of such Person's interest in the Business Entity to another person without terminating the right of the Business Entity to retain or renew its Water Sports Permit if (i) the Business Entity has been engaged in the permitted Water Sport and Recreational Activity for a minimum of one (1) year, (ii) the Permittee notifies DCRM within seven (7) days after the transaction that amounts to a transfer of the interest, (iii) the Business Entity is in good standing with the Office of the Registrar of Corporation and meets the criteria for permit renewal under NMIAC § 15-20-110; and (iv) the Permittee pays an administrative review fee in the amount of two hundred dollars (\$200).

(b) For purposes of this section § 15-20-305, "interest" includes any claim of right, title, or ownership of any stock, shares, profit, benefit or gain in a Business Entity.

§15-10-310 Notification to DCRM

In addition to the notification required by NMIAC § 15-20-301 and NMIAC § 15-20-305, the Permittee of any Water Sports Permit shall notify DCRM in writing within seven (7) days if (i) the Permittee no longer has possession of a permitted Vessel or acquires ownership of a new Vessel to be operated for Water Sport and Recreational Activity; (ii) the Permittee transfers all or any interest in a permitted Vessel to another Person; (iii) the listed Operator on the issued Water Sports Permit has changed; (iv) the Permittee's name, address, or telephone number has changed; or (v) any other information shown on the face of the Water Sports Permit has changed.

Part 400 - Designated Areas of Operation

§ 15-20-401 Designated Areas

DCRM has approved designated areas for Water Sports and Recreational Activities as shown on the maps incorporated into this regulation as Appendix I-III, and as follows:

(a) Rota

<u>Type</u>	<u>Location of Operational Area</u>	<u>Coordinates</u>	<u>Access to Area</u>
<u>Water-Jet Craft; Parasailing; Towed Floatation</u>	<u>Sasanhaya Bay* (Wedding Cake Mountain to Puntan Pona)</u>	<u>East of Latitude 14.117684, Longitude 145.1262 and west of Latitude 14.119784, Longitude 145.168124</u>	<u>Access to the operational area shall be via East Harbor</u>
	<u>Sasanlagu Bay* (Tweksberry Beach to Pinatang Beach)</u>	<u>North of Latitude 14.134898, Longitude 145.12511 and south of Latitude 14.148754, Longitude 145.139242</u>	<u>Access to the operational area shall be via West Harbor</u>

	<u>Alaguan Bay*</u> <u>(Puntan Haina to</u> <u>I'Chenchon Park</u> <u>Bird Sanctuary)</u>	<u>East of Latitude: 14.132685,</u> <u>Longitude 145.230542 and west</u> <u>of Latitude 14.15186, Longitude</u> <u>145.26514</u>	<u>Access to the</u> <u>operational</u> <u>area shall be</u> <u>via East</u> <u>Harbor</u>
<u>Non-</u> <u>Motorized</u> <u>Activities:</u> <u>Motorized</u> <u>Activities</u>	<u>All Areas</u>	<u>N/A</u>	<u>N/A</u>

**Operational area shall be beyond the reef flat.*

Tinian

Jet-ski rental operations shall only operate between eight o'clock a.m. and six o'clock p.m.

(b) § 15-20-220 — Insurance

<u>Type</u>	<u>Location of</u> <u>Operational Area</u>	<u>Coordinates</u>	<u>Access to Area</u>
<u>Water-Jet</u> <u>Craft:</u> <u>Parasailing:</u> <u>Towed</u> <u>Floation</u>	<u>Tachogna and</u> <u>Taga Beach</u> <u>(sandy bottom</u> <u>area adjacent to</u> <u>Taga Beach)</u>	<u>145.625946°E, 14.958281°N</u> <u>145.625786 °E, 14.956962°N</u> <u>145.627049°E, 14.956682°N</u> <u>145.62718°E, 14.95814°N</u>	<u>Access to the</u> <u>operational area</u> <u>shall be via the</u> <u>Tinian Harbor</u>
<u>Non-Motorized</u> <u>Activities:</u> <u>Motorized</u> <u>Activities</u>	<u>All Areas</u>	<u>N/A</u>	<u>N/A</u>

(c) Saipan

<u>Type</u>	<u>Location of</u> <u>Operational Area</u>	<u>Coordinates</u>	<u>Access to Area</u>
<u>Water-Jet</u> <u>Craft:</u> <u>Operation of</u> <u>Water-Jet</u> <u>Crafts that are</u> <u>intended to</u> <u>operate on the</u> <u>surface of the</u> <u>water, such as</u> <u>a Jet Ski®.</u> <u>WaveRunner®.</u> <u>Sea-Doo, jet</u> <u>bike, or jet</u> <u>board/jet surf</u> <u>and the like.</u>	<u>Commercial:</u> <u>300 ft. x 400 ft.</u> <u>marked course,</u> <u>Saipan Lagoon,</u> <u>Garapan</u>	<u>The marked area within the</u> <u>following coordinates:</u> <u>145.7141512°E, 15.2107799°N</u> <u>145.7150129°E, 15.2107257°N</u> <u>145.7149493°E, 15.2097222°N</u> <u>145.7141263°E, 15.2097387°N</u>	<u>Access to the</u> <u>operational area</u> <u>shall be via</u> <u>Grandvrio</u> <u>Resort</u>
	<u>300 ft. x 600 ft.</u> <u>marked course,</u> <u>Saipan Lagoon,</u> <u>Garapan</u>	<u>The marked area within the</u> <u>following coordinates:</u> <u>145.7140311°E, 15.2146583°N</u> <u>145.7148454°E, 15.2146509°N</u> <u>145.7148264°E, 15.2136302°N</u>	<u>Access to the</u> <u>operational area</u> <u>shall be via</u> <u>Hyatt</u> <u>Regency/Fiesta</u> <u>Resort</u>

	<u>300 ft. x 600 ft. marked course, Saipan Lagoon, Susupe</u>	<u>145.7140007°E, 15.2136669°N</u> <u>The marked area within the following coordinates:</u> <u>145.6991133°E, 15.1606853°N</u> <u>145.6998962°E, 15.1601668°N</u> <u>145.7008886°E, 15.1614146°N</u> <u>145.7001512°E, 15.1618803°N</u>	<u>Access to the operational area shall be via Saipan World Resort/Kanoa Resort</u>
	<u>Non-Commercial:</u> <u>2,500 ft. x 1,200 ft. area in the northern lagoon (located about 1.20 miles NW of DPW Channel Ramp)</u>	<u>There are two operational areas within the northern lagoon located within the following coordinates:</u> <u>145.7245053°E, 15.2340399°N</u> <u>145.7305580°E, 15.2381884°N</u> <u>145.7321583°E, 15.2356363°N</u> <u>145.7259347°E, 15.2316259°N</u> <u>AND</u> <u>145.7394044°E, 15.2437213°N</u> <u>145.7446500°E, 15.2470024°N</u> <u>145.7463615°E, 15.2446005°N</u> <u>145.7410714°E, 15.2411908°N</u>	<u>Access to the operational area shall be via a DLNR-approved site.</u>
	<u>400 ft. x 800 ft. area in southern lagoon (located about ¼ mile off the shoreline from the Kanoa and World Resort properties)</u>	<u>The operational area in the southern lagoon shall be within the following coordinates:</u> <u>145.6968380°E, 15.1568860°N</u> <u>145.6979212°E, 15.1586125°N</u> <u>145.6989332°E, 15.1581517°N</u> <u>145.6979070°E, 15.1564527°N</u>	
<u>Water-Jet Craft:</u> <u>Operation of Water-Jet Crafts that are intended to operate above or below the surface of the water such as a flyboard.</u>	<u>Commercial:</u> <u>about ¼ of a mile SW of Garapan Fishing Base beyond the reef</u>	<u>145.7037777°E, 15.1958462°N</u> <u>145.7081377°E, 15.1996482°N</u> <u>145.7088206°E, 15.1990226°N</u> <u>145.7053838°E, 15.1956756°N</u> -	<u>Access to the operational area shall be via a DLNR-approved site.</u>
	<u>Non-Commercial:</u>	<u>Same as commercial</u>	<u>Same as commercial</u>

<u>Jetovator or other jet pack, Seabreacher or other submersible, and the like.</u>			
<u>Parasailing</u>	<u>2.5 mi² (6.22 km²) in the area that overlaps the Saipan Shipping Channel, the Mañagaha Marine Conservation Area, and the transit corridor</u>	<u>145.6935892°E, 15.2331186°N 145.6963784°E, 15.2198480°N 145.7203266°E, 15.2294994°N 145.7378309°E, 15.2423982°N 145.7315793°E, 15.2499144°N 145.7159986°E, 15.2377585°N</u>	<u>Access to the operational area shall be via a DLNR-approved site.</u>
<u>Towed Floatation</u>	<u>The primary transit corridor that begins at the Kanoa/World Resort course to Mañagaha</u>	<u>500 ft. wide corridor that extends from: 145.6975420°E, 15.1549126°N 145.6996888°E, 15.1544575°N 145.7125683°E, 15.2385322°N 145.7094583°E, 15.2388756°N</u>	<u>Access to the operational area shall be via a DLNR-approved site.</u>
<u>Non-Motorized Activities: Motorized Activities</u>	<u>All Areas</u>	<u>N/A</u>	<u>N/A</u>

The DCRM Director may in the Director's discretion approve an operational area outside of the designated areas upon request by an applicant, provided that the Director determines that the applicant has sufficiently assessed all potential environmental impacts to the proposed operational area.

Part 500 - Personal, Recreational and Non-Commercial Uses

§ 15-20-501 Designated Areas

Personal, recreational, and non-Commercial Water-Jet Craft operations shall only be conducted in the designated areas for Water-Jet Craft set forth in NMIAC § 15-20-401.

Part 600 - Enforcement

§ 15-20-601 Purpose

The provisions of this part are intended to establish procedures whereby the Director shall enforce the terms and conditions of Water Sport Permits and/or the Water Sports Regulations.

§ 15-20-605 Grounds for Action

The Director shall take action to enforce compliance with DCRM program policies, DCRM Water Sports Permit conditions, and/or the Water Sports Regulations in each of the following circumstances:

- (i) The Permittee has violated a material term or condition of the issued Water Sports Permit.
- (ii) The permitted Water Sport and Recreational Activity has a newly discovered adverse impact to coastal or marine resources or public safety and/or welfare or is likely to imminently have such an adverse impact.
- (iii) The Water Sport and Recreational Activity is being conducted without the required Water Sports Permit or otherwise is not in compliance with the Water Sports Regulations.

§ 15-20-610 Warnings and Enforcement Notices

When any of the grounds for action set forth in NMIAC § 15-20-605 are present, DCRM or other enforcement agents authorized to enforce DCRM's regulations shall issue a written warning or an enforcement notice, as appropriate, setting forth, at the minimum, the person and/or permittee cited; the date and approximate time of violation; a brief factual-statement of the violation; the particular regulatory section or permit provisions violated; necessary corrective measures and the period in which they shall be effected, if any; and the amount of penalty assessed pursuant to NMIAC § 15-20-620, if any.

§ 15-20-615 Enforcement Hearing

Warnings and enforcement notices for violation of a term or condition of an issued Water Sports Permit shall be issued and enforced pursuant to DCRM's regulations for enforcement of DCRM permits, NMIAC § 15-10-801 *et seq.* Warnings and enforcement notices for activities conducted without a required Water Sports Permit or otherwise not in compliance with the Water Sports Regulations shall be issued and enforced pursuant to CRM's regulations for enforcement of DCRM standards and policies, NMIAC § 15-10-901 *et seq.* As such, enforcement hearings shall be conducted upon request pursuant to NMIAC § 15-10-825 or NMIAC § 15-10-930, as applicable.

§ 15-20-620 Penalties and Sanctions

The following penalties and sanctions apply to each violation of or failure to comply with any of the provisions of these rules and regulations:

<u>First Infraction:</u>	<u>Written warning;</u>
<u>Second Infraction:</u>	<u>Up to \$500.00 fine per violation;</u>
<u>Third Infraction:</u>	<u>Up to \$1,000.00 fine per violation and permit suspension;</u>
<u>Fourth Infraction:</u>	<u>Discretionary fine up to \$10,000.00 per violation and revocation of permit or license.</u>

Each day of violation is a separate offense.

§ 15-20-625 Revocation

Consistent with NMIAC § 15-10-830, DCRM may revoke a Water Sports Permit in its entirety upon a determination by the Director following a hearing (if requested) that the infractions did occur.

§ 15-20-630 Emergency Suspension

If DCRM finds that public health, safety, or welfare imperatively requires emergency summary suspension of a Water Sports Permit, the Director may order summary suspension by delivering to the Permittee written notice of the suspension. The summary suspension shall be effective immediately upon receipt by the Permittee of the written notice and shall be effective for not more than thirty (30) days. DCRM shall issue a citation to the Permittee by no later than the fifth (5th) day of the suspension period, and shall hold a hearing by no later than the twenty-fifth (25th) day of the suspension period at which the Permittee shall be given the opportunity to show cause why DCRM should not take permanent action under § 15-20-625 with respect to the Water Sports Permit.

§ 15-20-635 Safety and Enforcement

The restrictions, prohibitions, and requirements of this chapter shall not apply in the event of an emergency, to law enforcement or rescue craft, or to Vessels operating under a valid ocean waters event permit issued by the U.S. Coast Guard.

Part 700 -

~~All jet ski rental operators must carry liability insurance in such amount as required by the Coastal Resources Management Office.~~

~~§ 15-20-225 CRM Permit~~

~~No person may conduct a jet ski rental operation without a coastal permit issued by the Coastal Resources Management program which may include requirements in addition to this chapter. The CRM Administrator may determine the number of permits and number of jet skis which will be allowed to operate at each area specified in § 15-20-205 of this chapter and how to best allocate such permits between existing and future operators.~~

~~Part 300 — Water Ski Operations~~

~~§ 15-20-301 — Water Ski Operations~~

~~No one may water ski in the Managaha exclusion area described in § 15-20-105(h).~~

~~Part 400 - Miscellaneous~~

~~§ 15-20-401~~701 Interpretation

(a) If any section of these rules is inconsistent with any Commonwealth law, or any law of the

United States, or any rule or standard established pursuant to federal law, the Commonwealth law or federal law, rule, or standard shall govern. Nothing contained in these rules shall be construed to limit the powers of any Commonwealth department or agency.

(b) These rules shall be liberally construed, consistent with the purposes and scope as stated in § 15-20-010.

§ 15-20-705 Severability

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

§ 15-20-405 — Enforcement

~~This chapter shall be enforceable by the Coastal Resources Management Office and Department of Public Safety, Division of Boating Safety.~~

§ 15-10-020 Definitions

(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 ([USGBC](#)) as assessed by application of the LEED v4 Building Design and Construction Checklist or any subsequent version that is accredited by the USGBC.

§ 15-10-101 Types of CRM Permits and When Permits are Required

(c) Early action for flood zone risk reduction.

(1) 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.

(2) “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.

(3) 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 [Achugao](#), ~~Garapan~~ [West Takpochao](#), 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.

§ 15-10-205 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:

(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.

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

FEE AMOUNT	COST OF PROJECT OR PERMIT AMENDMENT
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\$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 cost increment exceeding \$1,000,000.

(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 subsections (h)(5)(i)(A) and (B).

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

<u>Tier</u>	<u>Qualifications</u>	<u>Incentive</u>
Tier 1 Reduction	Building design and construction are “LEED Certifiable,” scoring between 40-49 points on the LEED v4 <u>or subsequent</u> 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 <u>or subsequent</u> 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 <u>or subsequent</u> 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 <u>or subsequent</u> Building Design and Construction Checklist	25% fee reduction

(B) Tiered permitting fee reductions for building redevelopment and or stormwater management best practices are available as follows:

<u>Tier</u>	<u>Building Redevelopment</u>	<u>Stormwater Management</u>	<u>Incentive</u>
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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 20% or more of "Energy Star" rated high efficiency / LED lighting and appliances <u>or a renewable energy source supplying 20% or more of a project's electricity</u> 	<ul style="list-style-type: none"> - <u>Project implements and maintains on-site stormwater management practices that collect from an off-site source and treat or contain an additional 10%-24% of the project's total stormwater runoff volume, based on the 25 year 24 hour duration storm event;</u> AND/OR - <u>Project implements and maintains 30% - 49% of pervious surface area or green infrastructure elements</u> 	5% fee reduction
Tier 2 BMP Reduction	Applicant redevelops or rehabilitates 15% - 25% of the existing building	<ul style="list-style-type: none"> - <u>Project implements and maintains on-site stormwater management practices that collect from an off-site source and treat or contain an additional 25%-49% of the project's total stormwater runoff volume, based on the 25 year 24 hour duration storm event;</u> AND/OR - <u>Project implements and maintains 50% or more of pervious surface area or green infrastructure elements</u> 	10% reduction
Tier 3 BMP Reduction	Applicant redevelops or rehabilitates 26% - 50% of the existing building	<ul style="list-style-type: none"> - <u>Project implements and maintains on-site stormwater management practices that collect from an off-site source and treat or contain an additional 50%-74% of the project's total stormwater runoff volume, based on the 25 year 24 hour duration storm event</u> 	20% reduction
Tier 4 BMP Reduction	Applicant redevelops or rehabilitates 51% - 74% of the existing building	<ul style="list-style-type: none"> - <u>Project implements and maintains on-site stormwater management practices that collect from an off-site source and treat or contain an additional 74% or more of the project's total stormwater runoff volume, based on the 25 year 24 hour duration storm event</u> 	30% reduction

Tier 5 BMP Reduction	Applicant redevelops or rehabilitates over 75% of the existing building	<u>- Not applicable</u>	50% reduction
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(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 30 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 30 days of receiving the request and all required supporting documentation. If no response is received within 30 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.

(iv) All permit fee reduction requests for stormwater management practices must meet the standards set forth in 2.1 and 2.2 of the 2006 CNMI and Guam Stormwater Management Manual, specifically E&SC Standards I-11 and Postconstruction Standards I-13. DEQ stormwater management standards require the on-site detention of 100% of stormwater runoff volume, based on the 25 year 24 hour duration storm event; therefore, applicants requesting a fee reduction for stormwater management must account for the additional percentage by collecting additional stormwater from off-site, and treating or containing it.

§ 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.

(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, e~~Current and future risks ~~should~~ shall be ~~considered evaluated~~ when assessing potential direct, indirect, and cumulative impacts, and proposing avoidance, minimization, and

mitigation measures, using data from best available science (such as DCRM-adopted coastal flood scenarios) when available. To limit avoidable impacts from coastal hazards, major siting proposals must meet or exceed the Department of Public Works flood hazard reduction standards as codified in Chapter 155-10.2, Part 200 the CNMI Flood Damage Prevention Regulations (NMIAC, title 155, chapter 10.2, Part 200).

§ 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 14 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.

(d) Location. ~~Public meetings may be held at any location within the Commonwealth.~~ Public hearings pursuant to permit applications for proposed projects on Saipan, Tinian, and Rota shall be conducted on the island where the proposed project is located; hearings for proposed projects on Aguiguan shall be conducted on Tinian; and hearings for proposed projects on all other islands shall be conducted on Saipan. ~~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.~~

§ 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 30 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. Appellate hearings shall be held on the same island as designated for permit hearings pursuant to §15-10-220(d).

§ 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, but may include other information pertinent to the area nominated or proposed boundary change. Within 30 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 30 days from the date such notice is published. Within the 30 day minimum comment period, the CRM Agency Officials shall submit to the DCRM Office comments and recommendations, and a public hearing shall be conducted on Saipan by the DCRM Office. Within 30 days after the closure of the comment period the CRM agency officials shall make the final decision regarding the proposed creation or modification.

§ 15-10-825 Permit Enforcement Hearing

Upon receipt of a request for a permit enforcement hearing, the DCRM Director shall schedule a hearing within 45 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. All permit enforcement hearings shall be conducted on Saipan. 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 15 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 30 days following service of the DCRM Director’s written enforcement decision on the offending party.

§ 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.

(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. Such hearings or meetings may be held at any location within the Commonwealth except as otherwise provided in this chapter.

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.

- (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. Such hearings or meetings may be held at any location within the Commonwealth except as otherwise provided in this chapter. Each CRM Agency Official may appear at hearings or meetings via the internet or online video conferencing, teleconferencing, or other electronic means of communication, in the event that the CRM Agency Official is in the Commonwealth of the Northern Mariana Islands but unable to attend a hearing or meeting in person.

CHAPTER 65-20

DRINKING WATER REGULATIONS

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Subpart G Drinking Water Emergencies and Tampering with Public Water Systems

- § 65-20-138 Supply of Drinking Water During Emergencies

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Part 200 CNMI National Primary Drinking Water Regulations

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- § 65-20-201 Referenced Version of 40 CFR § 141 and Applicability (§§ 2141.0 -2141.1)

- § 65-20-202 Definitions (§ 2141.2)

- § 65-20-204 Coverage (§ 2141.3)

- § 65-20-206 [Reserved] (§ 2141.4)

- § 65-20-208 Siting requirements (§ 2141.5)

- § 65-20-210 Effective dates (§ 2141.6)

Subpart B Maximum Contaminant Levels

- § 65-20-212 Maximum Contaminant Levels (§ 2141.11 - § 2141.16)

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- § 65-20-214 Monitoring and Analytical Requirements (§ 2141.21 - § 2141.30)

Subpart D Reporting and Record Keeping

- § 65-20-216 Reporting and Record Keeping (§ 2141.31 - § 2141.35)

Subpart E Special Regulations, Including Monitoring Regulations and Prohibition on Lead Use

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§ 65-20-218 Special Regulations, Including Monitoring Regulations and Prohibition on Lead Use (§ 2141.40 - § 2141.43)

Subpart F Maximum Contaminant Level Goals and Maximum Residual Disinfectant Level Goals

§ 65-20-220 Maximum Contaminant Level Goals and Maximum Residual Disinfectant Level Goals (§ 2141.50 - § 2141.55)

Subpart G National Revised Primary Drinking Water Regulations: Maximum Contaminant Levels and Maximum Residual Disinfectant Levels

§ 65-20-222 National Revised Primary Drinking Water Regulations: Maximum Contaminant Levels and Maximum Residual Disinfectant Levels (§ 2141.60 - § 2141.66)

Subpart H Filtration and Disinfection

§ 65-20-224 Filtration and Disinfection (§ 2141.70 - § 2141.76)

Subpart I Control of Lead and Copper

§ 65-20-226 Control of Lead and Copper (§ 2141.80 - § 2141.91)

Subpart J Use of Non-centralized Treatment Devices

§ 65-20-228 Use of Non-centralized Treatment Devices (§ 2141.100 - § 2141.101)

Subpart K Treatment Techniques

§ 65-20-230 Treatment Techniques (§ 2141.110 - § 2141.111)

Subpart L Disinfectant Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors

§ 65-20-232 Disinfectant Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors (§ 2141.130 - § 2141.135)

Subpart M [Reserved.]

Subpart N [Reserved.]

Subpart O Consumer Confidence Reports

§ 65-20-238 Consumer Confidence Reports (§ 2141.151 - § 2141.155)

Subpart P Enhanced Filtration and Disinfection; Systems Serving 10,000 or More People

§ 65-20-240 Enhanced Filtration and Disinfection; Systems Serving 10,000 or More People (§ 2141.170 - § 2141.175)

Subpart Q Public Notification of Drinking Water Violations

§ 65-20-242 Public Notification of Drinking Water Violations (§ 2141.201 - § 2141.211)

Subpart R [Reserved.]

Subpart S Ground Water Rule

§ 65-20-246 Ground Water Rule (§ 2141.400 - § 2141.405)

Subpart T Enhanced Filtration and Disinfection Systems Serving Fewer Than 10,000 People

§ 65-20-248 Enhanced Filtration and Disinfection Systems Serving Fewer Than 10,000 People (§ 2141.500 - § 2141.570)

Subpart U Initial Distribution System Evaluations

§ 65-20-250 Initial Distribution System Evaluations (§ 2141.600 - § 2141.605)

Subpart V – Stage 2 Disinfection Byproducts Requirements

§ 65-20-252 Stage 2 Disinfection Byproducts Requirements (§ 2141.620 - § 2141.629)

Subpart W Enhanced Treatment for Cryptosporidium

§ 65-20-254 Enhanced Treatment for Cryptosporidium (§ 2141.700 - § 2141.721)

Subpart X Revised Total Coliform Rule

§ 65-20-256 Revised Total Coliform Rule (§ 2141.851 - § 2141.861)

Part 300 CNMI National Secondary Drinking Water Regulations

Subpart A National Secondary Drinking Water Regulations

§ 65-20-301 Referenced Version of 40 CFR § 143 and Purpose (§ 3141.0 - § 3141.1)

§ 65-20-305 Definitions (§ 3141.2)

§ 65-20-310 Secondary Maximum Contaminant Levels (§ 3141.3)

§ 65-20-315 Monitoring (§ 3141.4)

Appendix A National Primary Drinking Water Regulations 40 CFR § 141 July 1, 2007 and October 10, 2007

Appendix B National Secondary Drinking Water Regulations 40 CFR § 143 July 1, 2007

Appendix C U.S.E.P.A. Fact Sheets on the Four Federal Drinking Water Rules

Appendix D Excerpts from the Federal Register dated October 10, 2007

TITLE 65: DIVISION OF ENVIRONMENTAL QUALITY

Chapter Authority: 1 CMC §§ 2646-2649; 1 CMC § 2650; 2 CMC §§ 3101-3135.

Chapter History: Amdts Adopted 37 Com. Reg. 37300 (Dec. 28, 2015); Amdts Proposed 37 Com. Reg. 37098 (Oct. 28, 2015); Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005) (superseding all previous DEQ Drinking Water Regulations); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005); Amdts Adopted 24 Com. Reg. 19005 (Jan. 29, 2002); Amdts Proposed 23 Com. Reg. 18642 (Nov. 23, 2001); Amdts Adopted 17 Com. Reg. 13823 (Nov. 15, 1995); Amdts Proposed 17 Com. Reg. 13678 (Sept. 15, 1995); Amdts Adopted 16 Com. Reg. 12445 (Sept. 15, 1994); Amdts Proposed 16 Com. Reg. 12141 (July 15, 1994); Amdts Adopted 16 Com. Reg. 12242 (July 15, 1994); Amdts Proposed 16 Com. Reg. 11996 (June 15, 1994); Amdts Adopted 15 Com. Reg. 10807 (Aug. 15, 1993); Amdts Proposed 15 Com. Reg. 10689 (June 15, 1993); Amdts Adopted 14 Com. Reg. 10212 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9875 (Oct. 15, 1992); Amdts Adopted 13 Com. Reg. 8340 (Nov. 15, 1991); Amdts Proposed 13 Com. Reg. 7986 (Sept. 15, 1991); Amdts Adopted 11 Com. Reg. 6111 (Mar. 15, 1989); Amdts Proposed 11 Com. Reg. 5850 (Feb. 15, 1989); Adopted 4 Com. Reg. 1576 (Aug. 15, 1982); Proposed 4 Com. Reg. 1536 (July 15, 1982).

Commission Comment: PL 3-23 (effective Oct. 8, 1982), the “Commonwealth Environmental Protection Act,” codified as amended at 1 CMC §§ 2646-2649 and 2 CMC §§ 3101-3135, created the Division of Environmental Quality (DEQ) within the Department of Public Health and Environmental Services. See 1 CMC § 2646. The act authorized the Chief (now the Director) of the Division to administer, implement and enforce specific powers and duties relating to environmental protection and to develop rules and regulations to implement PL 3-23 and other laws administered by the Division. See 1 CMC §§ 2647 and 2648. PL 3-23 § 7, 2 CMC § 3121, granted the Director of the Department of Public Health and Environmental Services the exclusive power to issue regulations pursuant to the act.

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 § 304(d):

Section 304. Department of Public Works.

...

(d) Environmental Quality. The Division of Environmental Quality is transferred from the Department of Public Health to the Department of Public Works. To the maximum extent practicable, the Secretary of Public Works shall integrate land-based earth moving permits into the building permit process.

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

PL 11-108 (effective Dec. 3, 1999) repealed Executive Order 94-3 § 304(d) in its entirety. See PL 11-108 § 2. PL 11-108 “reclassified [the Division of Environmental Quality] as an independent regulatory agency, acting from within the office of the Governor” and placed all administrative duties and authority with regards to DEQ with the Governor or his designee. PL 11-108 §§ 1 and 3, codified at 1 CMC § 2650.

In July 2005, DEQ readopted and republished the Drinking Water Regulations in their entirety with numerous structural changes and amendments. The 2005 Drinking Water Regulations are codified in this chapter. Previous history is cited in limited sections where applicable.

Executive Order No. 2013-24, promulgated at 35 Com. Reg. 34596 (Nov. 28, 2013), established a new Bureau of Environmental and Coastal Quality. This Order reorganized the Division of Environmental Quality as a division of the Bureau of Environmental and Coastal Quality, and provided that “all rules, orders, contracts, and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Executive Order shall continue to be effective until revised, amended, repealed or terminated.”

TITLE 65: DIVISION OF ENVIRONMENTAL QUALITY

The December 2015 amendments changed the reference dates from the 2007 version of the Code of Federal Regulations on water rights to the 2014 version, and adopted the Federal Revised Total Coliform Rule.

Part 001 - General Provisions

§ 65-20-001 Authority

The regulations in this chapter have been promulgated by the Commonwealth Division of Environmental Quality in accordance with 1 CMC §§ 2646 to 2649, Public Law 11-108 [1 CMC § 2650], and the Commonwealth Environmental Protection Act, PL 3-23, 2 CMC §§ 3101, et seq. (as amended by PL 11-103). The regulations, technical provisions, and specifications to be adopted by the Division from time to time, shall have the full force and effect of law and shall be binding on all persons and other legal entities subject to the jurisdiction of the Commonwealth of the Northern Mariana Islands. The Division shall apply these regulations and standards to all public water systems in the Commonwealth.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005); Amdts Adopted 14 Com. Reg. 10212 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9875 (Oct. 15, 1992); Amdts Adopted 13 Com. Reg. 8340 (Nov. 15, 1991); Amdts Proposed 13 Com. Reg. 7986 (Sept. 15, 1991); Adopted 4 Com. Reg. 1576 (Aug. 15, 1982); Proposed 4 Com. Reg. 1536 (July 15, 1982).

Commission Comment: In July 2005, DEQ readopted and republished the Drinking Water Regulations in their entirety with numerous structural changes and amendments. The 2005 Drinking Water Regulations are codified in this chapter. Previous history is cited in limited sections where applicable.

§ 65-20-005 Purpose

The purpose of the regulations, technical provisions, and specifications in this chapter is to establish certain minimum standards and requirements, as determined by the Division, that are necessary to protect public health and safety, and to ensure that public water systems are protected from contamination and provide water that is safe for human consumption.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005); Amdts Adopted 14 Com. Reg. 10212 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9875 (Oct. 15, 1992); Amdts Adopted 13 Com. Reg. 8340 (Nov. 15, 1991); Amdts Proposed 13 Com. Reg. 7986 (Sept. 15, 1991); Adopted 4 Com. Reg. 1576 (Aug. 15, 1982); Proposed 4 Com. Reg. 1536 (July 15, 1982).

Commission Comment: The Commission inserted a comma after the word “provisions” pursuant to 1 CMC § 3806(g). The Commission corrected the spelling of “ensure” pursuant to 1 CMC § 3806(g).

§ 65-20-010 Definitions

In addition to the definitions provided at § 65-20-202 and § 65-20-305 of this chapter, the words and terms listed below have the following definitions.

TITLE 65: DIVISION OF ENVIRONMENTAL QUALITY

- (a) “Act,” for the purpose of part 001 and part 100 of this chapter only, means the Commonwealth Environmental Protection Act, 2 CMC §§ 3101 to 3134 (Public Law 3-23).
- (b) “Administrator” means the Administrator of the U.S. Environmental Protection Agency.
- (c) “Agency” means the U.S. Environmental Protection Agency, unless otherwise specified.
- (d) “Available,” as used in part 100, subpart C, means that based on system size, complexity, and source water quality, a certified operator must be on site or able to be contacted as needed to initiate the appropriate action in a timely manner.
- (e) “Backflow” means the flow of water or other liquids, mixtures, or substances into a public water supply from any source or sources other than its intended source. Back-siphonage resulting from negative pressure in the distribution system is one type of backflow.
- (f) “Bottled water company” means a business that produces drinking water in bulk or bottles for retail or wholesale sale to the public. For the purposes of the regulations in this chapter, bottled water companies are public water systems.
- (g) “Certified operator” means an individual who has passed an examination that tests their knowledge, skills, ability, and judgment as a water operator for a particular classification level of water treatment facility or water distribution system, and has been issued a certificate pursuant to part 100, subpart C of this chapter.
- (h) “Commonwealth” means the Commonwealth of the Northern Mariana Islands (CNMI).
- (i) “Commonwealth Drinking Water Regulations” means the regulations codified in this chapter in their totality (parts 001, 100, 200 and 300) and all regulations that are adopted by reference, herein.
- (j) “Cross connection” means any actual or potential connection or structural arrangement between a public water system and any other source or system through which it is possible to introduce into any part of the public water system any used water, industrial fluid, gas or other substance not meeting the Drinking Water Quality Standards of the regulations in this chapter. By-pass arrangements, jumper connections, removable sections, swivel or change over devices and other temporary or permanent devices through which “backflow” can or may occur are considered to be cross connections. A submerged inlet from a public water system into a water storage tank that may also store water from an untreated source, such as a rain water catchment, is another example of a cross connection.

TITLE 65: DIVISION OF ENVIRONMENTAL QUALITY

- (k) “Director” means the Director of the Division of Environmental Quality or duly authorized representative.
- (l) “Distribution system” means any combination of pipes, tanks, tanker trucks, pumps, bottled water, etc. which delivers water from the source(s) and/or treatment facility(ies) to the consumer.
- (m) “Division” means the Commonwealth Division of Environmental Quality.
- (n) “Drinking water quality standards” or standards means those primary or secondary drinking water regulations as promulgated by either the Commonwealth Division of Environmental Quality or the U.S. Environmental Protection Agency.
- (o) “Human consumption” means using water for any of the following purposes: drinking, bathing or showering, hand washing, food preparation, cooking, dishwashing, or oral hygiene.
- (p) “Maximum contaminant level” means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.
- (q) “Operating shift” means that period of time during which operator decisions that affect public health are necessary for proper operation of the system.
- (r) “Person” means an individual, corporation, company, association, partnership, municipality, or an agency of the Commonwealth or federal government.
- (s) “Potable” water means water that is of a quality that meets the requirements of the regulations in this chapter.
- (t) “Primacy agency” means the agency of the Commonwealth that has been delegated the national drinking water program by the U.S. Environmental Protection Agency. The primacy agency in the Commonwealth is the Division of Environmental Quality within the Office of the Governor.
- (u) “Public water system” means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least 60 days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; or any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.
- (v) “Rainwater catchment” means a structure for the collection of rainwater. Rainwater catchment systems may be subject to surface water runoff, as in the case of ground-level reservoirs that collect rainwater that has traveled over the surface of the land, or may not

be subject to surface water runoff, as in the case of rainwater roof catchments. A rainwater catchment may be a public water system or a part of a public water system if the water system meets the definition of public water system at subsection (s) above.*

*So in original. The definition actually appears at subsection (u).

(w) “Responsible charge” - The operator(s) in responsible charge is defined as the person(s) designated by the owner to be the certified operator(s) who makes decisions regarding the daily operational activities of a public water system, water treatment facility, and/or distribution system that will directly impact the quality and/or quantity of drinking water.

(x) “Sample point” means the location from which a water sample is collected. Such locations include source waters, between or after individual treatment process, storage tanks, entry points to the distribution system, or any location within a distribution system. Each sample point is designated by a unique identification number and a descriptive location name.

(y) “Significant deficiency” means any situation, practice, or condition in a public water system with respect to design, operation, maintenance, or administration, that the Division determines may result in or have the potential to result in production of finished drinking water that poses an unacceptable risk to the health or welfare of the public served by the water system.

(z) “Tamper” means to introduce a contaminant into a public water system or into drinking water, or to otherwise interfere with drinking water or the operation of a public water system, with the intention of harming persons, water system facilities or water system operations. It does not include the standardized accepted treatment procedures performed by a supplier of water in preparing water for human consumption.

(aa) “Treatment facility” means any place(s) where a public water system alters the physical or chemical characteristics of the drinking water. Chlorination is considered as a function of the distribution system.

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

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: In subsection (a), the Commission moved the comma after “Act” inside of the closing quotation mark. The Commission inserted commas after the words “storage” in subsection (u) and “facility” in subsection (w) pursuant to 1 CMC § 3806(g).

§ 65-20-015 Severability

Should any part, section, paragraph, sentence, clause, phrase, or application of the rules and regulations in this chapter be declared invalid or unconstitutional by a court of competent jurisdiction, the remainder or any other application of these rules and

regulations shall not be affected in any way thereby, and shall remain in full force and effect.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: For consistency in the NMIAC, the Commission moved this section from the end of part 100.

§ 65-20-020 Supersedure

The rules and regulations in this chapter supersede all CNMI Division of Environmental Quality Drinking Water Regulations in effect prior to the effective date of these rules and regulations.

Modified, 1 CMC § 3806(d), (g).

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: The Commission deleted the repeated word “all.”

For consistency in the NMIAC, the Commission moved this section from the end of part 100.

Part 100 - CNMI Public Water System Regulations

Subpart A - General Provisions

§ 65-20-101 Right of Entry

(a) As a condition for the issuance or continuation of any permit, certification, approval, or authorization granted under the regulations in this chapter, authorized representatives of the Division may enter and inspect, at any reasonable time unless an emergency dictates otherwise, any establishment, facility, or any other property or premises under the control of a public water system.

(b) Such inspection may include inspection of records, files, papers, processes, controls and facilities, and testing of any feature of a public water system, including its raw water source.

(c) As a condition for the issuance or continuation of any permit, certification, approval, or authorization granted under the regulations in this chapter, authorized representatives of the Division may collect water samples, as there is an inherent threat that the delay in obtaining a court order or warrant would prolong or increase the threat, or would prevent, hinder, or delay the discovery of evidence of a violation or the taking of any necessary mitigating or remedial measures. Any sample collected may be used as evidence in an enforcement action.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

§ 65-20-102 Drinking Water Quality Control and Prohibition of Uncontrolled Cross Connections

(a) The Division may mandate that a public water system use a specific water treatment technology in order to comply with the regulations in this chapter or to protect public health.

(b) It is the responsibility of the public water system to assure a quality of water supply that equals or surpasses drinking water quality standards of the Division as set forth in the regulations in this chapter. This includes assurance by the public water system that users do not contaminate the public water supply by the use of faulty plumbing that allows infiltration or backflow of any sort into the drinking water distribution system.

(c) A public water system shall have no uncontrolled cross connections to a pipe, fixture, or supply, any of which contain water or other substances not meeting all applicable provisions of the regulations in this chapter.

(d) Any cross connection existing in a public water system must be equipped with an appropriate backflow prevention device or assembly, as determined by the Division. The type of protection required to prevent backflow into the public water system must be commensurate with the degree of hazard that exists to the water supply.

(e) Backflow prevention devices and assemblies must be maintained in good working condition and periodically tested in accordance with the manufacturer's recommendations.

(f) A public water system shall notify the Division of any uncontrolled cross connection within five calendar days of its discovery. The cross connection shall be corrected within 10 days of its discovery. Failure to do so may result in an enforcement order.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

§ 65-20-104 Certified Laboratories

(a) To perform drinking water analyses for determining compliance with the regulations in this chapter, laboratories must be certified by the Division in accordance with the Division's Drinking Water Laboratory Certification Plan.

(b) Laboratories certified by the Division to perform drinking water analyses must report analytical results to public water systems in a format (information and layout) that is acceptable to the Division.

(c) The Division shall charge reasonable fees for laboratory analyses performed by its Environmental Surveillance Laboratory. Fees shall be set by the Director and revised as necessary, but not more frequently than semi-annually, to reflect changes in costs, new analysis methods, and the operational expenses of the laboratory. The schedule of laboratory fees will be available to the public upon request.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

§ 65-20-106 Monitoring Requirements and Performance Testing

(a) Monitoring Requirements

(1) The Division may require any public water system to collect water samples and have them analyzed at a certified laboratory in order to evaluate:

(i) The concentration of suspected or potential contamination that may be the result of anthropogenic or natural sources, including natural disasters such as typhoons and volcanic eruptions;

(ii) The need to install water treatment equipment so as to comply with existing or future CNMI Drinking Water Regulations, or to protect public health; or

(iii) The proficiency of existing water treatment equipment, and verification of its effectiveness in removing physical, biological, chemical, or radiological contaminants.

(2) The Division shall prescribe the collection procedures, frequency of sampling, analytical methods, and reporting for any monitoring requirements not specified elsewhere in this chapter.

(i) The Division may stipulate a period of time within a compliance period during which samples must be collected. Samples collected by a water system outside of the stipulated time period shall not be used in determining compliance for that compliance period.

(ii) All samples collected to comply with these Commonwealth Drinking Water Regulations must be collected from a sample point that has been approved by the Division, and must be identified as having come from that sample point.

(iii) Analytical results must be reported in a format (information and layout) that is acceptable to the Division.

(3) When multiple sources of water are combined (i.e., mixture of surface water, groundwater under the direct influence of surface water, groundwater, rainwater, or purchased water), the monitoring requirements that are most protective of public health must be performed.

(b) Performance Testing

(1) The Division may require public water systems to install, use and maintain instrumentation to monitor, analyze, and record water quality and water quantity data.

(2) Monitoring equipment must be maintained and calibrated in accordance with the manufacturer's recommendations. Maintenance and calibration records must be retained on premises and available for inspection by Division personnel.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: The Commission inserted a comma after the word "rainwater" in subsection (a)(3) pursuant to 1 CMC § 3806(g).

Subpart B - Design, Construction, and Operation of Public Water Systems

§ 65-20-108 Design and Construction Requirements

(a)(1) No person shall

- (i) Commence construction of any new public water system,
- (ii) Make improvements to or modify the treatment process of an existing public water system, or
- (iii) Initiate the use of a new source, storage facility, or significant distribution system component (i.e. booster pump station, pressure reducing station) until plans and specifications for such construction, improvements, modification or use have been submitted to, and approved by, the Director.

(2) The Director shall grant such approval when he finds that the proposed facilities are capable of complying, on a continuous basis, with appropriate design criteria, and with all applicable laws, standards, rules, and regulations.

(b) No public water system may physically split its pumping or distribution facilities in order to avoid the requirements of these Commonwealth Drinking Water Regulations. The Director of the Division shall identify a public water system based on legal ownership and contiguous facilities, regardless of independent hydraulic systems.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: The original provisions of subsection (a) were not designated. The Commission designated subsections (a)(1) and (a)(2). The Commission inserted a comma after the word "rules" in subsection (a)(2) pursuant to 1 CMC § 3806(g).

§ 65-20-110 Design and Construction Standards

(a) Design Standards. Suppliers of water shall ensure that accepted engineering criteria and practices are used in the design and construction of all public water systems, such as those set out in the most recent editions of the following documents, or the edition required by public law.

- (1) Approved Backflow Prevention Assemblies for Service Isolation Department of Health Services, State of California, <http://www.dhs.ca.gov>
- (2) AWWA Manuals of Water Supply Practices (M1-M51), American Water Works Association (AWWA), Denver, CO, <http://www.awwa.org>
- (3) AWWA Standards, American Water Works Association (AWWA), Denver, CO, <http://www.awwa.org>
- (4) Drinking Water System Components - Health Effects (ANSI/NSF 61), National Sanitation Foundation (NSF) International, Ann Arbor, MI, <http://www.nsf.org>
- (5) Drinking Water Treatment Chemicals - Health Effects (ANSI/NSF 60), National Sanitation Foundation (NSF) International, Ann Arbor, MI, <http://www.nsf.org>
- (6) Health Effects from Rainwater Catchment System Components (NSF P151), National Sanitation Foundation (NSF) International, Ann Arbor, MI, <http://www.nsf.org>
- (7) Recommended Practice for Backflow Prevention and Cross-Connection Control. American Water Works Association (AWWA), Denver, CO
- (8) Recommended Standards for Water Works - Policies for the Review and Approval of Plans and Specifications for Public Water Supplies (10 States Standards), Health Education Services, Albany, NY, <http://www.hes.org>
- (9) Uniform Plumbing Code (UPC), International Association of Plumbing and Mechanical Officials (IAPMO), Ontario, CA., <http://www.iapmo.org>.

(b) Prohibition on Use of Lead Pipes, Solders, and Flux. Any pipe, pipe fittings, fixtures, solder, or flux used in the installation or repair of any public water system, or any plumbing in a residential or nonresidential facility providing water for human consumption which is connected to a public water system, shall be “lead free” as defined at § 65-20-218(d) of this chapter.

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

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: In subsection (a)(9), the Commission inserted the final period.

§ 65-20-112 Design Review Process

The design review process consists of four steps: (a) the applicant submits a notice of intent; (b) the Division reviews and takes action on the notice of intent; (c) the applicant prepares final drawings and specifications; (d) the Division reviews and takes action on the final drawings and specifications.

(a) Applicant’s Notice of Intent

(1) Before a person may enter into a financial commitment for, or initiate construction of, a new public water system, or modification of an existing public water system, that person must submit in writing a notice of intent to the Division. For the purposes of this subpart, modification to an existing water system does not include routine maintenance and service of hydrants and valves, or replacement of equipment, pipe, and appurtenances

with equivalent equipment, pipe, and appurtenances. The notice of intent shall contain all of the information required in the Division's standardized form.

(2) The siting requirements specified in § 65-20-208 of this chapter must be considered and addressed in the notice of intent.

(3) For new water systems and for systems that are modifying or installing new treatment technology; the notice of intent must also include a description of the technical, managerial, and financial capacity of the water system to plan, achieve, and maintain compliance with all applicable drinking water quality standards. Technical, managerial, and financial capacity are defined as follows:

(i) Technical capacity refers to the physical infrastructure of the public water system, including but not limited to the adequacy of the source water, infrastructure (source, treatment, storage, and distributions), and the ability of system personnel to implement the requisite technical knowledge.

(ii) Managerial capacity refers to the management structure of the public water system, including but not limited to ownership accountability, staffing and organization, and effective linkages to customers and regulatory agencies.

(iii) Financial capacity refers to the financial resources of the public water system, including but not limited to revenue sufficiency, credit worthiness, and fiscal controls.

(b) Division Review and Action on the Notice of Intent

The Division shall review a notice of intent to construct or modify a public water supply system for completeness and either:

(1) Fully or conditionally approve the notice for the preparation of final plans and specifications for the proposed facility;

(2) Notify the applicant that additional information is required;

(3) Deny the proposal to construct giving written appropriate reasons for the denial.

(c) Preparation of Final Drawings and Specifications by the Applicant

(1) Preparation of final drawings and specifications for a public water system shall be based upon accepted engineering practice and must be submitted in a format acceptable to the Division.

(2) The final plans and specifications shall follow the intent expressed in the approved notice of intent.

(3) A person experienced in the construction and operation and maintenance of water supply systems shall supervise preparation of final drawings and specifications.

(4) A professional engineer must design any treatment system included in any public water system.

(d) Division Review and Approval of Final Drawings and Specifications

(1) Final drawings and specifications shall be submitted to the Division for review.

(2) The Division shall either:

(i) Approve the drawings and specifications for construction; or

(ii) Request changes be made to the drawings and specifications to make the design conform to this chapter or for the protection of the public health and the environment. Once changes are made to the final drawings and specifications, they must be submitted to the Division for review.

Modified, 1 CMC § 3806(c), (d), (f).

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

§ 65-20-114 Drinking Water Materials and Additives

(a) Each product, with the exception of commercially retailed hypochlorite compounds such as unscented Clorox, Purex, etc., added to water intended for human consumption, shall conform to ANSI/NSF Standard 60. The maximum application dosage recommendation for the product certified by ANSI/NSF Standard 60 shall not be exceeded in practice. Products covered by this paragraph include, but are not limited to: coagulation and flocculation chemicals; chemicals for corrosion and scale control; chemicals for softening, precipitation, sequestering and pH adjustment, disinfection and oxidation chemicals; chemicals for fluoridation, defluoridation, algae control, and dechlorination; dyes and tracers; antifoamers, regenerants, and separation process scale inhibitors and cleaners; and water well drilling and rehabilitation aids.

(b) Except as identified in subsections (g) and (h) of this section, a material or product that comes in significant contact with water intended for human consumption shall conform to ANSI/NSF Standard 61. For the purposes of this section, “substantial contact” means the elevated degree that a material in contact with water may release leachable contaminants into the water that such levels of these contaminants may be unacceptable with respect to either public health or aesthetic concerns. The Division shall take into consideration the total material/water interface area of exposure, volume of water exposed, length of time water is in contact with the material, and level of public health risk. Examples of water system components that would be considered to be in “substantial contact” with drinking water are filter media, storage tank interiors or liners, distribution piping, membranes, exchange or adsorption media, or other similar components that would have high potential for contacting water intended for human consumption. Materials associated with components such as valves, pipe fittings, debris screens, gaskets, or similar appurtenances would not be considered to be in substantial contact.

(c) Materials or additives in use prior to the effective date of the regulations in this chapter that have not been listed under ANSI/NSF Standard 60 or 61 may be used for their current applications until the materials are scheduled for replacement, or until stocks of existing additives are depleted and scheduled for reorder.

(d) Any products used to coat, line, seal, or patch water contact surfaces, or that have substantial water contact within the collection, treatment, or distribution systems must comply with the appropriate ANSI/NSF Standard 60 or 61. Application of these products must comply with recommendations contained in the product certification.

(e) Evidence that a product conforms to the requirements of this section shall be the appearance on the product of* product package of a seal of a certifying entity that is accredited by the American National Standards Institute to provide the certification.

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*So in original; probably should be “or.”

(f) Any treatment chemical or additive used in a public water system must come from and be stored in containers that are clearly labeled in English, and must display the manufacturer’s name and address.

(g) The Director shall consider standards for chemicals, materials, or equipment that have been certified by NSF International as complying with the standards required by this section. In those instances where chemicals, materials, and equipment that come into contact with water intended for human consumption are essential to the design, construction, or operation of the drinking water system and have not been certified by NSF International of* have NSF certification but are not available from more than one source, the standards shall provide for the use of alternatives which include:

(1) Products composed entirely of ingredients determined by the Environmental Protection Agency, the Food and Drug Administration, or other federal agencies as appropriate for addition to potable water or aqueous food.

(2) Products consistent with the specifications of the American Water Works Association.

(3) Products that are designed for use in drinking water systems and that are consistent with the specifications of the American Society for Testing and Materials.

*So in original; probably should be “or.”

(h) The following materials and products are exempt from the requirement to conform to ANSI/NSF Standard 61:

(1) A concrete structure, tank, or treatment tank basin constructed onsite that is not normally coated or sealed if the construction materials used in the concrete are consistent with subsection (g). If a coating or sealant is specified by the design engineer, the coating or sealant shall comply with ANSI/NSF Standard 61;

(2) An earthen reservoir or canal located upstream of water treatment;

(3) A synthetic tank constructed of material that meets Food and Drug Administration standards for a material that comes into contact with drinking water or aqueous food that is less than 15,000 gallons in capacity; or

(4) A pipe, treatment plant component, or water distribution system component made of lead-free stainless steel.

Modified, 1 CMC § 3806(c), (d), (g).

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: In subsection (f), the Commission corrected the spelling of “manufacturer’s.”

§ 65-20-116 Operational Requirements

(a) Prior to the initial operation of any newly constructed public water system, or the operation of any public water system that has modified its source water, treatment,

storage, or distribution facilities, the public water system must be inspected by Division personnel.

(b) **Newly Constructed Water Systems.** Prior to serving water to the public, a newly constructed public water system must undergo a full sanitary survey performed by Division personnel. If, as a result of that survey, significant deficiencies are identified, the water system is prohibited from distributing water until those deficiencies have been corrected to the satisfaction of the Director.

(c) **New Facilities of Existing Water Systems.** Prior to distributing water, Division personnel must inspect newly constructed or modified public water system facilities. If, as a result of that inspection, significant deficiencies are identified, the public water system is prohibited from distributing water from those treatment facilities until all deficiencies have been corrected to the satisfaction of the Director.

(d) No later than 45 calendar days after any public water system receives written notice from the Division that one or more significant deficiencies has been identified, the water system must respond in writing to the Division indicating the steps it will take to correct the deficiencies, and the schedule for those corrections.

(e) A new public water system, or a new water source to be used by an existing public water system, shall not distribute water until all three of the following conditions are met.

(1) All initial monitoring required at entry points to the distribution system, as specified in part 200 of this chapter, has been performed.

(2) All analytical results have been reported to the Division.

(3) All analytical results indicate there is no exceedance of any applicable maximum contaminant level.

Modified, 1 CMC § 3806(c), (d), (f).

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: The Commission inserted a comma after the word “storage” in subsection (a) pursuant to 1 CMC § 3806(g).

§ 65-20-118 Sanitary Surveys

(a) It is the responsibility of every public water system, including community water systems and non-community water systems, to have a sanitary survey of all of their public water system facilities conducted at least once every three years. Owners of public water systems shall submit a completed sanitary survey to the Division within 36 months of the effective date of the regulations in this chapter.

(1) At a minimum the sanitary survey shall address these elements: water source; treatment; distribution system; finished water storage; pumps, pump facilities and controls; monitoring, reporting and data verification; water system management and operations; and operator compliance with Commonwealth requirements.

(2) The sanitary survey shall be documented in a report to the Division.

(3) Significant deficiencies identified in the report shall be addressed by the water system within 30 days of being notified of the deficiency.

(b) The sanitary survey shall be performed by a person approved by the Division. Such persons include:

- (1) Division personnel trained to perform sanitary surveys;
- (2) Bureau of Environmental Health personnel trained to perform sanitary surveys;
- (3) Registered professional engineers trained to perform sanitary surveys and approved by the Division;
- (4) Registered environmental health specialists trained to perform sanitary surveys and approved by the Division; or
- (5) Other personnel trained to perform sanitary surveys and approved by the Division.

(c) The Division may assess reasonable fees for a sanitary survey if Division personnel perform the survey.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Subpart C - Certification of Public Water System Operators

§ 65-20-120 General Provisions

(a) The purpose of this subpart is to assure that public water system operators are trained and certified, and that they have knowledge and understanding of the public health reasons for drinking water standards.

(b) No later than January 1, 2006, owners of all public water systems must place the direct supervision of their water system, including each treatment facility and/or distribution system, under the responsible charge of an operator holding a valid certification equal to or greater than the classification of the treatment facility and/or distribution system.

(c) All operating personnel making process control/system integrity decisions about water quality or quantity that affect public health must be certified.

(d) A designated certified operator must be available for each operating shift.

(e) The Division may charge reasonable fees to cover the expenses of the certification program. These fees may include an initial application fee for new applicants, an exam fee if an exam is to be administered, and a renewal fee for operators that are already certified.

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

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Commission Comment: The 2008 amendments amended subsection (e). See 29 Com. Reg. at 27641 (Dec. 18, 2007).

§ 65-20-122 Certification Requirements

(a) A person seeking certification under this regulation shall submit an application to the Division on a form approved by the Division.

(b) The Division will certify an applicant who has met the examination requirements of § 65-20-122(c) and the experience and education requirements of § 65-20-122(d); or the comity requirements of § 65-20-122(e); and has submitted the appropriate fees.

(c) Examination requirements

(1) To be certified to operate a water system classified as class 1 through class 4 under § 65-20-124 an applicant must pass a validated examination that demonstrates the applicant's skills, knowledge, ability, and judgment to operate a system of that classification in compliance with the requirements of the regulations in this subchapter.

(2) The applicant must obtain a minimum score of 70% on the exam in order to pass the examination.

(3) An applicant may not take the same water treatment or water distribution exam more than once within a span of 90 days.

(4) The applicant must submit the exam fee for each exam before taking the exam.

(d) Education and experience requirements

(1) To be certified as a class 1 through class 4 water treatment plant operator or water distribution operator, an applicant must have at least a high school diploma or the equivalent thereof.

(2) To be certified as an operator-in-training water treatment plant operator or water distribution operator, an applicant must be enrolled in a high school degree program, or have at least a high school diploma or the equivalent thereof.

(3) Experience requirements for each classification level of operator are outlined in the following Table 1 - Years of Experience for Certification at Each Classification Level.

Table 1 - Years of Experience Required for Certification at Each Classification Level					
Classification Level	OIT+	Class 1	Class 2	Class 3	Class 4
Water Treatment	0	1	3	4	4
Water Distribution	0	1	4	6	8
+ OIT means Operator-in-Training. An operator certified at the OIT level is a certified operator, but cannot be the supervising operator having responsible charge over a public water system because the certification level is not at the classification level of the public water system.					

(e) Comity requirements

(1) The Division will recognize the certification of operators who have current drinking water operator certifications in good standing from any U.S. state, territory, or

possession, or from the Association of Boards of Certification. Such recognition is termed comity certification.

(2) The Division will determine the classification level that the operator qualifies to be recognized at based on the operator's experience and education.

(3) (Removed and reserved).

(4) In order to be certified by comity in the Commonwealth, a certified operator must provide the Division with the following:

(i) A current and valid certificate documenting that the individual is a certified operator in any jurisdiction described in § 65-20-122(e)(1) of this subchapter.

(ii) All support documents required by the original certifying authority to authenticate the qualifications of the operator.

(iii) The appropriate fees.

(f) Certificate term and renewal

(1) A certificate issued under the conditions of § 65-20-122(c)-(d), examination, experience and education requirements, is valid for a three-year period beginning January 1 of the year of issuance.

(2) A certificate issued under the conditions of § 65-20-122(e), comity certification, is valid for the term of the original certificate or three years, whichever is less.

(3) The Division will renew a certificate only if an operator has completed 10 contact hours of Division approved continuing education for every year that the certificate was valid (30 hours for a three year certificate); has paid the required fee; and is otherwise in compliance with this subchapter. A renewed certificate is valid for a three year period beginning January 1 of the year of issuance.

(g) Lapsed certificates

(1) An operator who seeks renewal of a lapsed certificate shall submit a request for renewal within 180 days after the certificate lapses. Upon receipt of a valid request for renewal, including proof of compliance with § 65-20-122(f)(3) and payment of the appropriate fee, the Division shall renew a certificate.

(2) The Division will require reexamination of an operator whose renewal application is received more than 180 days after the certificate lapses.

(h) Revocation of operator certification

(1) After an investigation and review of the facts, and in accordance with all applicable Commonwealth laws and regulations, the Director may revoke the certification of an operator for any of the following reasons:

(i) The operator has practiced fraud or deception, has tampered with water samples, falsified analytical data, or falsified other operating records. A person committing such actions is liable for civil or criminal penalties in accordance with 2 CMC § 3131(d).

(ii) Reasonable care, judgment, or the application of knowledge was not used in the performance of the operator's duties.

(iii) The operator does not perform duties in a manner that meets drinking water compliance requirements of Commonwealth laws and regulations.

(iv) The certification of the operator has expired or is no longer valid in the original jurisdiction from which their certification was issued.

(2) An operator whose certificate is revoked may not apply for certification for 365 days after revocation. An application received under this subsection will be treated as an initial application.

(i) Temporary certification: The Director may, in his discretion, issue a temporary certificate for good cause shown. The temporary certificate is valid until the earliest date when the operator may be examined and certified under this regulation. A temporary certificate applies only to the system which the applicant is operating at the time of application, and will not be renewed. The fees required must be paid before a certificate will be issued.

Modified, 1 CMC § 3806(c), (d), (f).

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: The 2008 amendments amended subsections (c), (d), (e), and (f). See 29 Com. Reg. at 27641-27642 (Dec. 18, 2007) for subsection (c), 29 Com. Reg. at 27642 (Dec. 18, 2007) for subsection (d), 29 Com. Reg. at 27642 (Dec. 18, 2007) for subsection (e), and 29 Com. Reg. at 27643 (Dec. 18, 2007) for subsection (f). The Commission corrected a typographical error in subsection (e)(4) by changing a period to a colon.

§ 65-20-124 Classification of Public Water System

The treatment facility(ies) and the distribution system(s) of a public water system are classified separately as follows.

(a) A drinking water treatment facility is classified as a Class 1, Class 2, Class 3, or Class 4 treatment facility in accordance with Table 1 (Classification of Treatment Facilities).

Table 1- Classification of Treatment Facilities	
Type of Treatment	Class of Treatment Facility
Groundwater sources using disinfection on a continuous basis.	Class 1
Membrane filtration, cartridge filtration, or desalination (including distillation, ion exchange, and reverse osmosis) of groundwater, purchased water, or water from rainwater roof catchments.	Class 2
Any filtration (except conventional or direct filtration) of surface water or groundwater under the direct influence of surface water.	Class 3
Conventional filtration or direct filtration of surface water.	Class 4

(b) A drinking water distribution system is classified as a Class 1, Class 2, Class 3, or Class 4 distribution system in accordance with Table 2 (Classification of Distribution Systems).

Table 2 - Classification of Distribution Systems	
Population Served by Water System	Class of Distribution System
1,500 and less	Class 1
1,501 to 15,000	Class 2
15,001 to 50,000	Class 3
50,001 and greater	Class 4

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: The 2008 amendments corrected a typographical error in subsection (a) of this section.

Subpart D - Bottled Water Companies

§ 65-20-126 Basis for Regulation

(a) Bottled water companies play a vital role in providing drinking water in the Commonwealth. They are, however, generally not regulated as public water systems under the federal Safe Drinking Water Act (in certain circumstances, they may be federally regulated as noncommunity water systems). In addition, regulations promulgated under the federal Safe Drinking Water Act do not take into consideration the unique characteristics of bottled water plants.

(b) In order to assure the provision of safe drinking water and protect public health, the Division regulates bottled water companies as public water systems within the Commonwealth under the jurisdiction granted by 2 CMC §§ 3111(a)(1) and 3122(b). The requirements in this subpart assure that the customers of bottled water companies are provided at least an equal level of protection afforded the customers of other public water systems.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

§ 65-20-128 Requirements of Bottled Water Companies

(a) Bottled water companies are regulated as community water systems and, except as specified in subsections (b) through (d) of this section, must follow all CNMI National Primary and Secondary Drinking Water Regulations as specified in parts 200 and 300 of this chapter.

(b) Special Monitoring Requirements for Coliform Sampling. For the purpose of complying with the coliform sampling requirements of § 65-20-214(a) of this chapter, the minimum number of samples required per month is based on system configuration, not population served. A bottled water company must collect a minimum of:

(1) Two routine samples every month from every tap at the facility that provides finished water.

(i) Finished water taps include taps, faucets, and spouts that provide water to bottles, bulk storage, retail faucets, and ice machines.

(ii) A row of taps at a single sink that has only one source of water is counted as one tap. In this situation, a sample can be collected at any individual tap.

(2) Two routine samples every month from the tank on each vehicle that hauls water intended for human consumption; and

(3) One routine sample every month from each bulk retail water storage the bottled water company delivers water to.

(c) Special Monitoring Requirements for Chemical Samples

(1) A bottled water company that collects water from a well, spring, rainwater catchment or other source must monitor that water for chemical contaminants as specified in § 65-20-214(c), § 65-20-214(d), and § 65-20-214(f) of this chapter.

(2) A bottled water company that is a consecutive water system (as described at § 65-20-214(i) of this chapter) and that purchases water from another public water system, must monitor that purchased water as described below.

(i) Volatile organic chemicals listed at § 65-20-222(b) of this chapter must be monitored every three years.

(ii) Inorganic chemicals listed at § 65-20-222(c) of this chapter, with the exception of asbestos, must be monitored every three years.

(iii) Synthetic organic chemicals listed at § 65-20-222(b) of this chapter, with the exception of diquat, endothall, glyphosate and dioxin, must be monitored every three years.

(iv) Radionuclide contaminants listed at § 65-20-222(g) of this chapter, with the exception of beta particle and photon radioactivity, must be monitored every three years.

(v) If the public water system from which the water is purchased fails to perform the chemical monitoring required of it, then the purchaser of that water (e.g., the bottled water company) must monitor according to the requirements at subsection (c)(1) of this section.

(vi) The requirement for quarterly monitoring in any initial compliance period specified in § 65-20-214(c), § 65-20-214(d), and § 65-20-214(f) of this chapter is waived if the

public water system from which the water is purchased has performed the required monitoring.

(vii) All other monitoring requirements specified in § 65-20-214(c), § 65-20-214(d), and § 65-20-214(f) of this chapter are applicable if any contaminant is detected as a concentration that triggers additional requirements on the part of the bottled water company.

(d) Special Monitoring Requirements for Control of Lead and Copper

For the purpose of complying with the lead and copper sampling requirements of § 65-20-226(g) and § 65-20-226(h) of this chapter, all bottled water companies must, at a minimum, collect samples from the number of sample sites required under the “101 to 500” system size category.

(e) Special Monitoring Requirements for Disinfectants/ Disinfection By-products

For the purpose of complying with the disinfectants/ disinfection by-products monitoring requirements of § 65-20-232(c) of this chapter, bottled water companies must designate one or more sample locations reflecting maximum residence time of product water within the public water system’s distribution system. Allowable sample locations are as follows:

- (1) A finished water product tank containing water that has remained undisturbed in the tank for a minimum of 24 hours.
- (2) A five-gallon bottle of finished water that was produced and retained for a minimum of 24 hours.
- (3) Any other location approved by the Director.

(f) Every bottled water company must abide by the operator certification requirements of §§ 65-20-120, 65-20-122 and 65-20-124 of this chapter.

(g) In addition to the requirements imposed under this section, the processing of bottled water shall be subject to regulation by the Commonwealth Department of Public Health and the U.S. Food and Drug Administration.

Modified, 1 CMC § 3806(c), (d).

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: The Commission inserted a comma after the word “faucets” in subsection (b)(1)(i) pursuant to 1 CMC § 3806(g).

Subpart E - Rainwater Catchment Systems

§ 65-20-130 Basis for Regulation

(a) Rainwater catchment systems play a significant role in supplementing the quantity of water available in the Commonwealth. Generally, however, they are not considered as a source of water when regulations were developed under the federal Safe Drinking Water Act. Accordingly, the federal regulations are silent as to how water intended for human consumption that comes from rainwater sources should be monitored.

(b) In order to assure the provision of safe drinking water, the Division regulates rainwater catchment systems as it does other sources used by public water systems. The requirements of this subpart assure that public water systems relying in whole or in part on water from rainwater catchment systems monitor at an appropriate level to protect public health.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

§ 65-20-132 Requirements of Rainwater Catchment Systems

(a) Rainwater that has traveled over the surface of the land before it is collected in a rainwater catchment system is considered surface water under the regulations in this chapter. Accordingly, it is subject to the same treatment and monitoring requirements as other surface water sources described in part 200 of this chapter.

(b) Rainwater that has not traveled over the surface of the land and, instead, has been collected in a rainwater roof catchment system, is not considered surface water under this chapter. It is considered groundwater, and is subject to the same monitoring and treatment requirements as other groundwater sources as described in this chapter.

(c) **Special Monitoring Requirements for Rainwater Roof Catchment Systems.** If an entry point to a distribution system is supplied solely by water collected in a rainwater roof catchment system (i.e., it is not mixed with water from any other source), the following chemical monitoring requirements at that entry point shall apply.

(1) Monitoring for nitrate must be performed once during the initial compliance period.

(i) If nitrates are not detected during the initial compliance period then no additional monitoring for nitrate is required during repeat compliance periods.

(ii) If nitrates are detected during the initial compliance period, then the Division may require additional monitoring for nitrate.

(2) The requirement to monitor for the synthetic organic chemicals listed at § 65-20-222(b), and as required in § 65-20-214(d) of this chapter, is waived.

(3) The requirement to monitor for the radionuclide chemicals listed at § 65-20-222(g), and as required in § 65-20-214(f) of this chapter, is waived.

(4) If the roofing material is replaced or a new protective coating is applied to the roof, then the rainwater roof catchment system is considered to be a new water source, and the monitoring cycle for chemical contaminants will start again with an initial compliance period.

Modified, 1 CMC § 3806(c), (d).

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Subpart F - Disinfection of Groundwater and Rainwater

§ 65-20-134 Basis for Regulation

(a) Many of the wells used to supply groundwater in the Commonwealth are shallow wells drilled into high-permeability limestone aquifers. These wells, especially if poorly constructed, are subject to microbiological contamination. Rainwater roof catchment systems, if not properly and frequently maintained, are also susceptible to contamination from microbes, plant debris, and animals.

(b) For these reasons, it is important for public water systems that produce drinking water from these sources to effectively treat the source water before the water is provided to their consumers. This section sets forth disinfection requirements for sources of water obtained from groundwater and rainwater roof catchments.

(c) The requirements for the treatment of surface water and groundwater under the direct influence of surface water are specified in part 200, subpart H of these regulations.

Modified, 1 CMC § 3806(c), (f).

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c). The Commission inserted a comma after the word “debris” in subsection (a) pursuant to 1 CMC § 3806(g).

§ 65-20-136 Requirements for the Disinfection of Groundwater and Rainwater Sources

(a) All water obtained from groundwater sources or rainwater roof catchment systems shall be continuously disinfected by means or methods that are approved by the Director and are effective in the inactivation of pathogenic organisms. Disinfection may include physical as well as chemical treatment.

(b) **Systems Using Chlorination.** When chlorination methods are employed, a sufficient amount of chlorine shall be continuously added to the source water to inactivate any pathogenic organisms potentially present and to maintain a residual in the distribution system.

(1) The residual disinfectant concentration in the distribution system, measured as total chlorine, combined chlorine, or free chlorine, cannot be less than 0.10 mg/l in more than five percent of the samples taken each month, for any two consecutive months that the system serves water to the public.

(2) The residual disinfectant concentration must be measured at least at the same points in the distribution system and at the same time as total coliform are sampled.

(3) The residual disinfectant concentration measured at sample points in the distribution system must be reported to the Division on the same form used to report total coliform results.

(c) **Systems That Use a Disinfectant Other than Chlorine.** When methods of disinfection are employed that do not leave a measurable disinfectant residual in the product water, the public water system must adhere to the requirements specified below. Failure to comply with these requirements is a violation of these regulations in this chapter and may result in an enforcement action.

(1) Design and installation of the treatment unit shall ensure that the manufacturer's maximum rated flow and pressure cannot be exceeded;

(2) All treatment equipment (including recommended pretreatment equipment) must be installed, operated, and maintained in accordance with the manufacturer's recommendations;

(3) The manufacturer's manuals and documentation must be maintained on-site;

(4) Complete and accurate records of operation and maintenance must be maintained and kept on-site;

(5) At least one set of spare parts for components that must be periodically replaced must be on-site or readily available; and

(6) The Director may require additional monitoring or challenge testing of any disinfection treatment equipment in order to determine its effectiveness.

(d) The methods of disinfection described in subsection (c) of this section may only be used by bottled water companies and, as determined by the Director, in situations where a point-of-entry treatment device or a point-of-use treatment device is deemed appropriate.

(e) Public water systems must measure residual disinfectant concentration with one of the analytical methods listed at 40 CFR §141.74(a)(2).

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Subpart G - Drinking Water Emergencies and Tampering with Public Water Systems

§ 65-20-138 Supply of Drinking Water During Emergencies

Two types of potential emergency situations outside the normal scope of operations are recognized with respect to public water systems: (a) toxic contamination of the water supply; and (b) mechanical failure and/or major natural disaster. Under these situations, the following requirements apply.

(a) **Toxic Contamination.** A potential emergency may exist when drinking water quality is impacted due to the presence of toxic or other substances in the water supply that cannot be removed by existing treatment methods and which, if ingested, may cause

an immediate risk to the health of consumers. The presence of such substances may be identified by such parameters as odor, taste, color, microbiological or chemical analysis, or by other evidence. Under these circumstances, the affected public water system shall do the following.

- (1) Immediately close off the water supply to the distribution system.
- (2) Notify the Director of the Division within one hour of the discovery of the contamination.
- (3) Notify water consumers by the quickest available means of communication. At a minimum, the guidelines for a Tier 1 Public Notice, as described in § 65-20-242(b), should be followed.
- (4) Deliver potable water from an alternative suitable water source to such public consumers as hospitals, clinics, and similar institutions that are normally supplied water from the contaminated water supply. The water so delivered shall be disinfected to the satisfaction of the Director. The deliveries shall continue until the time the Director declares the contaminated public water supply potable.
- (5) Provide potable water from an alternative suitable water source at a location convenient for the consumers normally supplied water from the contaminated water supply. The water shall be disinfected to the satisfaction of the Director. The alternative water supply must be made available until such time as the Director declares the contaminated public water supply potable.
- (6) If potable water is provided by hauling the water in a tanker truck or trailer, the water container on the vehicle shall be sanitized before use. The public water system responsible for providing the alternative water supply shall monitor the alternative water supply for coliform bacteria at the point where the consumers collect the water at a frequency determined by the Director.

(b) Mechanical Failure and/or Major Disaster. A potential emergency may exist when water quality or quantity is impacted due to mechanical failure of water treatment facilities due to insufficient operation and maintenance, vandalism, or natural disasters such as typhoons or earthquakes. In such situations, the affected public water system shall do the following.

- (1) Take preventative measures to ensure that the water supply does not become contaminated, such as isolating tanks or distribution mains, if needed.
- (2) Notify the Director of the Division within one hour of the discovery of the mechanical failure.
- (3) Notify water consumers by the quickest available means of communication. At a minimum, the guidelines for a tier 1 public notice, as described in § 65-20-242(b), should be followed.
- (4) Deliver potable water from an alternative suitable water source to such public consumers as hospitals, clinics, and similar institutions that are normally supplied water from the affected water supply. The water so delivered shall be disinfected to the satisfaction of the Director. The deliveries shall continue until the time the Director declares the mechanical failure has been corrected.
- (5) Supply of alternative water for residents.
 - (i) Limited service area mechanical failures. If the mechanical failure is limited to only one village, then provide potable water from an alternative suitable water source at a

location convenient for the consumers normally supplied water from the affected water supply. The water shall be disinfected to the satisfaction of the Director. The alternative water supply must be made available until such time as the Director declares that the mechanical failure has been corrected.

(ii) Large service area mechanical failures. If the mechanical failure affects more than one village, then the public water system must advise consumers as to the locations where potable water may be obtained if such water is available. If potable water is not available, the public water system will advise consumers where other water sources may be found in the immediate vicinity. The public water system will also recommend disinfection of drinking water as prescribed at § 65-20-140.

(6) If potable water is provided by hauling the water in a tanker truck or trailer, the water container on the vehicle shall be sanitized before use. The public water system responsible for providing the alternative water supply shall monitor the alternative water supply for coliform bacteria at the point where the consumers collect the water at a frequency determined by the Director.

Modified, 1 CMC § 3806(c), (f).

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

§ 65-20-140 Emergency Disinfection of Drinking Water

(a) A public water system shall provide to its customers and users the information required by subsections (b) and (c) of this section when, due to natural disasters or other circumstances, it is necessary for individual consumers to disinfect their own drinking water. The form, manner and frequency of providing the information shall be in accordance with a tier 1 public notice, as described at § 65-20-242(b) of this chapter.

(b) When emergency disinfection is necessary, examine the physical condition of the water. Disinfectants are less effective in cloudy water. Filter murky or colored water through clean cloths or allow it to settle, and draw off the clean water for disinfection. Water prepared for disinfection should be stored only in clean, tightly covered, containers, not subject to corrosion. Water to be used for drinking, cooking, making any prepared drink, or brushing teeth should be properly disinfected.

(c) Disinfection Methods. To disinfect small quantities of water (5 gallons or less) the following procedures are recommended:

(1) Boiling. Vigorous boiling for one minute will kill any disease-causing microorganisms present in water. The flat taste of boiled water can be improved by pouring it back and forth from one container to another (called aeration), by allowing it to stand for a few hours, or by adding a small pinch of salt for each quart of water boiled.

(2) Chlorine Bleach. When boiling is not practical, chemical disinfection should be used. Common liquid household bleach (5.25% sodium hypochlorite) contains a chlorine compound that will disinfect water. To achieve a concentration of at least 1 part per million (ppm) residual chlorine, add bleach in accordance with the table below.

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Emergency Disinfection Using Chlorine Bleach

<u>Amount of Water</u>	<u>For Clear Water</u> <u>use this much chlorine</u>	<u>For Cloudy Water</u> <u>use this much chlorine</u>
1 Quart	2 drops	4 drops
1 Gallon	8 drops	16 drops
5 Gallons	½ teaspoon	1 teaspoon

The treated water should be mixed thoroughly and allowed to stand, preferably covered, for 30 minutes. The water should have a slight chlorine odor; if not, repeat the dosage and allow the water to stand for an additional 15 minutes. If the treated water has too strong a chlorine taste, it can be made more pleasing by allowing the water to stand exposed to the air for a few hours or by pouring it from one clean container to another several times.

Modified, 1 CMC § 3806(c), (d), (f).

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

§ 65-20-142 Emergency Powers of the Director

(a) Notwithstanding any other provision of the regulations in this chapter, the Director, upon receipt of information that a contaminant which is present or is likely to enter a public water system or a source of drinking water and may present an imminent endangerment to the health of persons, may take such actions as he deems necessary in order to protect the health of such persons.

(b) The action which the Director may take may include (but shall not be limited to):

(1) Issuing such orders as may be necessary to protect the health of persons who are or may be users of such system, including orders requiring the provision of alternative water supplies by persons or public water systems who caused or contributed to the endangerment.

(2) Requesting that the CNMI Attorney General commence a civil or criminal action for appropriate relief, including a restraining order or permanent or temporary injunction.

(c) Any person who violates or fails or refuses to comply with any order issued by the Director under subsection (b)(1) may be subject to a civil penalty for each day in which the violation occurs or failure to comply continues, in accordance with 2 CMC § 3131(c).

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

§ 65-20-144 Tampering with Public Water Systems

(a) Prohibition against Tampering with Public Water Systems

(1) A person may not tamper, attempt to tamper, or make a threat to tamper with a public water system.

(2) Any person who violates subsection (a)(1) of this section may be subject to a civil or criminal penalty in accordance with 2 CMC § 3131(d) for each day in which the tampering incident results in the disruption of normal public water system operations.

(b) Water System Responsibilities

(1) A public water system must minimize the potential for tampering of its water system facilities by, at a minimum, assuring the following:

(i) Direct access to water storage tanks via manholes and other openings are securely locked;

(ii) All drinking water treatment facilities are enclosed and securely locked, or at a minimum, fenced and securely locked;

(iii) All other vulnerable areas (e.g., wellheads, storage tanks, pump stations, etc.) are fenced and securely locked;

(iv) All active and inactive wells have adequate and properly maintained sanitary seals. Monitoring wells must be securely locked;

(v) All abandoned wells are abandoned and sealed in accordance with part 1900 of the Commonwealth Well Drilling and Well Operations Regulations [NMIAC chapter 65-140]; and

(vi) All water system operation, maintenance, and administrative records are adequately stored and secured.

(2) A public water system must notify the Division and any other appropriate government authorities as soon as possible, but no later than 24 hours, following any tampering, suspected tampering, or receipt of a tampering threat by the public water system.

Modified, 1 CMC § 3806(c), (d).

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

§ 65-20-146 Emergency Response Plan for Systems Serving 3,300 or More People

(a) Community water systems serving 3,300 or more people shall prepare or revise, where necessary, an emergency response plan. The emergency response plan shall include, but is not limited to, plans, procedures, and identification of equipment that can be implemented or utilized in the event of a natural or manmade disaster that may impact the water system.

(b) Community water systems shall to the extent possible, coordinate with existing Local Emergency Planning Committees when preparing or revising an emergency response plan.

(c) Community water systems may use the following publication as guidance on how to prepare their emergency response plan: Large Water System Emergency Response Plan Outline: Guidance to Assist Community Water Systems in Complying with the Public Health Security and Bioterrorism Preparedness and Response Act of 2002,

Environmental Protection Agency, Office of Water, July 2003; which can be obtained at www.epa.gov/safewater.

(d) Each community water system required under subsection (a) of this section to prepare or revise an emergency response plan, shall certify to the Director the completion of the plan by January 1, 2006. Each such community water system shall then revise and update their emergency response plans, and certify to the Director the completion of the revision, at least once every five years thereafter.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Subpart H - Enforcement of Regulations and Penalties for Violations

§ 65-20-148 Enforcement of Regulations

The Director may enforce the regulations in this chapter by initiation of administrative actions, and/or causing the initiation of civil or criminal actions in the Commonwealth or federal courts, pursuant to 2 CMC § 3131 and 42 USC § 300h-2(a)(1).

(a) The Director shall have the responsibility to prepare, issue, modify, revoke and enforce orders for compliance with any of the provisions of the regulations in this chapter, and require the taking of such remedial measures as may be necessary or appropriate to implement or effectuate the provisions and purposes of these regulations.

(b) The Division shall provide for public participation in the enforcement of the regulations in this chapter.

(1) Public participation shall include providing notice and opportunity for public comment on all proposed settlements of civil enforcement actions (except where immediate action is necessary to adequately protect human health and the environment).

(2) The Division shall investigate and provide responses to citizen complaints about violations of these regulations, except where the disclosure of such information may interfere with an active administrative, civil, or criminal enforcement action.

(c) The Division shall make information obtained available, upon request, to the U.S. Environmental Protection Agency or any duly authorized committee of Congress without restriction.

(d) Nothing in this section shall prevent enforcement by the U.S. Environmental Protection Agency of either the federal or Commonwealth Drinking Water Regulations.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

§ 65-20-150 Penalties for Violation of Regulations

Any person who violates, or who refuses or neglects to comply with any provision of the regulations in this chapter, or any certification, standard, notification, or order issued by the Director, the Division, or the Attorney General, shall be subject to the penalties specified at 2 CMC § 3131.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Part 200 - CNMI National Primary Drinking Water Regulations

Subpart A - General

§ 65-20-201 Referenced Version of 40 CFR § 141 and Applicability (§§ 2141.0 - 2141.1)

(a) All references to 40 CFR § 141 of the National Primary Drinking Water Regulations in this subchapter refer to the version as revised and codified as of July 1, 2014.

(b) The provisions of 40 CFR § 141.1 of the National Primary Drinking Water Regulations, are hereby adopted by reference.

Modified 1 CMC § 3806(d).

History: Amdts Adopted 37 Com. Reg. 37300 (Dec. 28, 2015); Amdts Proposed 37 Com. Reg. 37098 (Oct. 28, 2015); Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: The original section number published by DEQ in the Commonwealth Register is provided in parentheses after the section and subsection titles in this part because these section numbers correspond to the federal drinking water regulations. The reference will assist users in identifying any local changes to the federal regulations adopted by reference.

The 2008 amendments changed this section and added subsection (a) (§ 2141.0). Former subsection (a) was redesignated to subsection (b). See 29 Com. Reg. at 27645 (Dec. 18, 2007). The Commission changed the title of this section based on the 2008 amendments.

The 2015 amendments changed the date in subsection (a) from July 1, 2007 to July 1, 2014. The Commission changed “these regulations” in subsection (a) to “this subchapter.”

§ 65-20-202 Definitions (§ 2141.2)

The provisions of 40 CFR § 141.2 of the National Primary Drinking Water Regulations, are hereby adopted by reference, with the following modification.

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(a) The text of the first sentence for the definition of “state” found within 40 CFR § 141.2 is replaced with, “state means the agency within the Commonwealth of the Northern Mariana Islands which has jurisdiction over public water systems. That agency is the Division of Environmental Quality within the Office of the Governor.”

Modified 1 CMC § 3806(d), (f).

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: See the commission comment to § 65-20-201.

The 2008 amendments changed the first sentence of this section by removing the July 1, 2004 reference.

§ 65-20-204 Coverage (§ 2141.3)

The provisions of 40 CFR § 141.3 of the National Primary Drinking Water Regulations are hereby adopted by reference, with the following addition.

(a) Systems with only distribution and storage facilities. The Director may require any public water system to comply with all requirements of the Commonwealth Drinking Water Regulations, including those systems that meet all four conditions of 40 CFR § 141.3, if the Director determines that the water provided by the system may present a potential risk to public health. The Director will make such a determination based on an evaluation that may include the following factors:

- (1) The distribution system size and condition.
- (2) The maintenance of storage facilities.
- (3) The potential for contamination and cross connections.
- (4) The results of available microbiological, chemical, or disinfectant residual analyses of the water provided by the system.

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: See the commission comment to § 65-20-201.

The 2008 amendments changed the first sentence of this section by removing the July 1, 2004 reference.

§ 65-20-206 [Reserved] (§ 2141.4)

[Reserved.]

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: See the commission comment to § 65-20-201.

§ 65-20-208 Siting requirements (§ 2141.5)

The provisions of 40 CFR § 141.5 of the National Primary Drinking Water Regulations are hereby adopted by reference.

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: See the commission comment to § 65-20-201.

The 2008 amendments changed this section by removing the July 1, 2004 reference.

§ 65-20-210 Effective dates (§ 2141.6)

The provisions of 40 CFR § 141.6 of the National Primary Drinking Water Regulations are hereby adopted by reference. The effective dates listed in the Code of Federal Regulations only pertain to federal standards and requirements.

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: See the commission comment to § 65-20-201.

The 2008 amendments changed this section by removing the July 1, 2004 reference.

Subpart B - Maximum Contaminant Levels

§ 65-20-212 Maximum Contaminant Levels (§ 2141.11 - § 2141.16)

(a) Maximum contaminant levels for inorganic chemicals (§ 2141.11)

The provisions of 40 CFR § 141.11 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(b) (Removed and Reserved) (§ 2141.12).

(c) Maximum contaminant levels for turbidity (§ 2141.13)

The provisions of 40 CFR § 141.13 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(d) Maximum contaminant levels for radium-226, radium-228, and gross alpha particle radioactivity in community water systems (§ 2141.15)

The provisions of 40 CFR § 141.15* of the National Primary Drinking Water Regulations are hereby adopted by reference.

(e) Maximum contaminant levels for beta particle and photon radioactivity from man-made radionuclides in community water systems (§ 2141.16)

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The provisions of 40 CFR § 141.16* of the National Primary Drinking Water Regulations are hereby adopted by reference.

* So in original. See Commission Comment.

Modified 1 CMC § 3806(f).

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: See the commission comment to § 65-20-201.

The 2008 amendments changed subsections (a) through (e) by removing the July 1, 2004 reference and repealed and reserved subsection (b). See 29 Com. Reg. at 27646-47 (Dec. 18, 2007).

Title 40 of the Code of Federal Regulations does not contain sections 141.15 or 141.16.

Subpart C - Monitoring and Analytical Requirements

§ 65-20-214 Monitoring and Analytical Requirements (§ 2141.21 - § 2141.30)

(a) Coliform sampling (§ 2141.21)

The provisions of 40 CFR § 141.21 of the National Primary Drinking Water Regulations are hereby adopted by reference, with the following modifications and additions.

(1) The written sample siting plan specified at 40 CFR § 141.21(a)(1) must be written in accordance with Division guidance and submitted to the Director for approval. The plan must be revised and resubmitted to the Director within 30 days of any modification to the distribution system(s) that adds, deletes or changes the location of any coliform sample point.

(2) The text found within 40 CFR § 141.21(a)(3) is replaced with, “A non-community water system must monitor at the same frequency as a like-sized community water system, as specified in subsection (a)(2) of this section.”

(3) The routine monitoring requirements specified at 40 CFR § 141.21(a) and the repeat monitoring requirements specified at 40 CFR § 141.21(b) are applicable to every hydraulically independent distribution system within a public water system. For example, some public water systems have separate distribution systems for the water from each of the sources that they obtain water, be it rainwater, ground water, or from another public water system. Each of these independent distribution systems is subject to the monitoring and repeat monitoring requirements.

(4) A public water system may cease to collect repeat samples when it determines that the maximum contaminant level for total coliforms in § 65-20-222(d) has been exceeded and it notifies the Division. This applies even if a complete set of repeat samples, as specified at 40 CFR § 141.21(b)(1), has not been collected for each total coliform positive sample found.

(5) No public water system shall increase the disinfectant residual present in its distribution system or other facilities, under any circumstance described below, without written permission from the Director.

(i) Within 48 hours prior to the collection of a routine coliform sample.

(ii) Prior to the collection of a repeat coliform sample when, due to knowledge or suspicion that the original routine sample may be coliform positive, a repeat sample is necessary.

(6) A consecutive public water system must perform monthly coliform monitoring of the water from their distribution system if, at any point in the receiving system's distribution system, the water flows through a storage facility.

(b) Turbidity sampling and analytical requirements (§ 2141.22)

The provisions of 40 CFR § 141.22 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(c) Inorganic chemical sampling and analytical requirements (§ 2141.23)

The provisions of 40 CFR § 141.23 of the National Primary Drinking Water Regulations are hereby adopted by reference with the following addition.

(1) If a public water system does not collect a confirmation nitrate or nitrite sample within two weeks of being notified of the analytical result of the first sample (as required at 40 CFR § 141.23(f)(2)), compliance with the maximum contaminant level for nitrate or nitrite shall be based solely on the analytical result of the single sample.

(d) Organic chemicals, sampling and analytical requirements (§ 2141.24)

The provisions of 40 CFR § 141.24 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(e) Analytical methods for radioactivity (§ 2141.25)

The provisions of 40 CFR § 141.25 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(f) Monitoring frequency for radioactivity in community water systems (§ 2141.26)

The provisions of 40 CFR § 141.26 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(g) Alternate analytical techniques (§ 2141.27)

The provisions of 40 CFR § 141.27 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(h) Certified laboratories (§ 2141.28)

The provisions of 40 CFR § 141.28 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(i) Monitoring of consecutive public water systems (§ 2141.29)

The provisions of 40 CFR § 141.29 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(j) (Removed and Reserved) (§ 2141.30).

Modified, 1 CMC § 3806(c).

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: See the commission comment to § 65-20-201.

The 2008 amendments changed subsections (a) through (i) by removing the July 1, 2004 reference and repealed and reserved subsection (j).

Subpart D - Reporting and Record Keeping

§ 65-20-216 Reporting and Record Keeping (§ 2141.31 - § 2141.35)

(a) Reporting requirements (§ 2141.31)

The provisions of 40 CFR § 141.31 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(b) (Reserved)(§ 2141.32).

(c) Record maintenance (§ 2141.33)

The provisions of 40 CFR § 141.33 of the National Primary Drinking Water Regulations are hereby adopted by reference, with the following additions.

(1) In addition to the data, records and reports specified in 40 CFR § 141.33, a public water system must maintain on its premises or at a convenient location near its premises the following information:

(i) Current as-built engineering and schematic diagrams for all source water, treatment, storage and distribution facilities.

(ii) Current construction materials survey, as referenced at 40 CFR § 141.42(a).

(iii) Current coliform monitoring plan, as referenced at 40 CFR § 141.21(a).

(iv) All other records required by these regulations.

(2) All records must be readily available for review by Division personnel or their representatives during inspections and sanitary surveys.

(d) (Reserved) (§ 2141.34).

(e) Reporting of unregulated contaminant monitoring results (§ 2141.35)

The provisions of 40 CFR § 141.35 of the National Primary Drinking Water Regulations are hereby adopted by reference.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

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Commission Comment: In subsection (c)(1)(iv), the Commission inserted the final period.

See the commission comment to § 65-20-201.

The 2008 amendments changed subsections (a), (c), and (e) by removing the July 1, 2004 reference.

Subpart E - Special Regulations, Including Monitoring Regulations and Prohibition on Lead Use

§ 65-20-218 Special Regulations, Including Monitoring Regulations and Prohibition on Lead Use (§ 2141.40 - § 2141.43)

(a) Monitoring requirements for unregulated contaminants (§ 2141.40)

The provisions of 40 CFR § 141.40 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(b) Special monitoring for sodium (§ 2141.41)

The provisions of 40 CFR § 141.41 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(c) Special monitoring for corrosivity characteristics (§ 2141.42)

The provisions of 40 CFR § 141.42 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(d) Prohibition on use of lead pipes, solder, and flux (§ 2141.43)

The provisions of 40 CFR § 141.43 of the National Primary Drinking Water Regulations are hereby adopted by reference.

Modified 1 CMC § 3806(f).

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: See the commission comment to § 65-20-201.

The 2008 amendments changed subsections (a) through (d) by removing the July 1, 2004 reference.

Subpart F - Maximum Contaminant Level Goals and Maximum Residual Disinfectant Level Goals

§ 65-20-220 Maximum Contaminant Level Goals and Maximum Residual Disinfectant Level Goals (§ 2141.50 - § 2141.55)

(a) Maximum contaminant level goals for organic contaminants (§ 2141.50)

The provisions of 40 CFR § 141.50 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(b) Maximum contaminant level goals for inorganic contaminants (§ 2141.51)

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The provisions of 40 CFR § 141.51 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(c) Maximum contaminant level goals for microbiological contaminants (§ 2141.52)
The provisions of 40 CFR § 141.52 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(d) Maximum contaminant level goals for disinfection byproducts (§ 2141.53)
The provisions of 40 CFR § 141.53 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(e) Maximum residual disinfectant level goals for disinfectants (§ 2141.54)
The provisions of 40 CFR § 141.54 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(f) Maximum contaminant level goals for radionuclides (§ 2141.55)
The provisions of 40 CFR § 141.55 of the National Primary Drinking Water Regulations are hereby adopted by reference.

Modified 1 CMC § 3806(f).

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: See the commission comment to § 65-20-201.

The 2008 amendments changed subsections (a) through (f) by removing the July 1, 2004 reference.

Subpart G - National Revised Primary Drinking Water Regulations: Maximum Contaminant Levels and Maximum Residual Disinfectant Levels

§ 65-20-222 National Revised Primary Drinking Water Regulations: Maximum Contaminant Levels and Maximum Residual Disinfectant Levels (§ 2141.60 - § 2141.66)

(a) Effective dates (§ 2141.60)
The provisions of 40 CFR § 141.60 of the National Primary Drinking Water Regulations are hereby adopted by reference. The effective dates listed in the Code of Federal Regulations only pertain to federal standards and requirements.

(b) Maximum contaminant levels for organic contaminants (§ 2141.61)
The provisions of 40 CFR § 141.61 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(c) Maximum contaminant levels for inorganic contaminants (§ 2141.62)
The provisions of 40 CFR § 141.62 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(d) Maximum contaminant levels (MCLs) for microbiological contaminants (§ 2141.63)

The provisions of 40 CFR § 141.63 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(e) Maximum contaminant levels for disinfection byproducts (§ 2141.64)

The provisions of 40 CFR § 141.64 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(f) Maximum residual disinfectant levels (§ 2141.65)

The provisions of 40 CFR § 141.65 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(g) Maximum contaminant levels for radionuclides (§ 2141.66)

The provisions of 40 CFR § 141.66 of the National Primary Drinking Water Regulations are hereby adopted by reference.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: In subsection (a), the Commission inserted the final period.

See the commission comment to § 65-20-201.

The 2008 amendments changed subsections (a) through (g) by removing the July 1, 2004 reference.

Subpart H - Filtration and Disinfection

§ 65-20-224 Filtration and Disinfection (§ 2141.70 - § 2141.76)

(a) General requirements (§ 2141.70)

The provisions of 40 CFR § 141.70 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(b) Criteria for avoiding filtration (§ 2141.71)

The provisions of 40 CFR § 141.71 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(c) Disinfection (§ 2141.72)

The provisions of 40 CFR § 141.72 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(d) Filtration (§ 2141.73)

The provisions of 40 CFR § 141.73 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(e) Analytical and monitoring requirements (§ 2141.74)

The provisions of 40 CFR § 141.74 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(f) Reporting and recordkeeping requirements (§ 2141.75)

The provisions of 40 CFR § 141.75 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(g) Recycle provisions (§ 2141.76)

The provisions of 40 CFR § 141.76 of the National Primary Drinking Water Regulations are hereby adopted by reference.

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: See the commission comment to § 65-20-201.

The 2008 amendments changed subsections (a) through (g) by removing the July 1, 2004 reference.

Subpart I -Control of Lead and Copper

§ 65-20-226 Control of Lead and Copper (§ 2141.80 - § 2141.91)

(a) General requirements (§ 2141.80)

The provisions of 40 CFR § 141.80 of the National Primary Drinking Water Regulations are hereby adopted by reference with the exception of 40 CFR § 141.80(a)(2). The requirements set forth in subpart I of part 200 of the CNMI Drinking Water Regulations took effect on July 15, 1994.

(b) Applicability of corrosion control treatment steps to small, medium-sized and large water systems (§ 2141.81)

The provisions of 40 CFR § 141.81 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(c) Description of corrosion control treatment requirements (§ 2141.82)

The provisions of 40 CFR § 141.82 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(d) Source water treatment requirements (§ 2141.83)

The provisions of 40 CFR § 141.83 of the National Primary Drinking Water Regulations, are hereby adopted by reference.

(e) Lead service line replacement requirements (§ 2141.84)

The provisions of 40 CFR § 141.84 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(f) Public education and supplemental monitoring requirements (§ 2141.85)

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The provisions of 40 CFR § 141.85 of the National Primary Drinking Water Regulations are hereby adopted by reference, with the following modifications and additions.

(1) (Reserved).

(2) Delivery of a public education program for non-English speaking users.

(i) Garment manufacturing facilities. Public water systems regulated under § 65-20-226(a) that are garment manufacturing facilities with foreign contract workers must provide fully translated public education materials in the appropriate language for the majority of their workers, in addition to an English language version.

(ii) Other public water systems regulated under § 65-20-226(a) serving non-English speaking populations.

(A) Any public water system serving water to non-English speaking users must insert the following mandatory translation text into their public education materials, in all appropriate languages: “This document contains important information about the chemical lead, which has been found in your drinking water. It discusses the health effects of lead, how lead gets into your drinking water, and actions you can take to reduce your exposure to lead. If you cannot read or understand this document, have someone translate it for you.”

(B) If the public water system can sufficiently document to the Director that any non-English speaking population comprises ten percent or less of the total population served by the water system, then the requirements of § 65-20-226(f)(2)(ii)(A) do not apply and the water system does not need to insert the translation text in that particular language into its public education material. The Director may require an affidavit certifying that the particular non-English population comprises ten percent or less of the total population served, or may require additional documentation that supports such claim.

(g) Monitoring requirements for lead and copper in tap water (§ 2141.86)

The provisions of 40 CFR § 141.86 of the National Primary Drinking Water Regulations are hereby adopted by reference, with the following modifications and additions.

(1) Tier 1 sample sites for community water systems. The text found within 40 CFR § 141.86(a)(3)(i) is replaced with, “Contain copper pipes with lead solder installed after 1997 or contain lead pipes or are provided with either centrally-treated reverse osmosis water or pure rainwater; and/or”

(2) Tier 2 sample sites for community water systems. The text found within 40 CFR § 141.86(a)(4)(i) is replaced with, “Contain copper pipes with lead solder installed after 1997 or contain lead pipes or are provided with either centrally-treated reverse osmosis water or pure rainwater; and/or”

(3) Tier 3 sample sites for community water systems. The first sentence of the text found in 40 CFR § 141.86(a)(5) is replaced with, “Any community water system with insufficient tier 1 and tier 2 sampling sites shall complete its sampling pool from ‘tier 3 sampling sites,’ consisting of single family structures that contain copper pipes with lead solder installed before 1998 or are provided with rainwater that is mixed with water from another source.”

(4) Tier 1 sample cites for non-transient non-community water systems. The text found within 40 CFR § 141.86(a)(6)(i) is replaced with, “Contain copper pipes with lead solder installed after 1997 or contain lead pipes or are provided with either centrally-treated reverse osmosis water or pure rainwater; and/or”

(5) Tier 2 sample sites for non-transient non-community water systems. The first sentence of the text found in 40 CFR § 141.86(a)(7) is replaced with, “A non-transient non-community water system with insufficient tier 1 sites that meet the targeting criteria in subsection (a)(6) of this section shall complete its sampling pool with sample sites that contain copper pipes with lead solder installed before 1998 or that are provided with rainwater that is mixed with water from another source.”

(6) Water systems providing reverse osmosis water or rainwater. Any public water system that provides centrally treated reverse osmosis water or pure rainwater (rainwater that is not mixed with water from another water source) must collect at least 50% of their lead and copper samples from sample sites served with that water.

(h) Monitoring requirements for water quality parameters (§ 2141.87)

The provisions of 40 CFR § 141.87 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(i) Monitoring requirements for lead and copper in source water (§ 2141.88)

The provisions of 40 CFR § 141.88 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(j) Analytical methods (§ 2141.89)

The provisions of 40 CFR § 141.89 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(k) Reporting requirements (§ 2141.90)

The provisions of 40 CFR § 141.90 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(l) Recordkeeping requirements (§ 2141.91)

The provisions of 40 CFR § 141.91 of the National Primary Drinking Water Regulations are hereby adopted by reference.

Modified, 1 CMC § 3806(c), (e), (f).

History: Amdts Adopted 37 Com. Reg. 37300 (Dec. 28, 2015); Amdts Proposed 37 Com. Reg. 37098 (Oct. 28, 2015); Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: See the commission comment to § 65-20-201.

The 2008 amendments changed subsections (a) through (l) by removing the July 1, 2004 reference and adding a 2007 Federal Register reference to subsections (a)-(b) and (d)-(k). The 2008 amendments also repealed and reserved subsection (f)(1). Following the summary of the proposed revisions to this chapter, DEQ published “a fact sheet from U.S.E.P.A. on each of the four Federal Drinking Water Rules,” including a fact sheet regarding lead and copper. See 29 Com. Reg. 27626 and 27630-27639 (Dec. 18, 2007). The fact sheets are codified as Appendix C to this chapter.

The 2015 amendments removed the language “, as amended in Federal Register Vol. 72 No. 195, October 10, 2007,” from subsections (a), (b), and (d)-(k).

Subpart J - Use of Non-centralized Treatment Devices

§ 65-20-228 Use of Non-centralized Treatment Devices (§ 2141.100 - § 2141.101)

(a) Criteria and procedures for public water systems using point-of-entry devices (§ 2141.100)

The provisions of 40 CFR § 141.100 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(b) Use of bottled water (§ 2141.101)

The provisions of 40 CFR § 141.101 of the National Primary Drinking Water are hereby adopted by reference.

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: See the commission comment to § 65-20-201.

The 2008 amendments changed subsections (a) and (b) by removing the July 1, 2004 reference.

Subpart K - Treatment Techniques

§ 65-20-230 Treatment Techniques (§ 2141.110 - § 2141.111)

(a) General requirements (§ 2141.110)

The provisions of 40 CFR § 141.110 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(b) Treatment techniques for acrylamide and epichlorohydrin (§ 2141.111)

The provisions of 40 CFR § 141.111 of the National Primary Drinking Water Regulations are hereby adopted by reference.

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: See the commission comment to § 65-20-201.

The 2008 amendments changed subsections (a) and (b) by removing the July 1, 2004 reference.

Subpart L - Disinfectant Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors

§ 65-20-232 Disinfectant Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors (§ 2141.130 - § 2141.135)

(a) General requirements (§ 2141.130)

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The provisions of 40 CFR § 141.130 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(b) Analytical requirements (§ 2141.131)

The provisions of 40 CFR § 141.131 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(c) Monitoring requirements (§ 2141.132)

The provisions of 40 CFR § 141.132 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(d) Compliance requirements (§ 2141.133)

The provisions of 40 CFR § 141.133 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(e) Reporting and recordkeeping requirements (§ 2141.134)

The provisions of 40 CFR § 141.134 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(f) Treatment technique for control of disinfection byproduct (DBP) precursors (§ 2141.135)

The provisions of 40 CFR § 141.135 of the National Primary Drinking Water regulations are hereby adopted by reference.

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: See the commission comment to § 65-20-201.

The 2008 amendments changed subsections (a) and (f) by removing the July 1, 2004 reference.

Subpart M

[Reserved.]

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Subpart N

[Reserved.]

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Subpart O - Consumer Confidence Reports

§ 65-20-238 Consumer Confidence Reports (§ 2141.151 - § 2141.155)

(a) Purpose and applicability of this subpart (§ 2141.151)

The provisions of 40 CFR § 141.151 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(b) Effective dates (§ 2141.152)

The provisions of 40 CFR § 141.152 of the National Primary Drinking Water Regulations are hereby adopted by reference. The effective dates listed in the Code of Federal Regulations only pertain to federal standards and requirements.

(c) Content of the reports (§ 2141.153)

The provisions of 40 CFR § 141.153 of the National Primary Drinking Water Regulations are hereby adopted by reference, with the following additions.

(1) Garment manufacturing facilities. Public water systems that are regulated under § 65-20-238(a) that are garment manufacturing facilities with foreign contract workers must produce fully translated consumer confidence reports in the appropriate language for the majority of their workers, in addition to an English language version.

(2) Other public water systems regulated under § 65-20-238(a) serving non-English speaking populations.

(i) Any other public water system serving water to non-English speaking users must insert the following or similar translation text into their consumer confidence report in all appropriate languages: “This document contains important information about your drinking water. If you cannot read or understand this document, have someone translate it for you, or speak with someone who understands it.”

(ii) If the public water system can sufficiently document to the Director that any non-English speaking population comprises ten percent or less of the total population served by the water system, then the requirements of § 65-20-238(c)(2)(i)* do not apply and the water system does not need to insert the translation text in that particular language into its consumer confidence report. The Director may require an affidavit certifying that the particular non-English population comprises ten percent or less of the total population served, or may require additional documentation that supports such a claim.

*The original cites to “§ 2141.153(b)(i).” No such citation exists in the original. The Commission inserted the correct NMIAC citation.

(d) Required additional health information (§ 2141.154)

The provisions of 40 CFR § 141.154 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(e) Report delivery and recordkeeping (§ 2141.155)

The provisions of 40 CFR § 141.155 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(f) Appendix A to subpart O of part 200 - regulated contaminants

The provisions of Appendix A to subpart O of 40 CFR part 141 of the National Primary Drinking Water Regulations are hereby adopted by reference.

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

History: Amdts Adopted 37 Com. Reg. 37300 (Dec. 28, 2015); Amdts Proposed 37 Com. Reg. 37098 (Oct. 28, 2015); Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: See the commission comment to § 65-20-201.

The 2008 amendments changed subsections (a) through (f) by removing the July 1, 2004 reference and adding a 2007 Federal Register reference to subsection (d).

The 2015 amendments removed the language “, as amended in Federal Register Vol. 72 No. 195, October 10, 2007,” from subsection (d).

Subpart P - Enhanced Filtration and Disinfection; Systems Serving 10,000 or More People

§ 65-20-240 Enhanced Filtration and Disinfection; Systems Serving 10,000 or More People (§ 2141.170 - § 2141.175)

(a) General requirements (§ 2141.170)

The provisions of 40 CFR § 141.170 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(b) Criteria for avoiding filtration (§ 2141.171)

The provisions of 40 CFR § 141.171 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(c) Disinfection profiling and benchmarking (§ 2141.172)

The provisions of 40 CFR § 141.172 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(d) Filtration (§ 2141.173)

The provisions of 40 CFR § 141.173 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(e) Filtration sampling requirements (§ 2141.174)

The provisions of 40 CFR § 141.174 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(f) Reporting and recordkeeping requirements (§ 2141.175)

The provisions of 40 CFR § 141.175 of the National Primary Drinking Water Regulations are hereby adopted by reference.

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: See the commission comment to § 65-20-201.

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The 2008 amendments changed subsections (a) through (f) by removing the July 1, 2004 reference.

Subpart Q - Public Notification of Drinking Water Violations

§ 65-20-242 Public Notification of Drinking Water Violations (§ 2141.201 - § 2141.211)

(a) General public notification requirements (§ 2141.201)

The provisions of 40 CFR § 141.201 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(b) Tier 1 public notice – form, manner, and frequency of notice (§ 2141.202)

The provisions of 40 CFR § 141.202 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(c) Tier 2 public notice – form, manner, and frequency of notice (§ 2141.203)

The provisions of 40 CFR § 141.203 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(d) Tier 3 public notice – form, manner, and frequency of notice (§ 2141.204)

The provisions of 40 CFR § 141.204 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(e) Content of the public notice (§ 2141.205)

The provisions of 40 CFR § 141.205 of the National Primary Drinking Water Regulations are hereby adopted by reference, with the following additions.

(1) Garment manufacturing facilities. Public water systems regulated under § 65-20-242(a) that are garment manufacturing facilities with foreign contract workers must produce a fully translated public notice in the appropriate language for the majority of their workers, in addition to an English language version.

(2) Other public water systems regulated under § 65-20-242(a) serving non-English speaking populations.

(i) Any other public water system serving water to non-English speaking users must either translate the document or insert the following or similar translation text into their public notice in all appropriate languages: “This notice contains important information about your drinking water. If you cannot read or understand it, contact <person’s name> at <location or phone number>.”

(ii) If the public water system can sufficiently document to the Director that any non-English speaking population comprises ten percent or less of the total population served by the water system, then the requirements of § 65-20-242(e)(2)(i)* do not apply and the water system does not need to insert the translation text in that particular language into its public notice. The Director may require an affidavit certifying that the particular non-English population comprises ten percent or less of the total population served, or may require additional documentation that supports such a claim.

*The original cites to “§ 2141.205(b)(i).” No such citation exists in the original. The Commission inserted the correct NMIAC citation.

(f) Notice to new billing units or new customers (§ 2141.206)

The provisions of 40 CFR § 141.206 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(g) Special notice of the availability of unregulated contaminant monitoring results (§ 2141.207)

The provisions of 40 CFR § 141.207 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(h) Special notice for exceedance of the SMCL for fluoride (§ 2141.208)

The provisions of 40 CFR § 141.208 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(i) Special notice for nitrate exceedances above MCL by non-community water systems (NCWS), where granted permission by the primacy agency under Section 2141.11(d)* (§ 2141.209)

The provisions of 40 CFR § 141.209 of the National Primary Drinking Water Regulations are hereby adopted by reference.

* As stated in original; subsection (d) of § 2141.11 does not exist. The NMIAC cross reference for § 2141.11 is § 65-20-212(a).

(j) Notice by primacy agency on behalf of the public water system (§ 2141.210)

The provisions of 40 CFR § 141.210 of the National Primary Drinking Water Regulations revised are hereby adopted by reference.

(k) Special notice for repeated failure to conduct monitoring of the source water for *Cryptosporidium* and for failure to determine bin classification or mean *Cryptosporidium* level (§ 2141.211)

The provisions of 40 CFR § 141.211 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(l) Appendix A to subpart Q of part 200 - NPDWR violations and situations requiring public notice

The provisions of Appendix A to subpart Q of 40 CFR part 141 of the National Primary drinking Water Regulations are hereby adopted by reference.

(m) Appendix B to subpart Q of part 200 - Standard health effects language for public notification

The provisions of Appendix B to subpart Q of 40 CFR part 141 of the National Primary Drinking Water Regulations hereby adopted by reference.

(n) Appendix C to subpart Q of part 200 - list of acronyms used in public notification regulation

The provisions of Appendix C to subpart Q of 40 CFR part 141 of the National Primary Drinking Water Regulations are hereby adopted by reference.

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

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: See the commission comment to § 65-20-201.

The 2008 amendments changed subsections (a) through (m) by removing the July 1, 2004 reference and adding a new subsection (k). The Commission redesignated former subsections (k) through (m) to (l) through (n).

Subpart R

[Reserved.]

History: Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Subpart S - Ground Water Rule

§ 65-20-246 Ground Water Rule (§ 2141.400 - § 2141.405)

(a) General requirements and applicability (§ 2141.400)

The provisions of 40 CFR § 141.400 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(b) Sanitary surveys for ground water systems (§ 2141.401)

The provisions of 40 CFR § 141.401 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(c) Ground water source microbial monitoring and analytical methods (§ 2141.402)

The provisions of 40 CFR § 141.402 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(d) Treatment technique requirements for ground water systems (§ 2141.403)

The provisions of 40 CFR § 141.403 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(e) Treatment technique violations for ground water systems (§ 2141.404)

The provisions of 40 CFR § 141.404 of the National Primary Drinking water Regulations are hereby adopted by reference.

(f) Reporting and recordkeeping for ground water systems (§ 2141.405)

The provisions of 40 CFR § 141.405 of the National Primary Drinking Water Regulations are hereby adopted by reference.

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History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: The 2008 amendments created Subpart S See 29 Com. Reg. at 27664 (Dec. 18, 2007). Following the summary of the proposed revisions to this chapter, DEQ published “a fact sheet from U.S.E.P.A. on each of the four Federal Drinking Water Rules,” including a fact sheet regarding the ground water rule. See 29 Com. Reg. 27626 and 27630-27639 (Dec. 18, 2007). The fact sheets are codified as Appendix C.

Subpart T - Enhanced Filtration and Disinfection Systems Serving Fewer Than 10,000 People

§ 65-20-248 Enhanced Filtration and Disinfection Systems Serving Fewer Than 10,000 People (§ 2141.500 - § 2141.570)

(a) General requirements (§ 2141.500)

The provisions of 40 CFR §§ 141.500-503 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(b) Finished water reservoirs (§ 2141.510)

The provisions of 40 CFR §§ 141.510-511 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(c) Additional watershed control requirements for unfiltered systems (§ 2141.520)

The provisions of 40 CFR §§ 141.520-522 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(d) Disinfection profile (§ 2141.530)

The provisions of 40 CFR §§ 141.530-536 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(e) Disinfection benchmark (§ 2141.540)

The provisions of 40 CFR §§ 141.540-544 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(f) Combined filter effluent requirements (§ 2141.550)

The provisions of 40 CFR §§ 141.550-553 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(g) Individual filter turbidity requirements (§ 2141.560)

The provisions of 40 CFR §§ 141.560-564 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(h) Reporting and recordkeeping requirements (§ 2141.570)

The provisions of 40 CFR §§ 141.570-571 of the National Primary Drinking Water Regulations are hereby adopted by reference.

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History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: See the commission comment to § 65-20-201.

The 2008 amendments changed subsections (a) through (h) by removing the July 1, 2004 reference.

Subpart U - Initial Distribution System Evaluations

§ 65-20-250 Initial Distribution System Evaluations (§ 2141.600 - § 2141.605)

(a) General Requirements (§ 2141.600)

The provisions of 40 CFR § 141.600 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(b) Standard Monitoring (§ 2141.601)

The provisions of 40 CFR § 141.601 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(c) System specific studies (§ 2141.602)

The provisions of 40 CFR § 141.602 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(d) 40/30 certification (§ 2141.603)

The provisions of 40 CFR § 141.603 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(e) Very small system waivers (§ 2141.604)

The provisions of 40 CFR § 141.604 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(f) Subpart V compliance monitoring location recommendations (§ 2141.605)

The provisions of 40 CFR § 141.605 of the National Primary Drinking Water Regulations are hereby adopted by reference.

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007).

Commission Comment: See the commission comment to § 65-20-201.

The 2008 amendments created Subpart U See 29 Com. Reg. at 27665-27666 (Dec. 18, 2007).

Subpart V – Stage 2 Disinfection Byproducts Requirements

§ 65-20-252 Stage 2 Disinfection Byproducts Requirements (§ 2141.620 - § 2141.629)

(a) General Requirements (§ 2141.620)

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The provisions of 40 CFR § 141.620 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(b) Routine Monitoring (§ 2141.621)

The provisions of 40 CFR § 141.621 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(c) Subpart V monitoring plan (§ 2141.622)

The provisions of 40 CFR § 141.622 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(d) Reduced monitoring (§ 2141.623)

The provisions of 40 CFR § 141.623 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(e) Additional requirements for consecutive systems (§ 2141.624)

The provisions of 40 CFR § 141.624 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(f) Conditions requiring increased monitoring (§ 2141.625)

The provisions of 40 CFR § 141.625 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(g) Operational evaluation levels (§ 2141.626)

The provisions of 40 CFR § 141.626 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(h) Requirements for remaining on reduced TTHM and HAA5 monitoring based on subpart L results (§ 2141.627)

The provisions of 40 CFR § 141.627 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(i) Requirements for remaining on increased TTHM and HAA5 monitoring based on subpart L results (§ 2141.628)

The provisions of 40 CFR § 141.628 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(j) Reporting and recordkeeping requirements (§ 2141.629)

The provisions of 40 CFR § 141.629 of the National Primary Drinking Water Regulations are hereby adopted by reference.

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007).

Commission Comment: See the commission comment to § 65-20-201.

The 2008 amendments created Subpart V See 29 Com. Reg. at 27666-27667 (Dec. 18, 2007).

Subpart W – Enhanced Treatment for Cryptosporidium

§ 65-20-254 Enhanced Treatment for Cryptosporidium (§ 2141.700 - § 2141.721)

(a) General Requirements (§ 2141.700)

The provisions of 40 CFR § 141.700 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(b) Source Water monitoring requirements (§ 2141.701)

The provisions of 40 CFR §§ 141.701-707 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(c) Disinfection profiling and benchmarking requirements (§ 2141.708)

The provisions of 40 CFR §§ 141.708-709 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(d) Treatment technique requirements (§ 2141.710)

The provisions of 40 CFR §§ 141.710-714 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(e) Requirements for microbial toolbox components (§ 2141.715)

The provisions of 40 CFR §§ 141.715-720 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(f) Conditions requiring increased monitoring (§ 2141.721)

The provisions of 40 CFR §§ 141.721-722 of the National Primary Drinking Water Regulations are hereby adopted by reference.

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007).

Commission Comment: See the commission comment to § 65-20-201.

The 2008 amendments created Subpart W See 29 Com. Reg. at 27668 (Dec. 18, 2007). Following the summary of proposed revisions to this chapter, DEQ published “a fact sheet from U.S.E.P.A. on each of the four Federal Drinking Water Rules,” including fact sheets referring to treatment for Cryptosporidium. See 29 Com. Reg. 27626 and 27630-27639 (Dec. 18, 2007). The fact sheets are codified as Appendix C of this chapter.

Subpart X – Revised Total Coliform Rule

§ 65-20-256 Revised Total Coliform Rule (§ 2141.851 - § 2141.861)

(a) General (§ 2141.851)

The provisions of 40 CFR § 141.851 of the National Primary Drinking Water Regulations are hereby adopted by reference.

TITLE 65: DIVISION OF ENVIRONMENTAL QUALITY

(b) Analytical methods and laboratory certification. (§ 2141.852)

The provisions of 40 CFR § 141.852 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(c) General monitoring requirements for all public water systems. (§ 2141.853)

The provisions of 40 CFR § 141.853 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(d) Routine monitoring requirements for non-community water systems serving 1,000 or fewer people using only ground water. (§ 2141.854)

The provisions of 40 CFR § 141.854 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(e) Routine monitoring requirements for community water systems serving 1,000 or fewer people using only ground water. (§ 2141.855)

The provisions of 40 CFR § 141.855 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(f) Routine monitoring requirements for subpart H public water systems serving 1,000 or fewer people. (§ 2141.856)

The provisions of 40 CFR § 141.856 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(g) Routine monitoring requirements for public water systems serving more than 1,000 people. (§ 2141.857)

The provisions of 40 CFR § 141.857 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(h) Repeat monitoring and *E. Coli* requirements. (§ 2141.858)

The provisions of 40 CFR § 141.858 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(i) Coliform treatment technique triggers and assessment requirements for protection against potential fecal contamination. (§ 2141.859)

The provisions of 40 CFR § 141.859 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(j) Violations. (§ 2141.860)

The provisions of 40 CFR § 141.860 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(k) Reporting and recordkeeping. (§ 2141.861)

The provisions of 40 CFR § 141.861 of the National Primary Drinking Water Regulations are hereby adopted by reference.

Modified 1 CMC § 3806(a), (b), (g).

TITLE 65: DIVISION OF ENVIRONMENTAL QUALITY

History: Amdts Adopted 37 Com. Reg. 37300 (Dec. 28, 2015); Amdts Proposed 37 Com. Reg. 37098 (Oct. 28, 2015).

Commission Comment: See Commission Comment to § 65-20-201. The 2015 amendments created a subpart designated as Subpart Y in the Commonwealth Register, which the Commission renumbered as Subpart X in the Code. See 37 Com. Reg. at 37098 (Oct. 28, 2015). Following the summary of proposed revisions to this chapter, DEQ published a “fact sheet from U.S.E.P.A. on Revised Total Coliform Rule.” See 37 Com. Reg. 37105–37107 (Oct. 28, 2015). The fact sheet is codified as Appendix E of this chapter. The Commission changed the capitalization of the subsection titles for the purpose of conformity. The Commission changed the federal regulation reference number “2141.851” in the title of subsection (b) to “2141.852” to correct a manifest error. The Commission corrected the spelling of the word “requirements” in the title of subsection (d) to correct a typographical error pursuant to 1 CMC § 3806(g). The Commission inserted spaces between section symbols and numbers and removed superfluous section symbols throughout the section to correct manifest errors.

Part 300 - CNMI National Secondary Drinking Water Regulations

Subpart A - National Secondary Drinking Water Regulations

§ 65-20-301 Referenced Version of 40 CFR § 143 and Purpose (§ 3141.0- § 3141.1)

(a) Referenced version of 40 CFR § 143 (§ 3141.0)

All references to 40 CFR § 143 of the National Secondary Drinking Water Regulations mentioned in these CNMI Drinking Water Regulations refer to version as revised and codified as of July 1, 2014.

(b) Purpose (§ 3141.1)

The provisions of 40 CFR § 143.1 of the National Secondary Drinking Water Regulations are hereby adopted by reference, with the following addition.

(1) Public water systems are not required to monitor for or comply with the secondary maximum contaminant levels. The National Secondary Drinking Water Regulations are provided only as guidelines for public water systems.

Modified 1 CMC 3806(g).

History: Amdts Adopted 37 Com. Reg. 37300 (Dec. 28, 2015); Amdts Proposed 37 Com. Reg. 37098 (Oct. 28, 2015); Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: The original section number published by DEQ in the Commonwealth Register is provided in parentheses after the section titles in this part because these section numbers correspond to the federal drinking water regulations. The reference will assist users in identifying any local changes to the federal regulations adopted by reference.

The 2008 amendments changed this section and added a new section (§ 3141.0), which became subsection (a). The Commission redesignated former § 65-20-301 to subsection (b) and former subsection (a) became subsection (b)(1). The Commission changed the title of this section based on the 2008 amendments.

The Commission inserted a “§” in the title of subsection (a) to correct a manifest error. The December 2015 amendments changed the reference date in subsection (a) from July 1, 2007 to July 1, 2014.

§ 65-20-305 Definitions (§ 3141.2)

The provisions of 40 CFR § 143.2 of the National Secondary Drinking Water Regulations are hereby adopted by reference.

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: See the commission comment to § 65-20-301.

The 2008 amendments changed this section by removing the July 1, 2004 reference.

§ 65-20-310 Secondary Maximum Contaminant Levels (§ 3141.3)

The provisions of 40 CFR § 143.3 of the National Secondary Drinking Water Regulations are hereby adopted by reference.

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: See the commission comment to § 65-20-301.

The 2008 amendments changed this section by removing the July 1, 2004 reference.

§ 65-20-315 Monitoring (§ 3141.4)

The provisions of 40 CFR § 143.4 of the National Secondary Drinking Water Regulations are hereby adopted by reference.

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: See the commission comment to § 65-20-301.

The 2008 amendments changed this section by removing the July 1, 2004 reference.

Appendix A National Primary Drinking Water Regulations 40 CFR § 141 July 1, 2007 and October 10, 2007

[See 29 Com. Reg. 27671- 27923 (Dec. 18, 2007)]

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005); Amdts Adopted 16 Com. Reg. 12445 (Sept. 15, 1994); Amdts Proposed 16 Com. Reg. 12141 (July 15, 1994).

Commission Comment: The July 2005 amendments published excerpts from 40 CFR 141, as revised and codified as of July 1, 2004, as appendix A to the Drinking Water Regulations. Due to the size of this

document, it is not reproduced here. For a copy of 40 CFR 141 (July 1, 2004), see 27 Com. Reg. at 24222-24440 (May 18, 2005).

The 2008 amendments changed this appendix by publishing excerpts from 40 CFR § 141 as of July 1, 2007.

Appendix B National Secondary Drinking Water Regulations 40 CFR § 143 July 1, 2007

[See 29 Com. Reg. 27624- 27928 (Dec. 18, 2007)]

History: Amdts Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Amdts Proposed 29 Com. Reg. 27623 (Dec. 18, 2007); Amdts Adopted 27 Com. Reg. 24679 (July 20, 2005); Amdts Proposed 27 Com. Reg. 24166 (May 18, 2005).

Commission Comment: The July 2005 amendments published excerpts from 40 CFR 143, as revised and codified as of July 1, 2004, as appendix B to the Drinking Water Regulations. Due to the size of this document, it is not reproduced here. For a copy of 40 CFR 143 (July 1, 2004), see 27 Com. Reg. At 24441-24443 (May 18, 2005).

The 2008 amendments changed this appendix by publishing excerpts from 40 CFR § 143 as of July 1, 2007.

Appendix C U.S.E.P.A. Fact Sheets on the Four Federal Drinking Water Rules

[See following pages. For original, see 29 Com. Reg. 27630- 27639 (Dec. 18, 2007)]

History: Adopted 30 Com. Reg. 28323 (Feb. 29, 2008); Proposed 29 Com. Reg. 27623 (Dec. 18, 2007).

Part 200 - CNMI National Primary Drinking Water Regulations

Subpart A - General

§ 65-20-202 Definitions (§ 2141.2)

The provisions of 40 CFR § 141.2 of the National Primary Drinking Water Regulations, are hereby adopted by reference, with the following modification and addition.

(a) The text of the first sentence for the definition of “state” found within 40 CFR § 141.2 is replaced with, “state means the agency within the Commonwealth of the Northern Mariana Islands which has jurisdiction over public water systems. That agency is the Division of Environmental Quality within the Office of the Governor.”

(b) “PFAS” means per- or polyfluoroalkyl substances and pertains to all man-made chemicals that contain at least one fully fluorinated carbon, or C_nF_{2n+1} alkyl moiety.

Subpart B Maximum Contaminant Levels

§ 65-20-212 Maximum Contaminant Levels (§ 2141.11 - § 2141.16)

(a) Maximum contaminant levels for inorganic chemicals (§ 2141.11)

The provisions of 40 CFR § 141.11 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(b) (Removed and Reserved) (§ 2141.12).

(c) Maximum contaminant levels for turbidity (§ 2141.13)

The provisions of 40 CFR § 141.13 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(d) Maximum contaminant levels for radium-226, radium-228, and gross alpha particle radioactivity in community water systems (§ 2141.15)

The provisions of 40 CFR § 141.15* of the National Primary Drinking Water Regulations are hereby adopted by reference.

(e) Maximum contaminant levels for beta particle and photon radioactivity from manmade radionuclides in community water systems (§ 2141.16)

The provisions of 40 CFR § 141.16* of the National Primary Drinking Water Regulations are hereby adopted by reference.

(f) Maximum contaminant levels for PFAS in public water systems

The maximum contaminant level shall be:

(1) 0.00007 mg/L (70 ng/L; 70 parts per trillion) for the sum of the concentrations of each of the following PFAS chemicals:

<u>CAS No.</u>	<u>Contaminant</u>
<u>1763-23-1</u>	<u>Perfluorooctane Sulfonic Acid (PFOS)</u>
<u>335-67-1</u>	<u>Perfluorooctanoic Acid (PFOA)</u>

and

(2) 0.0000044 mg/L (4.4 ng/L; 4.4 parts per trillion) for the concentration of Perfluorononanoic Acid (PFNA); and

(3) If a more stringent maximum contaminant level has been established by the Agency for any PFAS chemical or sum of PFAS chemicals, the more stringent maximum contaminant level.

* So in original. See Commission Comment.

Subpart E - Special Regulations, Including Monitoring Regulations and Prohibition on Lead Use

§ 65-20-218 Special Regulations, Including Monitoring Regulations and Prohibition on Lead Use (§ 2141.40 - § 2141.43)

(a) Monitoring requirements for unregulated contaminants (§ 2141.40)

The provisions of 40 CFR § 141.40 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(b) Special monitoring for sodium (§ 2141.41)

The provisions of 40 CFR § 141.41 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(c) Special monitoring for corrosivity characteristics (§ 2141.42)

The provisions of 40 CFR § 141.42 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(d) Prohibition on use of lead pipes, solder, and flux (§ 2141.43)

The provisions of 40 CFR § 141.43 of the National Primary Drinking Water Regulations are hereby adopted by reference.

(e) Special monitoring for PFAS

(1) General applicability.

(i) Community and non-transient non-community systems. Every community water system and non-transient non-community water system shall be subject to all requirements of § 65-20-218(e).

(ii) Transient non-community systems. Every transient non-community water system shall, within the first calendar quarter after the effective date of these regulations (or, for new public water systems or existing public water sources that bring a new source on-line or reactivate an existing source, within the first calendar quarter after the source comes on-line), collect, analyze, and report the results of one sample from each sample point. All such monitoring and analysis shall be performed in compliance with §§ 65-20-218(e)(2), (5) and (6).

(2) Monitoring protocols. For purposes of determining compliance with the maximum contaminant level for PFAS set forth in § 65-20-212(f), monitoring shall be conducted as follows:

(i) Single source entry points. Each public water system that draws water from a single source shall take a minimum of one sample at every entry point to the distribution system that is representative of the source after treatment.

(ii) Multiple source entry points. Each public water system that draws water from more than one source, where the sources are combined before distribution, shall take a minimum of one sample at every entry point to the distribution system that is representative of the combined sources after treatment during periods of normal operating conditions (i.e., when water representative of all sources is being used).

(iii) Consistent sample points. Each sample shall be taken at the same sample point unless the Division determines that an alternate sampling location would be more representative of the source or treatment plant.

(iv) Consecutive systems. Unless required by the Division to evaluate PFAS levels, each consecutive public water system shall be exempt from conducting monitoring for PFAS for its purchased portion of water.

(3) Initial monitoring.

(i) Quarterly monitoring requirement. Commencing with the first calendar quarter after the effective date of these regulations (or, for new public water systems or existing public water sources that bring a new source on-line or reactivate an existing source, within the first calendar quarter after the source comes on-line), each public water source shall conduct sampling and analysis for PFAS for four consecutive quarters.

(ii) Use of previously-collected PFAS data. A public water system, prior to the applicable commencement date of initial monitoring, may request the Division's written approval to substitute monitoring data which was obtained prior to such commencement date. The Division's written approval shall be based on a determination as to whether the monitoring data was collected and analyzed in a manner consistent with the requirements of § 65-20-218(e).

(iii) Waiver from initial monitoring requirement. Any public water system whose analytical results for the first two quarters of initial monitoring do not detect PFAS in a concentration above the minimum reporting level required by § 65-20-218(e)(5)(ii) may submit a written request to the Division to waive the third and fourth quarters of such monitoring. The Division may grant a written waiver in its discretion, subject to the Division's determination that there is no reason to suspect PFAS contamination in the vicinity of the public water system or its sources of water.

(4) Routine monitoring.

(i) General requirement. Routine monitoring shall continue on a quarterly basis, except as otherwise provided below.

(ii) Reduced monitoring. Public water systems that do not detect PFAS in a concentration above the minimum reporting level required by § 65-20-218(e)(5)(ii) for two consecutive calendar quarters may reduce the monitoring frequency to annually.

(iii) Waiver from reduced monitoring requirement. Any public water system may submit a written request to the Division requesting a waiver from the reduced monitoring requirement to allow for a single sampling and analysis in the 3-year compliance period. The public water system may reapply for a waiver for each successive 3-year compliance period. The Division may grant a written waiver in its discretion, subject to the Division's determination that there is no reason to suspect PFAS contamination in the vicinity of the public water system or its sources of water.

(5) PFAS analytical requirements.

(i) Methods of analysis. Analysis for PFAS shall be conducted using either EPA Method 537 or EPA Method 537.1.

(ii) Minimum reporting levels. Laboratories conducting PFAS analysis shall be capable of obtaining individual minimum reporting levels less than or equal to 0.0000020 mg/l or 2.0 ng/l.

(iii) Scope of analysis. All samples analyzed pursuant to initial or routine monitoring requirements shall be analyzed for the full scope of PFAS covered by the selected method.

(6) PFAS reporting requirements. All analytical results for PFAS, whether obtained pursuant to initial or routine monitoring requirements or on a voluntary basis, and whether the results show a detection of PFAS below or exceeding the maximum contaminant level, shall be reported to the Division within thirty days of receipt of the result from the laboratory; provided, however, that all analytical results showing an exceedance of the maximum contaminant level shall be reported to the Division within seven days of receipt of the result from the laboratory.

(7) Public education regarding PFAS detections. Any public water system that detects PFAS exceeding the maximum contaminant level shall notify all persons served by the system of the exceedance using materials approved by the Division. Such notice shall be provided as soon as practical and no later than 30 days after receipt of the result from the laboratory. The notice shall include the concentrations of PFAS detected, an explanation of the health effects of PFAS, and steps consumers can take to reduce exposure to PFAS in drinking water. A copy of such materials shall be submitted to the Division along with a written certification by the public water system that the materials were distributed as required.

(f) Annual review of PFAS regulations

The Division shall by no later than August 19, 2022, and annually thereafter, review the most recent peer-reviewed studies and scientific evidence, including, but not limited to, information from the U.S. Environmental Protection Agency and the Agency for Toxic Substances and Disease Registry, independent and government agency studies, and the laws of other states regarding PFAS, and shall amend or may promulgate regulations if such review indicates action by the Division is needed for protection of human health.

CHAPTER 65-140

WELL DRILLING AND WELL OPERATIONS REGULATION

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TITLE 65: DIVISION OF ENVIRONMENTAL QUALITY

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TITLE 65: DIVISION OF ENVIRONMENTAL QUALITY

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Chapter Authority: 1 CMC §§ 2646-2649; 1 CMC § 2650; 2 CMC §§ 3101-3135; 2 CMC §§ 3311-3333.

Chapter History: Certified and Adopted 37 Com. Reg. 36619 (June 28, 2015); Amdts Adopted 26 Com. Reg. 23759 (Dec. 17, 2004); Amdts Proposed 26 Com. Reg. 22996 (Oct. 26, 2004); Amdts Adopted 16 Com. Reg. 11704 (Feb. 15, 1994); Amdts Proposed 15 Com. Reg. 11151 (Dec. 15, 1993); Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: For a complete history of the authority of the Division of Environmental Quality (DEQ), see the commission comment to NMIAC chapter 65-10.

The “Commonwealth Groundwater Management and Protection Act of 1988,” PL 6-12 (effective Nov. 3, 1988), is codified at 2 CMC §§ 3311-3333. The act creates a permitting system to regulate the withdrawal and use of groundwater resources in the Commonwealth. 2 CMC § 3312. DEQ is authorized to promulgate rules and regulations to implement the act. 2 CMC § 3321.

Executive Order No. 2013-24, promulgated at 35 Com. Reg. 34596 (Nov. 28, 2013), established a new Bureau of Environmental and Coastal Quality. This Order reorganized the Division of Environmental Quality as a division of the Bureau of Environmental and Coastal Quality, and provided that “all rules, orders, contracts, and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Executive Order shall continue to be effective until revised, amended, repealed or terminated.”

Part 001 - General Provisions

§ 65-140-001 Authority

The rules and regulations in this chapter have been promulgated by the Department of Public Health and Environmental Services, in accordance with Public Law 6-12 of the Commonwealth of the Northern Mariana Islands. These rules, regulations, technical provisions, and specifications, to be adopted by the Department of Public Health and Environmental Services as necessary, shall have the force and effect of law, and shall be

binding on all persons and other legal entities subject to the jurisdiction of the Commonwealth of the Northern Mariana Islands.

Modified, 1 CMC § 3806(d).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-005 Purpose

Whereas the Commonwealth is almost entirely dependant upon groundwater for its drinking water supplies; and whereas the unregulated use of the Commonwealth's groundwater resources threatens the quality and availability of this resource; and whereas the general welfare requires that groundwater resources be put to the highest beneficial use for which they are capable, the purpose of the regulations in this chapter is to:

- (a) Promote the long-term ability of the Commonwealth to provide reliable and potable water to the public;
- (b) Establish a water well permitting system designed to monitor and regulate the use of the Commonwealth's groundwater resources;
- (c) Codify well drillers' licensing requirements;
- (d) Promote the non-degradation and rational utilization of the Commonwealth's groundwater resources;
- (e) Promote public awareness of the critical importance of protecting the Commonwealth's groundwater resources from contamination and degradation;
- (f) Provide that groundwater resources be put to the highest beneficial use for which they are capable;
- (g) Designate groundwater management zones; and
- (h) Protect public health by protecting and enhancing the quality of existing and potential groundwater resources used for human consumptive purposes.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 26 Com. Reg. 23759 (Dec. 17, 2004); Amdts Proposed 26 Com. Reg. 22996 (Oct. 26, 2004); Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: The 2004 amendments added a new subsection (g), redesignated subsection (h) and amended subsection (f).

§ 65-140-010 Definitions

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- (a) “Abandoned well” is a well whose use has been permanently discontinued or which is in such a state of disrepair that no water can be produced. For the purposes of the regulations in this chapter, any well that has not reported production for two consecutive years shall be considered abandoned unless otherwise amended by the Chief (also referred to as plugging and abandonment).
- (b) “Abutter” is a person that owns or leases land adjacent to or directly across a public right-of-way from a parcel of land in question.
- (c) “The Act” means the Commonwealth Groundwater Management and Protection Act of 1988, also known as Public Law 6-12.
- (d) “Active well” is an operating water well or an active monitoring well.
- (e) “Annular space” is the space between the wall of the drilled hole and the outside diameter of the well casing.
- (f) “Aquifer” is a geologic formation, group of formations, or part of a formation that is water bearing and which transmits water in sufficient quantity to supply springs and pumping wells.
- (g) “Aquifer test” is a test involving the withdrawal of measured quantities of water from or addition of water to a well and the measurement of resulting changes in water level in the aquifer both during and after the period of discharge or addition (see pumping test).
- (h) “ASTM” is the American Society for Testing and Materials.
- (i) “AWWA” is the American Water Works Association.
- (j) “Basal groundwater lens” is groundwater floating on sea water.
- (k) “Beneficial use” shall include the use of water reasonably required for domestic, agriculture, commercial, industrial, recreational, and other purposes on both public and private lands. The use of water for domestic purposes is defined as the highest beneficial use of water.
- (l) “Bentonite” is a highly plastic colloidal clay composed largely of montmorillonite used as a drilling additive or as a sealant.
- (m) “Casing” is a tubular retaining structure which is installed in the well bore to maintain the well opening.
- (n) “Chief” means the Chief of the Division of Environmental Quality within the Department of Public Health and Environmental Services.

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- (o) “Commonwealth” means the Commonwealth of the Northern Mariana Islands (also CNMI).
- (p) “Community water system” is a public water system serving at least 15 service connections or 25 of the same individuals year round.
- (q) “Cone of depression” is a depression in the water table that is in the shape of an inverted cone and develops around a well which is being pumped. The outer edge of the cone of depression defines the radius of influence of the pumping well.
- (r) “Confined aquifer” is groundwater under pressure, whose upper surface is the bottom of an impermeable bed.
- (s) “Contamination” means the introduction of any physical, chemical, biological, or radiological substance into water which has the potential to pose a threat to human health or the environment or to impede the most beneficial use of water.
- (t) “Department” means the Department of Public Health and Environmental Services, unless otherwise specified.
- (u) “Degradation” is change in the quality of water which makes it less suitable for the highest beneficial use.
- (v) “Director” means the Director of the Department of Public Health and Environmental Services, or his duly authorized representative, unless otherwise specified.
- (w) “Division” means the Division of Environmental Quality (DEQ) unless otherwise specified.
- (x) “Drilling fluid” or “driller’s mud” is a fluid composed of water or water and clay used in the drilling operation.
- (y) “Drinking water quality standards” as defined and established in the Commonwealth’s Drinking Water Regulations [NMIAC, title 65, chapter 20], latest revision.
- (z) “Duplex” means a building which is designed exclusively for the occupancy of one family in each of the two units which are attached to each other and separate from other buildings.
- (aa) “EPA” is the United States Environmental Protection Agency.
- (bb) “Groundwater” is that part of the subsurface water which is in the zone of saturation.

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(cc) “Hazardous material” is any material because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or pose a substantial present or potential hazard to human health or to the environment when improperly contained, stored, transported, processed, handled, manipulated, or otherwise accidentally released into the environment.

(dd) “Hazardous waste” is any waste because* of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or pose a substantial present or potential hazard to human health or to the environment when improperly collected, contained, stored, transported, processed, recovered, treated, disposed, handled, manipulated, or otherwise accidentally released into the environment. This is inclusive of any waste described or identified as such under either EPA or DEQ regulations.

(ee) “Head” is the energy contained in a water mass, produced by elevation, pressure, or velocity.

(ff) “High level (perched) groundwater” is groundwater encountered above the general zone of phreatic water and is a more or less isolated body of groundwater whose position is controlled by structure or stratigraphy.

(gg) “Hydraulic conductivity” is the rate of flow of water in gallons per day through a cross section of one square foot under a unit hydraulic gradient (gpd/sq ft).

(hh) “Hydraulic gradient” is the rate of change in total head per unit of distance of flow in a given direction. For the purposes of these regulations, “upgradient” shall imply the direction from a reference point toward a higher hydraulic grade; and “downgradient” shall imply the direction from a reference point toward a lower hydraulic grade.

(ii) “Individual wastewater disposal system” means a system designed and installed to dispose of sewage from a single structure or group of structures using a disposal method other than discharge into a public sewer. Such a system may consist of a septic tank, together with a leaching field or seepage pit, or other treatment unit.

(jj) “Leaching field” means a buried system of perforated pipes, bedded in crushed rock or coral, through which treated or partially treated sewage effluent may seep or leach into the surrounding porous soil.

(kk) “Monitoring well” is a well constructed for the purposes of observing subsurface hydrologic conditions and collecting hydrologic or water quality data, and not for use in extracting water for a beneficial use.

(ll) “Non-community water system” is a public water system serving at least 25 individuals daily at least 60 days out of the year.

(mm) “Non-public water supply” means the source(s) of water for any water system not meeting the definition of a public water system.

(nn) “NWWA” is the National Water Well Association.

(oo) “Overpumping” means a groundwater withdrawal rate which causes saltwater intrusion and increases the chloride ion and total dissolved solids concentration in the well water discharge.

(pp) “Parabasal groundwater” is groundwater continuous with basal groundwater, but is not directly in contact with sea water; volcanic formations typically support parabasal groundwater.

(qq) “Permeability” is the capacity of a geologic material for transmitting fluid.

(rr) “Permit” as used in this chapter shall mean a well drilling or a well operations permit.

(ss) “Person” means any individual, firm, partnership, association, corporation, both public and private; and any entity or agency of the Commonwealth government or the United States of America.

(tt) “Potable water” means water that is of a quality that meets the requirements of the Commonwealth’s Drinking Water Regulations [NMIAC, title 65, chapter 20], latest revision.

(uu) “Public water supply” means the source(s) of water for a public water system (see definition of public water system).

(vv) “Public water system” means a system for the provision to the public of water through a pipe or pipes, faucet(s), and/or valve(s) for human consumption, if such a system has at least fifteen service connections, or regularly serves an average of at least twenty-five individuals daily at least sixty days out of the year. Human consumption includes such normal uses as drinking, cooking, bathing, showering, dishwashing, and/or oral hygiene.

(ww) “Pumping test” is a test that is conducted to determine aquifer or well characteristics (see aquifer test).

(xx) “Recharge well” or “injection well” means a well constructed for the purpose of introducing water or other liquid substances into the ground as a means of replenishing groundwater basins or repelling intrusion of sea water, or of disposing of a liquid waste stream. (See the Commonwealth’s Underground Injection Control Regulations [NMIAC, title 65, chapter 90], latest revision, for a more complete definition of an underground injection well.)

(yy) “Saltwater intrusion” means the inland and upward movement of the fresh water - salt water boundary, usually caused by a disruption in the equilibrium of the two water bodies resulting from excessive withdrawal from the basal water lens.

(zz) “Seawater well” means a water well equipped with full well casing down to depth at least 150 feet below sea level. The well screen or open hole portion of the well shall begin at least 150 feet below sea level. “Seawater well” also means any water well with full well casing down to the well screen or open hole portion of the water well, with the screened or open hole portion located within groundwater having a chloride ion concentration of 10,000 ppm (1/2 isochlore) or a conductivity reading of 20,000 umoh’s under static (non-pumping) conditions.

(aaa) “Screen” or “well screen” is a filtering device used to keep sediments from entering a water well or monitoring well.

(bbb) “Seepage pit” means a covered pit with open- jointed or perforated lining through which treated or partially treated sewage effluent may seep or leach into the surrounding soil.

(ccc) “Sewage” or “wastewater” means untreated or insufficiently treated human excreta; food wastes disposed of through sewers; wash water; or liquid wastes from residences, commercial buildings, agricultural operations, industrial establishments, or places of assembly.

(ddd) “Single family dwelling” means a building designed exclusively for the occupancy of one family which is detached from any other dwelling or commercial building.

(eee) “Significant well modification” means any change, replacement, or other alteration of any well, pump, or pumping equipment which involves drilling or redevelopment activities, changing the depth of water withdrawal, or changing the capacity of the well or equipment in order to withdraw more or less water.

(fff) “Specific capacity” is the rate of discharge of a water well per unit of drawdown, expressed in gpm/ft.

(ggg) “Sustainable yield” means the water supply that may normally be withdrawn from a water source at the maximum rate which will not unduly impair or degrade source utility or source quality, including yield from an undeveloped or partially developed source.

(hhh) “Test well” or “exploratory well” is a well constructed for geologic or hydrologic exploration and not intended for use as a water well (see part 1600).

(iii) “Transmissivity” is the rate at which water is transmitted through a unit width of an aquifer under a unit hydraulic gradient, given in gallons per minute through a vertical

section of an aquifer one foot wide and extending the full saturated height of the aquifer (gpd/ft).

(jjj) “Unconfined (free) groundwater” means groundwater that has a free groundwater table; i.e., water not confined under pressure.

(kkk) “Water supply” means the water withdrawn from a water source, or that might feasibly be withdrawn from an undeveloped or partially developed water source.

(lll) “Water well” is any hole drilled, dug, or bored at any angle, either cased or uncased, for the purpose of obtaining water.

(mmm) “Well” is any hole drilled, dug, or bored at any angle, either cased or uncased, and includes water wells, test wells, and monitoring wells.

(nnn) “Well seal” means an approved arrangement or device used to cap a well or to establish and maintain a junction between the casing or the curbing of a well and the piping or equipment installed therein, the purpose of which is to prevent pollutants from entering the well.

(ooo) “Yield” is a quantitative term, expressed as a rate of volume over a unit of time, such as millions of gallons per day (“MGD”).

(ppp) “Zone of contribution” is the land area which contributes recharge, and therefore potential contaminants, to an existing or proposed water well or well field.

* So in original.

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

History: Amdts Adopted 16 Com. Reg. 11704 (Feb. 15, 1994); Amdts Proposed 15 Com. Reg. 11151 (Dec. 15, 1993); Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: The 1994 amendments amended subsection (dd).

With respect to the references to the Department of Public Health and Environmental Services, see Executive Order 94-3 (effective August 23, 1994) reorganizing the Commonwealth government executive branch, changing agency names and official titles and effecting numerous other revisions.

Part 100 - Well Driller’s License Requirements

§ 65-140-101 Well Driller’s License Application

Any person, public or private, who is engaged or intends to engage in the drilling of wells is required to apply for a well driller’s license. Such licenses are required not only of those who make a regular business of well drilling, but all who may construct wells for their own purposes, for others as an incident to any lien of business activity, or for the exchange or barter of services. A copy of the well driller’s license application form is

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available from the Division. The application shall be submitted to the Chief on forms supplied by the Division, and shall include at a minimum the following information:

- (a) Name and business address/telephone number of well drilling company;
- (b) Name of duly authorized individual representing well drilling company;
- (c) Commonwealth contractor and business license numbers;
- (d) Documents detailing the applicant's bonding and financial capability, and insurance for comprehensive and general liability coverage;
- (e) Evidence of the applicant's qualifications and experience in conducting well drilling activities in the CNMI;
- (f) Signature of the applicant or authorized representative thereof indicating under penalty of perjury that the information provided in the application is true and accurate to the best of his or her knowledge.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: The Commission created the section titles in part 100.

In subsections (a), (b) and (c), the Commission changed the final period to a semi-colon to make the punctuation consistent.

§ 65-140-105 Application Fee

(a) A non-refundable fee of ten thousand dollars, payable to the Division, shall accompany each application for a new well driller's license. A non-refundable fee of one thousand dollars, payable to the Division, shall accompany each well driller's license renewal application.

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

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 16 Com. Reg. 11704 (Feb. 15, 1994); Amdts Proposed 15 Com. Reg. 11151 (Dec. 15, 1993); Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

The 1994 amendments added new subsection (b).

§ 65-140-110 Drilling Without License Prohibited

No well drilling of any kind shall be performed except by those well drillers with a valid license. The well driller's license number shall be prominently displayed on the side of the drill rig.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-115 Required Information

(a) An applicant for a well driller's license must prove the following to the satisfaction of the Chief. The Chief shall have the discretion to require additional information as deemed necessary for a specific application.

(b) The applicant is in possession of the necessary equipment to properly perform well drilling work and related tasks.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 16 Com. Reg. 11704 (Feb. 15, 1994); Amdts Proposed 15 Com. Reg. 11151 (Dec. 15, 1993); Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: The first paragraph was not designated. The Commission designated it subsection (a). The 1994 amendments deleted former subsection (b) and redesignated subsection (c) accordingly.

§ 65-140-120 Performance Bond

(a) An applicant for a well driller's license must obtain a performance bond in the amount of seventy-five thousand dollars, to remain in effect for the full period in which the well driller's license is to be valid. The bond shall be made payable to the Division, and the Chief shall use the proceeds from the bond to pay for any corrective action to any well(s) not located or constructed in accordance with the regulations in this chapter.

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

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 16 Com. Reg. 11704 (Feb. 15, 1994); Amdts Proposed 15 Com. Reg. 11151 (Dec. 15, 1993); Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: The 1994 amendments added a new subsection (b) and amended subsection (a).

§ 65-140-125 Field Crew Qualifications

An applicant's field crew chief(s) (those individuals with actual direct supervisory authority over well drilling activities in the field) must have the following qualifications:

(a) Have at least two years continuous work experience in well drilling and field testing techniques;

(b) Demonstrate knowledge of lithologic sampling methods; aquifer testing; pump testing; and water quality sampling through trial demonstration under the direct supervision of Division staff.

Modified, 1 CMC § 3806(e).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-130 Denial of Application

The Chief shall deny an application for a well driller's license or renewal thereof if the information submitted by the applicant does not demonstrate that the applicant satisfies the requirements pertinent to the license. The applicant may appeal the Chief's decision in accordance with the provisions of part 1300 of this chapter.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-135 Transfer of License

A well driller's license shall not, under any circumstances, be transferrable from one location to another, or from one person to another, without the approval of the Chief.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-140 Duration of License

The license shall be valid for a period of one year starting from the date of issuance.

Modified, 1 CMC § 3806(e).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-145 Timing of Application Submission

A fully completed well drilling license application shall be submitted to the Chief for review at least thirty calendar days prior to the scheduled start of any well drilling business activities.

Modified, 1 CMC § 3806(e).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-150 Renewal Application

Renewal application of a well driller's license shall be submitted at least thirty calendar days before expiration of such license.

Modified, 1 CMC § 3806(e).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-155 Failure to Renew within One Year

Failure to apply for renewal of a well driller's license within one year after its expiration will result in the requirement to apply for a new well driller's license, and to pay the new well driller's license fee.

Modified, 1 CMC § 3806(e), (f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-160 Reinstatement after Revocation

Reinstatement of any well driller's license which has been revoked by the Chief, as provided for under part 1400 of this chapter, requires the submission of a new well driller's license application, and payment of the new well driller's license fee.

Modified, 1 CMC § 3806(c), (d).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-165 Minimum Requirements for Renewal

All current well driller's licenses shall remain valid until their stated expiration date, after which all currently licensed well drillers must apply for license renewal pursuant to this chapter. Current well driller's licensees failing to meet the minimum requirements set forth in this part shall not be granted renewal of their well drilling license. Individuals not employed by the well driller on a full-time basis (i.e., consultants) may not be used to satisfy the personnel qualifications requirements of this section.

Modified, 1 CMC § 3806(d).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-170 Temporary Licenses Prohibited

"Provisional" or "temporary" well driller's licenses shall not be issued by the Chief, with the exception of such licenses to local and federal agencies for studies as approved on a case by case basis by the Chief.

Modified, 1 CMC § 3806(f).

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History: Amdts Adopted 16 Com. Reg. 11704 (Feb. 15, 1994); Amdts Proposed 15 Com. Reg. 11151 (Dec. 15, 1993); Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-175 Alteration, Falsification of License

No person shall deface, alter, forge, counterfeit, or falsify a well driller's license.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Part 200 - Well Drilling Permit Application Requirements

§ 65-140-201 General Requirements

(a) No well may be drilled unless the owner of the land upon which the well is to be drilled, or the lessee of said land (to be known hereinafter as "the applicant"), has obtained a well drilling permit from the Chief. It is the responsibility of the licensed well driller to confirm that a valid well drilling permit has been issued to the applicant by the Division. Administrative penalties may be imposed upon both the applicant and the well driller, as per part 1400 of this chapter, if any well is drilled without first obtaining a well drilling permit. A well drilling permit application shall be completed and submitted to the Chief for all new wells, or significant modification to any existing well(s). Water wells, test wells, and monitoring wells, provided they are on the same parcel of land, and will be constructed within 180 days, require submission of only a single well drilling permit application.

(b) Application for drilling an underground injection well shall be made in accordance with the regulations established by the Division, entitled "Underground Injection Control" (UIC) [NMIAC, title 65, chapter 90], a copy of which can be obtained at the office of the Division.

(c) The well drilling permit covers well siting and design criteria, and well construction, testing, and development activities. The well drilling permit application shall be submitted to the Chief and shall include at a minimum the information covered in this part.

(d) The requirements of this part apply to all applicants that have not received a well drilling permit as of the date the regulations in this chapter become effective. A copy of the well drilling permit application form is available from the Division.

(e) The application may be filled out by the applicant or his authorized representative. In either case, the applicant shall sign and date the application, and shall be responsible for all statements made therein.

Modified, 1 CMC § 3806(c), (d), (f).

History: Certified and Adopted 37 Com. Reg. 36619 (June 28, 2015); Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

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Commission Comment: This section was originally the first five paragraphs of part 200. See 14 Com. Reg. 9719 (Sept. 15, 1992). The Commission designated subsections (a) through (e). The Commission created the section titles in part 200.

In June, 2015, the Bureau of Environmental and Coastal Quality published a Notice of Certification and Adoption of Rule at 37 Com. Reg. 36619 (June 28, 2015) setting forth the following interpretive rule. This rule was adopted pursuant to 1 CMC § 9102 and not in accordance with 1 CMC § 9104. As such, the rule is published below and not codified as a numbered section:

:

When is a Well Drilling Permit Required? Standard Operating Procedure – Interpretive Rule

Purpose: To clarify under which circumstances a well drilling permit is required.

Background: Holes are often drilled, dug or bored for construction projects or other purposes using the same or similar equipment used to drill, dig or bore wells. How does a regulator, driller or contractor know when a well drilling permit is required to drill, dig or bore a hole? This document provides guidance on whether or not a drilling permit is required to construct a hole.

Statutes and Regulations:

Well Drilling Permit:

- Commonwealth Code Title 2 § 3323(a) states “No *well* may be drilled by any person without a drilling permit issued by the [Administrator of BECQ].”

Definition of *well*:

- Commonwealth Code Title 2 § 3314(f) defines a “well” as “any hole drilled, dug, or bored at any angle, either cased or uncased, for the purpose of obtaining water or knowledge of water bearing formations or for the disposal of surface water drainage of waste materials”

Discussion: Wells are often constructed using a drilling rig. Drilling rigs are also used to dig holes for soil borings, foundation pilings, or dewatering wells. These activities are not for the purpose of obtaining water or knowledge of water bearing formations. These activities are related to constructing facilities. Since soil borings, foundation pilings or dewatering wells are not constructed for the purpose of obtaining water or knowledge of water bearing formations a Drilling Permit is not required.

Procedure:

- (1) Determine the purpose of the hole to be constructed.
- (2) If the purpose of the hole is any of the following, then no Drilling Permit is required:
 - To collect soil samples for road or foundation design (soil boring)
 - To install or construct foundation pilings
 - To dewater the soil at a construction site (dewatering well)

(3) If the purpose of the hole is any of the following, then a Drilling Permit is required:

- To obtain water (domestic, industrial, irrigation, etc.)
- To explore a water bearing formation (geologic or hydrogeologic investigation of water bearing formations).
- To monitor the groundwater for contaminants (monitoring well)
- To inject wastewater into the ground (underground injection well)

(4) If a Drilling Permit is required – see the Well Drilling Permit Process SOP for more guidance.

(5) When no Drilling Permit is required, and groundwater is encountered during the construction of the hole, the constructor should notify DEQ so that DEQ personnel can inspect the site to ensure that no contamination of the aquifer occurs.

Modified, 1 CMC § 3806(a), (b), (g).

The Commission changed “Statues” to “Statutes” in the heading of subsection (c) and removed two periods following “etc.” under subsection (3) of “Procedure” to correct manifest errors. The italic, underline, and bold typefaces are so in the original.

§ 65-140-205 Information Required for Application

Information to be provided in the well drilling permit application form shall include:

(a) Name, address, and telephone number of the applicant. If the applicant is not the owner of the land, a lease or other title document must be provided with the application to prove the applicant’s legal right to use the property.

(b) Type of application (new, revision, or renewal).

(1) A new application is for those applicants who seek to construct new well(s) or make significant modification to existing well(s).

(2) A revised application is for those applicants who seek to make a substantial change to the scope of work as described in the original permit application. Substantial changes to original scope include but are not limited to the number of wells, the discharge rate requested, the location of the well(s), or the intended use(s) of the proposed well(s).

(3) A renewal application is for those applicants whose well drilling, development, testing, and reporting activities are not completed within 180 days from the date of issuing the original well drilling permit.

(c) Well drilling permit application fees shall be in accordance with the following fee schedule. Payment of fees is required at the time of submitting each permit application, and is non-refundable. Fees shall be paid by check, and made payable to the Division. The Commonwealth Utilities Corporation is exempt from payment of permit application fees.

Well Drilling Permit Application Fee Table

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<u>Application Type</u>	<u>Total Well Discharge Capacity Requirement¹</u>	<u>Application Fee^{2,3}</u>
Test & Monitoring		\$50.00
New	less than 20 gpm	\$50.00
	21 gpm to 100 gpm	\$200.00
	101 gpm to 200 gpm	\$1000.00
	201 gpm to 350 gpm	\$2000.00
	351 gpm to 500 gpm	\$4000.00
	over 500 gpm	\$8000.00
Revised	If discharge capacity requirements changes, the final cost to the applicant shall be based upon the above. If well location changes, no adjustment in fees is necessary, but applicant is required to obtain DEQ written approval.	
Renewal	There is no well drilling permit renewal fee.	

Notes for fee table:

¹ See part 800 defining total well discharge capacity requirement.

² Fees for significantly modified wells shall be the incremental new application fee. For example, if a project is to be expanded, involving a well discharge capacity requirement increase from 80 gpm to 120 gpm, the fee is \$800.00.

³ Lab fees are not included in the above. If the applicant wishes to utilize the Division's laboratory services for certain water quality sampling and analysis, the appropriate laboratory fees shall be paid to the Division at the time of application. All lab fees must be paid in advance. Payment must be by separate check or money order from the well drilling and well operation fees. In the event that retesting or additional tests are required, the applicant shall be responsible for the additional fees in advance.

(d) Well driller's name, address, telephone number, and well driller's license number (with expiration date).

(e) Type of well drilling equipment and drilling method to be employed.

(f) Proposed well drilling start date (for reference only).

(g) Intended use for the proposed well.

(h) Schematic design of the proposed well construction.

(i) Calculated well production capacity requirement (see part 800 of this chapter for requirements of well production capacity for various intended uses).

(j)(1) A map drawn at a scale of not more than one inch equals one hundred feet showing the following data for both public and non-public water supplies:

(i) Location of property lines and survey monuments with ties to proposed well location.

- (ii) Name of property owner upon which well is to be located, and name of abutters of said property.
 - (iii) A site location plan (no scale required) sufficiently accurate to allow Division staff to find the site.
 - (iv) Describe existing land use(s) and proposed land uses (must be to scale of no more than 1 inch equals 100 feet).
 - (v) Sketch of existing and/or proposed access to well site(s).
 - (vi) Ground surface topography, with contour intervals not to exceed ten feet, within 150 feet of proposed well location.
 - (vii) Location of all existing or proposed public sewer lines, sewer pump stations, and other sewerage facilities, individual waste disposal systems, intermittent or perennial streams, ponding basins, other wells (either active or abandoned), buildings, storm water drains, and wetlands within a 2500 foot radius of the proposed well location. In addition, the applicant is responsible for certifying that the proposed public water supply meets the minimum set-back requirements outlined in part 300 of this chapter.
 - (viii) Location and elevation of a temporary benchmark established by a registered land surveyor.
 - (ix) A statement as to whether the proposed well is to be constructed within the 100-year flood plain area.
 - (x) Location of pump test well water discharge.
- (2) The map must be certified to be complete and accurate. In the event that items represented on the map as required in subsection (j)(1)(vi) or (vii) change, a revised map must be submitted to DEQ within thirty calendar days identifying the changes.
- (k) The proposed well location shown on a United States Geological Survey map, scale 1:25,000. Indicate on the map the latitude and longitude (to the nearest second) of the proposed well site(s).
- (l) If available at the time of submitting the well drilling permit application, provide other project information, including the following:
- (1) A brief description of the project the well is a part of; i.e., project name, project scope (number of rooms, housing units, etc.).
 - (2) Other permits required, such as a coastal resources management permit (including major siting projects), an individual wastewater disposal system permit, an earth moving permit, and any federal permits. The applicant shall provide permit numbers, application dates, special permit conditions, and other permit information available at the time of applying for the well drilling permit.

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

History: Amdts Adopted 16 Com. Reg. 11704 (Feb. 15, 1994); Amdts Proposed 15 Com. Reg. 11151 (Dec. 15, 1993); Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: This section was originally the sixth paragraph of § 5 (part 200) and §§ 5.1 through 5.12. See 14 Com. Reg. at 9719-22 (Sept. 15, 1992).

The original paragraphs of subsection (j) were not designated. The Commission designated subsections (j)(1) and (j)(2).

The 1994 amendments amended the table in subsection (c), deleted former subsection (c) footnote (3), redesignated and amended former footnote (4), added subsection (j)(2) and amended subsection (j)(1).

In subsection (c) footnote 2, the Commission inserted the final period.

§ 65-140-210 Inspection

The proposed well site shall be inspected by the Chief or Division staff member prior to issuance of a well drilling permit. The applicant shall provide a physical marking (i.e., stake with flagging) prior to field inspection by the Division. The applicant or his authorized representative shall accompany the Division Chief or staff member during the field inspection.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-215 Timing of Well Drilling Permit Application Submission

A fully completed well drilling permit application shall be submitted to the Chief for review at least thirty calendar days prior to the scheduled start of any well drilling activities.

Modified, 1 CMC § 3806(e).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-220 Duration of Permit

A well drilling permit shall remain valid for a period of 180 calendar days from the date of issuance. All well drilling, development, testing, and reporting activities must be completed within the 180 calendar day period.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-225 Permit Renewal

If the original permit expires prior to completion of all well drilling, testing, and reporting activities, the applicant may apply for a renewal of a well drilling permit. An application for renewal shall include all data required for a new permit, and shall be submitted at least thirty calendar days prior to expiration of the original permit. A permit that expires without renewal shall require re-submission of a new permit application and application fees.

Modified, 1 CMC § 3806(e).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-230 Data Submission Requirements

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

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 16 Com. Reg. 11704 (Feb. 15, 1994); Amdts Proposed 15 Com. Reg. 11151 (Dec. 15, 1993).

Commission Comment: The Commission changed “wells” to “well’s” to correct a manifest error.

Part 300 - Well Siting Criteria

§ 65-140-301 General Requirements

All new public and non-public water supply wells shall be setback a distance from potential sources of contamination. The setback distances shall define a wellhead protection area. There shall be an established wellhead protection area around each new public and non-public groundwater supply. The wellhead protection area is defined by a downgradient and side dimensions from the well, and upgradient dimension from the well normally equal to twice the downgradient dimension. Section 65-140-305 shall be used in siting a new public water supply well.

Modified, 1 CMC § 3806(c).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: The Commission created the section titles in part 300.

§ 65-140-305 Public Water Supply Wellhead Protection

(a) Public water supply wellhead protection area requirements are:

<u>Existing Land Use</u>	<u>Minimum Down/Upgradient Dimensions of Wellhead Protection Area</u>
Above/Below Grade Structures	10/10
Road Drainage Course/Roadside	50/100
Surface Water Body	150/150
Public/Private Sewer Line ¹	100/200
Sewage Pump Station	150/300
Seepage Pit, Outhouse, Cesspool, Leach field, Wastewater Treatment Facility	150/300
Underground Fuel Storage Tank	500/500
Auto, Heavy Equipment, Engine Repair Facility	250/500

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Underground Injection Well	250/500
IWDS Effluent Disposal (³ 5,000 gpd)	500/500
Above Ground Fuel Storage Facility (< 2,000 gal) ²	250/500
Above Ground Fuel Storage Facility (> 2,000 gal) ³	1000/2000
Above Ground Fuel Storage Facility ⁴	500/500
Above Ground Fuel Storage Facility ⁵	200/400
Landfill or Hazardous Waste Storage/Treatment Facility	1000/2000
Unsewered Industrial Process	1000/2000

Notes:

¹ This distance may be reduced to 50 feet provided monitoring and additional safety measures as prescribed by DEQ are put into place and maintained. Tests will typically include increase nitrate monitoring and increase monitoring of sewer line.

² This requirement pertains to existing tanks, constructed prior to the revision of the regulations in this chapter. Depending on the terrain and site characteristics the Chief may impose additional measures to protect the groundwater. In the event that DEQ promulgates aboveground storage tank regulations, they shall supersede these requirements.

³ This requirement pertains to existing tanks, constructed prior to the revision of the regulations in this chapter. Depending on the terrain and site characteristics the Chief may impose additional measures to protect the groundwater. In the event that DEQ promulgates above ground storage tank regulations, they shall supersede these requirements.

⁴ All existing and new tanks must be suitable as confirmed by the manufacturer for aboveground use for the storage of the product to be stored. Tank and ancillary equipment must be of materials industry recognized and compatible with the product to be stored. Plastic or fiberglass shall not be permitted for flammable or combustible liquids. Tanks must have secondary containment as approved by DEQ. Corrosion protection must be provided for the entire system. Piping shall be double walled, piping below grade shall be equipped with automatic leak detection. Adequate collision protection must be provided. Depending on the terrain and site characteristics the Chief may impose additional measures to protect the groundwater. In the event that DEQ promulgates above ground storage tank regulations, they shall supersede these requirements.

⁵ In addition to the requirements in note 3 above, only double walled tanks shall be installed. All tanks shall be precision/ strength tested. Each tank shall be surrounded by a secondary containment berm that provides a containment volume of at least 110% of the AST storage volume plus four inch freeboard. All double walled piping shall be placed in a below-grade vault to capture any leaks that may occur. Depending on the terrain and site characteristics the Chief may impose additional measures to protect the groundwater. In the event that DEQ promulgates aboveground storage tank regulations, they shall supersede these requirements.

(b) These setbacks shall not apply to monitoring wells. Setbacks for monitoring wells shall be as prescribed by the Chief of DEQ. In the event that a well is in existence, the

above criteria shall limit the distance the above items may be constructed from the well head.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 16 Com. Reg. 11704 (Feb. 15, 1994); Amdts Proposed 15 Com. Reg. 11151 (Dec. 15, 1993); Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

The 1994 amendments amended the table in subsection (a), added footnotes (1) through (5) to the table in subsection (a), and added new subsection (b).

§ 65-140-310 Non-public Water Supply Wellhead Protection

Non-public water supply wellhead protection area requirements are:

Road Drainage Course	25/50
Surface Water Body	75/75
Public/Private Sewer Line	75/150
Sewage Pump Station	75/150
Seepage Pit, Outhouse, Cesspool, Leach field	75/150

All other set back distances shall be as listed in § 65-140-305 above.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-315 Additional Setback Requirements

In addition to the above, wells shall be setback a minimum of 25 feet from property lines, and a minimum of 25 feet from overhead power lines. Well drillers are encouraged to contact the local telephone, water, sewer, and power authorities to determine the presence of buried utilities in the area of any proposed drilling activities. All damages sustained to property as a result of well drilling activities shall be the responsibility of the well driller performing the work.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-320 Hydrogeologic Investigation

The Chief may order an applicant to conduct a comprehensive hydrogeologic investigation if any of the above listed land uses pose a threat to a proposed public water supply, even if the potential contamination source is located outside the designated wellhead protection area. Refer to part 1700 of this chapter regarding such an investigation.

Modified, 1 CMC § 3806(c), (d).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-325 Groundwater Monitoring

For water supply wells located downgradient of a known or potential source of contamination, or whose zone of contribution is occupied by a known or potential source of contamination, the Chief may require the installation of one or more monitoring wells, and require the establishment of a groundwater monitoring program. The cost of all groundwater monitoring related costs shall be borne by the applicant. See part 1700 of this chapter for information pertaining to the requirements for monitoring wells and hydrogeologic investigations.

Modified, 1 CMC § 3806(c), (d).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-330 Other Setback Distances

Set back distances from other possible sources of contamination will be established on a case by case basis.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-335 Greater Setback Distances If Required

For all known or potential sources of contamination the Chief may require greater setback distances than those listed in § 65-140-305, should the prevailing hydrogeology of the proposed well site (such as within geologic formations known to have very high transmissivity values) warrant such measures.

Modified, 1 CMC § 3806(c).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-340 Well Location Upgradient of Contamination

Wherever possible, wells shall be located upgradient (upstream of the area's prevailing groundwater flow pattern) of any known or potential source of contamination.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-345 Estimation of Gradient

If the groundwater gradient cannot be reasonable estimated, then the wellhead protection area shall be a circle with the well at its center, and with a radius equal to the average of the downgradient and upgradient dimensions listed above.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-350 Casing Termination Above Flooding

The top of the casing shall terminate a minimum of 12 inches above any known conditions of flooding by drainage or runoff from the surrounding land.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-355 Compliance with UIC Regulations

The siting of underground injection wells shall be in accordance with the regulations established by the Division, entitled “Underground Injection Control” (UIC) [NMIAC, title 65, chapter 90], latest revision, a copy of which can be obtained at the office of the Division.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-360 Exemptions

See parts 1100 and 1200 of this chapter for allowed exemptions from the above requirements.

Modified, 1 CMC § 3806(c), (d).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-365 CUC’s Water Distribution System

Applicants for new public or non-public groundwater supplies proposed within 250 feet of the CUC water distribution system must submit a letter or statement from the CUC Water Division Chief with the well drilling permit application, stating that CUC is not capable of providing water service at the applicant’s property. No well drilling permit shall be issued for projects located within 250 feet of a CUC distribution main unless a denial letter from CUC Water Division is submitted.

Modified, 1 CMC § 3806(f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Part 400 - Well Construction Criteria

§ 65-140-401 Sealing of Annular Space

The annular space on all wells shall be sealed to protect the well and/or the aquifer from entrance of surface or shallow contaminants. The minimum distance for sealing off the annular space shall be 50 feet, unless otherwise provided for below.

- (a) For wells constructed in very shallow aquifers (less than 50 feet deep to the water table), the applicant may seal the annular space to a lesser depth provided the applicant can demonstrate to the Chief that the well construction will provide protection from entrance of surface or shallow contaminants. In no instance shall the annular seal be constructed to a depth less than 25 feet. The annular seal shall not be placed until Division personnel perform a site inspection.
- (b) For wells constructed in unconsolidated material, prone to collapsing, a conductor casing shall be installed to the depth of the seal specified above. The 2-inch (min) space between the conductor casing and production (well) casing shall be filled with sealing material.
- (c) The sealing material shall conform to the latest revision of the NWWA specification for well sealants, or shall be made up of cement grout – 2½ parts by volume of sand to one part by volume of cement, with 5 to 7 gallons of water per bag.
- (d) High sulfate resistant cement (Type V Portland Cement) shall be used for sealing mixtures, due to its corrosive resistant properties.
- (e) The sealant shall be allowed to “set” in-place at least 24-hours before well construction operations may resume.
- (f) Before placing sealant material, the annular space shall be flushed.
- (g) An approved filter pack of rounded pea gravel or sand sized for screen shall be installed between the bore hole and the well casing wherever grout is not placed.

Modified, 1 CMC § 3806(f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: The Commission created the section titles in §§ 65-140-401 through 65-140-455, and §§ 65-140-470 and 65-140-475.

§ 65-140-405 Well Casing

Openings into the well seal shall be protected from entrance of surface waters or foreign matter. Well casing air vents shall be equipped with stainless steel insect screen and shall have downturned “U” bend.

- (a) A 1.0-inch diameter PVC schedule 40 pipe (sounding tube) shall extend from a point at least 6-inches above the top of the well down to the bottom of the well in order to facilitate water level measurements. If the sounding tube is installed on the inside of the well casing, then each time the well undergoes significant modification, the sounding tube shall be properly reconstructed before the well is put back into service.

(b) Each well equipped with a submersible pump shall have a properly constructed well cap and gasket installed (sanitary seal).

(c) Each well equipped with a turbine pump shall have its pump head base plate properly gasketed to the well casing top flange.

Modified, 1 CMC § 3806(f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-410 Concrete Pedestal around Well Head

Each well shall have a reinforced concrete pedestal constructed around the well head. The pedestal shall be a minimum of 6-inches thick, 3 feet by 3 feet in dimension, constructed continuous with the grout seal, and set into the ground several inches, sloping gently away from the well cap. The ground around the concrete pedestal shall be sloped away from the well.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-415 Required Equipment

All water wells shall be equipped with the following:

- (a) Sounding tube
- (b) Well casing air vent (bent downward, screened)
- (c) Check valve
- (d) Pressure gauge
- (e) Gate valve
- (f) Sample tap (If well is equipped with a chlorination system, the sample tap shall be located upstream of the chlorine injection point.)
- (g) Flow meter
- (h) Pressure relief valve, if well is made part of a hydropneumatic system.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (h).

§ 65-140-420 Required Dimensions

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(a) Minimum inside diameters for well casing shall be based on the required installed capacity of the well, as defined in part 800 of this chapter, and shall be in accordance with the table below:

<u>Capacity of Well (gal/min)</u>	<u>Min Inside Diameter of Well (inches)</u>
less than 30	5
30 to 100	6
100 to 199	8
200 to 349	8
350 to 650	10
Above 650	As directed by Chief

(b) Minimum wall thickness for steel well casing and conductor casing shall be 1/4 inches. Steel casing joints shall be screwed type with external sleeves, or welded. Steel casing shall conform to ASTM A-53 or A-120. Use of steel well casing is discouraged, due to the highly corrosive nature of much of the Commonwealth's groundwaters.

(c) Minimum wall thickness for PVC well casing shall be schedule 40 for wells with depths up to 75 feet, and schedule 80 for wells with depths from 75 feet to 350 feet. PVC may not be used for well casing in wells deeper than 350 feet, or for conductor casing, or under conditions requiring driven well casing unless certification by the manufacturer is given for the specific application. PVC well casing shall conform to ASTM F-480.

(d) Reinforced fiberglass casing may be suitable for casing depths of up to 500 feet, provided the manufacturer certifies that the casing has the required strength.

(e) No casing material other than steel, stainless steel, PVC, or fiberglass shall be permitted unless granted special approval by the Chief.

Modified, 1 CMC § 3806(c), (d).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: The first paragraph was not designated. The Commission designated it subsection (a).

§ 65-140-425 Use of Certain Wells for Drinking Water

Dug wells and driven wells are prohibited for use as drinking water supplies (public or non-public), unless otherwise granted special permission by the Chief.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-430 Underground Injection Wells

The construction of underground injection wells shall be in accordance with the regulations established by the Division, entitled "Underground Injection Control" (UIC)

[NMIAC, title 65, chapter 90], a copy of which can be obtained at the office of the Division.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-435 Drilling Fluids

Only clean, potable water shall be used in drilling fluids whether employed alone or in combination with drilling additives. Only high grade clays or commercial chemicals, proposed by the applicant and given prior approval by the Chief, shall be used in make-up of any drilling fluid.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-440 Interruption in Work

Whenever there is an interruption in work on the well, such as an overnight shutdown, during inclement weather, or period between testing, etc., the well opening shall be closed and secured (by tack welding or other approved means) with a cover designed to insure the public safety, prevent damage to the well, and prevent the introduction of unwanted materials into the well.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-445 Lead and Mercury Prohibited

Lead, all alloys/materials containing lead, and paints and coatings containing lead or mercury shall be strictly prohibited from introduction into any new or existing water well.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-450 Plumbness

All wells should be constructed both straight and plumb. Plumbness should provide for the proper installation of equipment.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-455 Well Screens

For wells constructed in unconsolidated or incompetent geologic structures, well screens will likely be required. Well screens shall have the following properties:

- (a) Constructed with slot openings continuous around the circumference of the screen, allowing for efficient well development and operation.

(b) Constructed with slot openings spaced to provide maximum open area consistent with strength requirements and well packing (or native earth) grain size distribution. Slot openings should be V-shaped and widen inward.

(c) Constructed of a single, corrosion resistant metal.

(d) Screen design shall be submitted to the Chief for review and approval prior to installation.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-460 Monitoring Wells

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

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 16 Com. Reg. 11704 (Feb. 15, 1994); Amdts Proposed 15 Com. Reg. 11151 (Dec. 15, 1993).

Commission Comment: The 1994 amendments misnumbered new sections 7.1.3 through 7.1.5. Section 7.1 already existed and is codified at § 65-140-401. The correct numbering is §§ 7.13 through 7.15, and the Commission codified the provisions accordingly at §§ 65-140-460 through 65-140-470.

§ 65-140-465 Materials for Construction

Materials associated with the well and appurtenances for all wells (monitoring, water, and seawater) shall be described in the application. Construction materials shall be consistent with the environmental conditions in the CNMI and approved by DEQ.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 16 Com. Reg. 11704 (Feb. 15, 1994); Amdts Proposed 15 Com. Reg. 11151 (Dec. 15, 1993).

Commission Comment: The Commission corrected the spelling of “appurtenances.”

§ 65-140-470 Well Construction Report for Water Wells

The following is for water wells only.

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

(1) Name of driller, geologist and other personnel on the site during drilling;

- (2) Date/time to start and finish the well;
- (3) Location of the well (include diagram of site in accordance with § 65-140-205(j));
- (4) Elevation of ground surface;
- (5) Type of drilling equipment;
- (6) Diameter of boring hole;
- (7) Depth to water encountered during drilling;
- (8) Depth to standing water;
- (9) Well boring log that shows soil/rock classification and description;
- (10) Total well depth;
- (11) Well completion information to include:
 - (i) A description of the well casing (include type of material, casing diameter, total length of casing, depth below ground surface, how sections are joined, and if an end cap was provided),
 - (ii) A description of the well screen (include the type of screen material, screen diameter, slot size and length, and the depth to the top and bottom of the screen),
 - (iii) A description of the filter pack (include the type/size of pack material, volume of material used, the depth to the top of the filter pack, and the method of placement),
 - (iv) A description of grout and/or sealant (include material composition, method of placement, volume placed, and the depth (top and bottom) of the grout interval in the well),
 - (v) A description of the backfill material (include the type of material, and the depth (top and bottom) of the backfilled interval),
 - (vi) A description of the surface seal (include the type of seal, and the dimensions of the seal).
- (b) This information is not required for exploratory pump tests. The Chief may require on a case by case basis that additional information be obtained and submitted for review and approval. Soil samples are required to be collected every ten feet, labeled stated depth sample was obtained, and put in clean containers (plastic bags are acceptable) so that they can be inspected by DEQ.

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

History: Amdts Adopted 16 Com. Reg. 11704 (Feb. 15, 1994); Amdts Proposed 15 Com. Reg. 11151 (Dec. 15, 1993).

Commission Comment: In the opening paragraph, the Commission inserted the final period, and in subsection (a)(11)(i), the Commission inserted the final comma to ensure consistent punctuation.

§ 65-140-475 Collision Protection

Wells located near areas of traffic must be provided with appropriate collision protection to ensure the security of the well-head.

History: Amdts Adopted 16 Com. Reg. 11704 (Feb. 15, 1994); Amdts Proposed 15 Com. Reg. 11151 (Dec. 15, 1993).

Part 500 - Well Development and Disinfection

§ 65-140-501 Care in Developing, Redeveloping

Developing, redeveloping, or conditioning of a well shall be done with care and by methods which will not cause damage to the well or its casing or cause adverse subsurface conditions that may destroy or damage barriers to the vertical movement of water between aquifers.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: The Commission created the section titles in part 500.

§ 65-140-505 Removal of Chemical Agents

Where chemical agents have been introduced into the well or surrounding area in the course of well construction, development, and/or redevelopment, the well shall be pumped until these agents have been removed. Sampling may be required to verify removal.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-510 Disinfection

Upon completion of well development and flushing, but before the start of the pump test, the well driller shall disinfect the well and discharge piping. Disinfection shall be accomplished by maintenance of a free chlorine residual of at least 100 parts per million (ppm) for a period of at least 24 hours. See the following table for guidance in determining the necessary chlorine dose to achieve a chlorine concentration of 100 ppm in the well water. After first application of chlorine into the well, the well driller shall momentarily operate the test pump in order to mix the chlorine solution in the well water and to introduce chlorine into the discharge piping. A chlorine solution shall be applied to the interior of the well casing above the water level.

Chlorine Compound Required to Produce a 100 mg/l Solution per 100 Feet of Water-filled Casing

<u>Well Casing Diameter</u>	<u>65% HTH dry wt.(l)</u>	<u>5.25% Commercial Bleach liquid measure</u>
6 inch	4.0 oz.	40 oz.
8 inch	6.0 oz.	64 oz. (½ gallon)
10 inch	8.0 oz.	112 oz.
12 inch	12.0 oz.	160 oz.
16 inch	22.0 oz.	256 oz. (2 gallons)
20 inch	34.0 oz.	428 oz.

Notes:

- (1) Where a dry chemical is used, it should be mixed with water to form a chlorine solution before putting it into the well.
- (2) All other chemical additives applied in and around the well require approval by the Chief prior to use.

Modified, 1 CMC § 3806(f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Part 600 - Pump Testing and Water Quality Sampling Requirements

§ 65-140-601 Objective of Pump Tests

The objective of the pump test is to prove that groundwater exists in sufficient quantities to meet the long-term water needs of the project, and that the maximum monthly well production allocation as defined in part 800 of this chapter will not result in degradation of groundwater quality or potability. The Commonwealth is committed to a policy of non-degradation of its groundwater resources.

Modified, 1 CMC § 3806(c), (d).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: The Commission created the section titles in part 600.

§ 65-140-605 Duration of Pump Test

(a) At a minimum, a 36-hour pump test (24-hours for non-public water supplies), or “sustained yield test,” shall be required on all water wells. The Chief may require a longer test duration, if the hydrogeologic characteristics of the site and the water requirements of the project warrant it. The pump test shall be conducted only after the well has been developed, flushed, and disinfected.

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

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 16 Com. Reg. 11704 (Feb. 15, 1994); Amdts Proposed 15 Com. Reg. 11151 (Dec. 15, 1993); Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) and (b).

The 1994 amendments added new subsection (b).

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In subsection (a), the Commission moved the comma after “test” inside of the closing quotation mark to correct a manifest error. In subsection (b), the Commission deleted the repeated phrase “of conducting.”

§ 65-140-610 Supervision of Pump Tests

For projects with a total well discharge capacity requirement of more than 200 gpm (see part 800 of this chapter for determination of the total well discharge capacity requirement), a qualified hydrogeologist or groundwater engineer shall supervise the pump test process and report to the Division on the results of the test in accordance with the requirements of this chapter.

Modified, 1 CMC § 3806(c), (d).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-615 Scheduling Pump Test

The start of pump test must be scheduled with the Division at least two working days in advance. Tests must begin and conclude during DEQ’s normal working hours whenever possible.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 16 Com. Reg. 11704 (Feb. 15, 1994); Amdts Proposed 15 Com. Reg. 11151 (Dec. 15, 1993); Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-620 Equipment Test

The well driller shall test the pump, generator, and discharge piping, valves, meters, and gauges as necessary to assure their proper adjustment and good operating condition at least 24-hours in advance of the scheduled start of the well pump test. In the event pump testing equipment is not operational, the well driller will promptly notify the Division.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-625 Procedure for Pump Test

The sustained yield pump test shall be continuous, and shall monitor water level, rate of discharge, and water quality in accordance with the following schedule:

(a) Water level measurements are to be recorded to the nearest one-one hundredth of a foot (0.01 feet), using an electronic depth sounder, a “data logger,” or a steel tape (with chalk) properly calibrated.

Duration

0 to 10 min

12 to 30 min

40 min to 1 hour

Interval (minutes)

every minute

every 2 minutes

every 10 minutes

90 min to 8 hours	every 30 minutes
9 hours to 24 hours	every 1 hour
26 hours to 36 hours	every 2 hours (for PWS only)

(b) An aquifer recovery test shall be conducted immediately upon the completion of the pump test. Water levels shall be measured every 1 minute for 60 minutes, or every one minute until such time as the water level recovers to within 95 percent of its pre-pumping level, which ever occurs first (i.e.; if the total pump test drawdown is 100 feet, then measurements shall be made until such time as the aquifer recovers to within 5 feet of its original pumping level). If the aquifer takes more than one hour to recover, measurements shall be made every 10 minutes until such time as the aquifer recovers to 95 percent of its pre-pumping level.

(c) Flow rates shall be measured through a mechanical flow meter, and recorded at least once every 30 minutes for the first 8 hours of the pump test, and every hour thereafter. Other methods of flow measurement must be given prior approval by the Chief.

(d) After installation of the permanent pumping and piping equipment, but before the well is put into service, the well and equipment shall be disinfected in accordance with the procedures outlined in § 65-140-510.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: The final paragraph was not designated. The Commission designated it subsection (d).

In subsection (a), the Commission moved the comma after “logger” inside of the closing quotation mark.

§ 65-140-630 Discharge Water

Water pumped from the well in the course of the pump test shall discharge a minimum of 100 feet downgradient of the well. Discharge water shall not impact surrounding property, nor shall it create a public nuisance. Discharge water shall not be permitted to pond or collect, but shall drain freely in the direction away from the well(s) being tested.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-635 Multiple Well Pump Tests

In the event 2 or more wells are constructed for the same project, the Chief may require simultaneous pump tests. For all multiple well pump tests, the applicant shall submit a pump test plan indicating sampling scheduling, pumping rates, and water level measurement to the Chief prior to performing the test.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-640 Clean Well Site

The well site shall be relatively clean, free of excessive mud and debris, prior to the start of the pump test.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-645 Underground Injection Well Tests

Injectivity tests, geophysical logging, and mechanical integrity testing for underground injection wells shall be conducted in accordance with the regulations established by the Division, entitled “Underground Injection Control” (UIC) [NMIAC, title 65, chapter 90], latest revision, a copy of which can be obtained at the office of the Division.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-650 Water Quality Analysis

(a) Routine water quality analysis shall be conducted during the course of pump test. Analysis can be performed at the Division’s water quality laboratory or other EPA certified laboratory. Routine water quality analysis includes sampling for the following parameters.

- (1) Chloride
- (2) Total hardness
- (3) Nitrate
- (4) pH
- (5) Total dissolved solids (TDS)
- (6) Conductivity
- (7) Total coliform.

(b) For public water supplies: Chloride, hardness, pH, conductivity, and TDS shall be taken at hour 0 (start of pump test), and at hours 2, 4, 6, 8, 12, 16, 24, 30, and 36. Clean, clear 500 ml plastic bottles shall be used. Bottles shall be labeled by project name, time and date of sampling, sample number, and person responsible for taking the sample.

(c) For non-public water supplies: Chloride, hardness, pH, conductivity, and TDS shall be taken at hour 0 (start of pump test), and at hours 2, 4, 6, 8, 12, 16, and 24. Clean, clear 500 ml plastic bottles shall be used. Bottles shall be labeled by project name, time and date of sampling, sample number, and person responsible for taking the sample.

(d) For all water wells: Nitrate and total coliform shall be taken at the end of the pump test, placed in specially prepared bottles given by the analyzing laboratory, and delivered to the lab in accordance with the lab’s instructions. Bottles shall be labeled by project name, constituent to be analyzed, time and date of sampling, sample number, and person responsible for taking the sample.

(e) At the conclusion of the pump test, sampling will be conducted for other non-routine water quality parameters (i.e., VOCs) as may be required by the Chief.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (e).

In subsection (e), the Commission changed “VOC’s” to “VOCs” to correct a manifest error. In subsection (a)(7), the Commission inserted the final period.

§ 65-140-655 Cost of Water Quality Analysis; Results

The cost of water quality analysis is not included in the well drilling permit application fee. The applicant should inquire into the cost of the required routine and non-routine laboratory analysis prior to submitting a well drilling application. If the Division laboratory is used, water quality sampling results will be mailed to the applicant. No operations permit will be issued if the results of this water quality analysis exceeds the CNMI Drinking Water Standards [NMIAC, title 65, chapter 20], latest revision, unless the water supply is to undergo appropriate treatment. Regardless of any treatment process proposed, all water wells must undergo routine water quality analysis.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-660 Forms Provided in Application

The well operations permit application includes copies of the forms to be used in reporting the results of the pump test and routine water quality analysis.

Modified, 1 CMC § 3806(f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-665 Division Laboratory Procedures

Applicants submitting water samples to the Division’s laboratory shall comply with all Division lab sampling procedures and sample submission policies. A copy of the “Division Lab Water Sampling Procedures and Sample Submission Policies” is available at the office of the Division.

Modified, 1 CMC § 3806(f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Part 700 - Well Drilling Activity Reporting for Well Operations Permit Application

§ 65-140-701 Geologic Logs

The applicant shall submit copies of geologic (lithologic) logs to the Division. Geologic samples shall be taken every 10 feet and duly logged on forms provided by the Division, unless otherwise waived by the Chief in writing prior to the start of well drilling.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: The Commission created the section titles in part 700.

§ 65-140-705 Other Required Information

The applicant shall submit actual “as-built” well construction sections and material specifications, hydrogeologic data (static water level based on USGS datum), drawdown, and pump test flow rate. Forms for submission of this information are included in the well operations permit application.

Modified, 1 CMC § 3806(f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-710 Water Quality Sampling Results

The applicant shall submit all water quality sampling results as specified in part 600 of this chapter.

Modified, 1 CMC § 3806(c), (d).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-715 Hydrogeologic Report

The applicant shall submit a site specific hydrogeologic report, if made a condition of the applicant’s well drilling permit issued by the Chief. The general requirements for a hydrogeologic investigation are given in part 1700 of this chapter.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-720 Information Required for Permit

A well operations permit will not be issued without submission of the above information.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-725 Degradation of Groundwater

Should the well construction, pump test, and analytical data indicate that long-term degradation of groundwater quality may occur as a result of withdrawing water at the

depth and rate as requested by the applicant, the Chief may require subsequent pump test(s) at reduced flow rate(s) and at different depth(s), etc. until such time as it can be shown that no degradation of the groundwater will occur as a result of the applicant's withdrawal of his permitted maximum monthly well production allocation. The purpose of this provision is, in part, to minimize the possibility of saltwater intrusion which can occur due to overpumping wells.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Part 800 - Water Supply Capacity Guidelines

§ 65-140-801 Average Daily Water Supply Requirement

Water supply capacity guidelines are given in table 800-1. The total of all uses constitutes the estimated average daily water supply requirement. The applicant shall provide a detailed summary, by class of use, of the project's total average daily water supply requirement, on forms provided by the Division.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-805 Average Daily Well Withdrawal Requirement

For those projects proposing no form of water treatment, the average daily well withdrawal requirement is equal to the average daily water supply requirement identified in § 65-140-801 above. For those projects proposing water treatment as part of their water supply facilities, the average daily well withdrawal requirement shall be equal to the average daily water supply requirement established in § 65-140-801 above, divided by the stated efficiency (expressed in its decimal form) of the proposed treatment system.

Modified, 1 CMC § 3806(c).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-810 Maximum Monthly Well Production Allocation

The project's maximum monthly well production allocation shall be equal to no more than 150 percent of the flow, expressed in gallons per month, of the average daily well withdrawal requirement as identified in § 65-140-805 above.

Modified, 1 CMC § 3806(c).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-815 Limitations

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The well pump test flow rate shall be set at the maximum monthly well production allocation, expressed in gallons per minute, identified in § 65-140-810 above. Well pump tests shall be conducted in accordance with the requirements of part 600 of this chapter. Actual maximum monthly well withdrawal allocation for individual wells shall be subject to the following limitations:

(a) If degradation in the ambient groundwater quality is measured in the course of the pump test, the applicant will be required to reduce the water supply requirement of the project; install additional wells to provide for a reduced rate of withdrawal from each production well; or both, until subsequent pump tests confirm there is no degradation in groundwater quality as a result of the applicant's withdrawal of the permitted maximum monthly well production allocation.

Modified, 1 CMC § 3806(c), (d).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: The original regulation created subsection (a), but did not create any other subsections.

§ 65-140-820 Total Well Discharge Capacity Requirement

The project's total well discharge capacity requirement shall be equal to 200 percent of the average daily well withdrawal requirement identified in § 65-140-805 above, expressed in gallons per minute. This flow rate will dictate well construction parameters and selection and design of pumping systems. This provision is to assure that:

- (a) There is an adequate water supply during short-term periods of peak use;
- (b) An allowance is made for declining well yield and pump performance over time;
- (c) The water supply facilities for large projects (with more than one well in production) will be capable of producing all of, or a significant portion of, the average daily water supply requirement with one well out of service.

Modified, 1 CMC § 3806(c).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Table 800-1
Water Supply Capacity Guidelines

<u>Type of Development</u>	<u>Unit of Measurement</u>	<u>Gallons per Unit per Day</u>
Single family home	Bedroom	150
Duplex	Bedroom	150
Multiple family (apt)	Bedroom	120
Condominium	Bedroom	120

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Business hotels/motels	Bedroom	120
Resort hotels	Bedroom	225
Barracks/worker's housing	Bed	60
Hospitals	Bed	250
Restaurants	Seat	40
Lounge	Seat	10
Schools with cafeteria	Student/faculty	25
Schools without cafeteria	Student/faculty	15
Boarding school	Student/faculty	100
Office space	100 sf gross area	15
Retail commercial space	100 sf gross area	10
Garment factory	Worker shift	15
Airport	Passenger	5
Self-service laundry fac	Washer	250
Car wash	vehicle	40
Service station	Employee	150
Swimming pool/bath house	Person	10
Theater/Auditorium	Seat	5

Notes:

- (1) The Division may modify the above standards for a specific project if the applicant provides historical metered water use data for other like projects indicating a more appropriate gallons per unit water requirement.
- (2) For a type of development not listed above, the applicant shall provide a detailed summary of projected water use for review by the Division. The Chief reserves the right to modify water use projections made by an applicant for a given type of development not listed above.
- (3) For some resorts, hotels, apartments, condominiums, and motels, other ancillary water uses may have to be factored into the total water supply requirement. These uses may include swimming pools, health clubs, gardening/irrigation, on-site staff housing, and air conditioning.
- (4) Seasonal water use needs, such as golf course irrigation supply, shall be determined on the basis of a dry year dry season irrigation requirement.
- (5) For the purpose of this chapter, the water use figures listed above shall take precedence over other water use figures used by Coastal Resources Management Office and CUC.

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

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: In footnote 3, the Commission inserted the word “be” before “factored” to correct a manifest error.

§ 65-140-825 Excessive Well Discharge

If the total well discharge requirement established in § 65-140-820 above exceeds 200 gallons per minute, then the applicant shall be required to install at least two water supply wells to serve the project, whose combined discharge capacity is equal to or greater than the flow rate established in § 65-140-825 above.

Modified, 1 CMC § 3806(c), (e).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-830 Treatment Plant Rated Capacity

For systems proposing water treatment, the treatment plant rated capacity shall be equal to or greater than the total well discharge capacity requirement.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-835 Maximum Monthly Well Production Allocation

The Chief will establish the total well discharge capacity requirement based upon the water supply needs of the project, and shall establish the maximum monthly well production allocation for each well on the basis of well pump test data, well drilling data, and water quality analytical data.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-840 Atmospheric Storage

The applicant shall provide atmospheric storage equal to at least two days, of the average daily water supply requirement as determined in § 65-140-801 above.

Modified, 1 CMC § 3806(c), (e).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-845 Example

(a) Given: The proposed “Jewel of Micronesia” resort project has a calculated total average daily water supply requirement of 201,600 gallons per day (gpd), based upon the proposed number of resort bedrooms, condominium bedrooms, restaurant seating capacity, on-site staff housing, etc. Table 800-1 was used as a reference in determining the above daily requirement. The developers of the resort propose to use a reverse osmosis treatment system with a stated efficiency of 40 percent.

(b) Solution:

Average daily water supply requirement is 201,600 gpd = 140 gpm

Average daily well withdrawal requirement is

$$\frac{140\text{gpm}}{.40 \text{ (treatment plant efficiency)}} = 350\text{gpm}$$

Total well discharge capacity requirement is
350 gpm x 200 percent = 700 gpm

Maximum monthly permitted withdrawal for all wells is therefore:
350 gpm x 150 percent = 525 gpm, or
22.8 million gallons per month

(c) Because the total well discharge capacity requirement is greater than 200 gpm, at least two wells are required. The developer proposes to install four wells, each with an installed production capacity of 25 percent of the total requirement, or 175 gpm each.

(d) Because the total well discharge capacity requirement is divided equally among the four proposed wells, each well shall be allocated a maximum monthly production of 130 gpm (one-quarter of the total), or 5.7 million gallons per month.

(e) Because the proposed production wells do not have a discharge capacity requirement greater than 350 gpm (each), there is no need for installing test wells to determine the limits of the wells' radius of influence (see part 1600 for requirements related to determination of a well's radius of influence).

(f) The proposed production wells must undergo a 36-hour pump test (this is a public water system, as defined in § 65-140-010, served by non-seawater well). The pump test flow rate for each well in this example will be set at 130 gpm. Since the project has a total well discharge capacity requirement greater than 200 gpm, a qualified hydrogeologist or groundwater engineer is required to supervise the pump test(s). In this example, the Chief determined that the four wells must be pump tested at the same time.

(g) In this particular example, water quality sampling results reveal there was no degradation of the groundwater during the pump test. Therefore, the applicant is granted the maximum monthly well production allocation as requested. There is no need to reduce the pump test discharge rate, install additional wells, pump from a different depth, and/or re-perform the pump test and sampling.

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

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (g).

Part 900 - Well Operations Permit Application Requirements

§ 65-140-901 General Requirements

(a) No person may operate a well or withdraw groundwater without a valid well operations permit issued by the Chief. Upon satisfying all of the well drilling permit requirements, and prior to placing any new or significantly modified well into service (including monitoring wells), the applicant must submit a new well operations permit application to the Division. Underground injection wells are exempted from the requirements of this part. Application for operating an underground injection well shall be in accordance with the regulations established by the Division, entitled “Underground Injection Control” (UIC) [NMIAC, title 65, chapter 90], a copy of which can be obtained at the office of the Division.

(b) The well operations permit covers as-constructed well location, construction, testing, and development data for all new or significantly modified wells. The well operations permit application shall be submitted to the Chief, and shall include at a minimum the information covered in this part.

(c) The requirements of this part apply to all applicants that have not received a well drilling permit as of the date the regulations in this chapter become effective. A copy of the well operations permit application form is available from the Division. See part 1500 for applicable requirements for wells in operation as of the date the regulations in this chapter become effective.

(d) The application may be filled out by the applicant or his authorized representative. In either case, the applicant shall sign and date the application, and shall be responsible for all statements made therein.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: This section was originally the first four paragraphs of § 12, codified at part 900. See 14 Com. Reg. at 9741 (Sept. 15, 1992). The Commission designated subsections (a) through (d).

The Commission created the section titles in part 900.

§ 65-140-905 Information Required for Applications

Information to be provided in the well operations permit application form shall include:

(a) Name, address, and telephone number of the applicant. If the owner of the well and the operator of the well are not the same, a notarized statement from the owner of the well granting permission for the operation and maintenance of the well must accompany the application.

(b) Type of application (new, revision, or renewal).

(1) New applications are for all new wells, for change of use from one type of well to another, and for wells which have undergone significant modification.

(2) Revised applications are for those applicants who seek to make a substantial change to the scope of work as described, in the original permit application. Substantial

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changes to original scope include the number of wells, the discharge rate requested, the location of the well(s), the intended use(s) of the proposed well(s), change in ownership or maintenance responsibility of the well(s), etc.

(3) Renewal applications are for wells whose operations permits have expired. All well operations permits expire on September 30 of the year following issuance of a permit, and are renewable each September 30 thereafter.

(c) Well operation permit application fees shall be in accordance with the following fee schedule. Payment of fees is required at the time of submitting each permit application, and is non-refundable. Fees shall be paid by check, and made payable to the Division. The Commonwealth Utilities Corporation is exempt from payment of permit application or renewal fees.

Well Operations Permit Application Fee Table

<u>Application Type</u>	<u>Total Well Discharge Capacity Requirement(1)</u>	<u>Application Fee</u>
New	less than 20 gpm	\$25.00
	21 gpm to 100 gpm	\$100.00
	101 gpm to 200 gpm	\$500.00
	201 gpm to 350 gpm	\$1000.00
	351 gpm to 500 gpm	\$2000.00
	over 500 gpm	\$4000.00
Revised	If discharge capacity requirements change, fee to be based upon the above. If well location changes, no adjustment in fees is necessary.	
Annual Renewal	Calculated based upon 50% of fees paid in accordance with the above schedule. Projects with a total well discharge capacity requirement less than 20 gpm (such as a single family home or a duplex) are exempt from the requirement of renewal of permit, and therefore are exempt from payment of renewal fees.	

Notes for fee table:

(1) See part 800 of this chapter for determination of a project's total well discharge capacity requirement.

(2) There are no application fees for test wells and monitoring wells.

(d)(1)Semi-annual routine water quality sampling is required as a condition of the well operations permit process for all projects except those with a total well discharge capacity requirement less than 20 gpm. See part 1000 of this chapter for the routine semi-annual water quality sampling requirements.

(2) The Chief has the authority to require any applicant to sample for other "non-routine" water quality parameters as part of the original well operations permit application or as part of renewing a well operations permit. These non-routine parameters may be any of the regulated contaminants listed in the Commonwealth's Drinking Water Regulations [NMIAC, title 65, chapter 20]. Laboratory fees for all water well water quality sampling are not included in the above fee schedule.

(e) Use of the well.

(f) For new or significantly modified wells serving non-public water supply systems, submit a cross-section of the well as constructed.

(g) For new or significantly modified wells serving public water supply systems, submit a cross-section of the well as constructed, and include the following:

- (1) Elevation of static water level in well (USGS datum);
- (2) Elevation of water level at end of the pump test (24-hour test for non-public water supplies, and 36-hour test for all public water supplies) at the requested well discharge rate;
- (3) Elevation of pump;
- (4) Pump type, horsepower, manufacturer, material of construction, and pump curve information;
- (5) Hydraulic calculations supporting size of pumping equipment;
- (6) Master flow meter type, size, manufacturer, and material of construction;
- (7) Elevation of top and bottom of well screen. In an unconfined basal or parabasal aquifer, the Division strongly recommends that the well screen or open hole section of the well be installed such that the well draws from as close to the top of the aquifer as possible after pumping equilibrium is reached;
- (8) Elevation of limits of the annular seal;
- (9) Expected well head discharge pressure at permitted flow rate.

(h) The as-constructed well location, project name, and project scope shall be exactly as indicated in the well drilling permit application. Any changes from the information provided in the well drilling permit application must be reported to the Division immediately.

(i) All information identified in part 700 of this chapter.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: This section was originally the fifth paragraph of § 12, codified at part 900, and §§ 12.1 through 12.8. The Commission designated subsection (d). The Commission corrected the punctuation at the ends of subsections (g)(1) through (g)(8) to semicolons pursuant to 1 CMC § 3806(g).

§ 65-140-910 Well Inspection

The well shall be inspected by the Chief or Division staff member prior to issuance of a well operations permit (for new or significantly modified wells, or application renewal).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-915 Timing of Application Submission

A fully completed well operations permit application shall be submitted to the Chief for review at least thirty calendar days prior to the scheduled start of any well production activities.

Modified, 1 CMC § 3806(e).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-920 Renewal Application

The well owner shall apply for a renewal of a well operations permit at least thirty days prior to expiration of the existing well operations permit. Failure to maintain a valid well operations permit for an active water well may result in fines and other administrative penalties as provided for in this chapter.

Modified, 1 CMC § 3806(d), (e).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Part 1000 - Well Operations Permit Obligations

§ 65-140-1001 Routine Water Quality Analysis

All owners of projects with a total well discharge capacity requirement greater than 20 gpm shall, on a semi-annual basis, perform routine water quality analysis on the water from each well. Samples shall be taken from a point prior to any chemical addition or form of treatment. Routine analysis includes sampling for the following parameters. Such analysis may be performed at the Division's laboratory or other EPA certified laboratory.

- (a) Chloride.
- (b) Total hardness.
- (c) Nitrate.
- (d) pH.
- (e) Total dissolved solids.
- (f) Conductivity.
- (g) Total Coliform (if a public water supply).

Modified, 1 CMC § 3806(f), (g).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

TITLE 65: DIVISION OF ENVIRONMENTAL QUALITY

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (g).

The Commission created the section titles in part 1000.

In subsections (a) through (g), the Commission inserted the final period.

§ 65-140-1005 Non-routine Water Quality Analysis

Other non-routine water quality analysis may be required by the Chief, in accordance with the vulnerability of the drinking water supply to source(s) of contamination. Such non-routine analysis may be for any of the regulated drinking water contaminants listed in the Commonwealth's Drinking Water Regulations [NMIAC, title 65, chapter 20]. Samples shall be taken from a point prior to any chemical addition or form of treatment. Non-routine analysis shall be performed by an EPA certified laboratory. The cost of all such analysis shall be borne by the applicant.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1010 Public Water Systems

All owners of public water systems (community and non-community water systems) shall also sample their water supplies in accordance with the requirements of the Commonwealth's Drinking Water Regulations [NMIAC, title 65, chapter 20], latest revision.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1015 Record of Total Well Production

All owners of active water wells subject to the requirements of § 65-140-1001 shall, on a monthly basis, record total well production (in gallons).

Modified, 1 CMC § 3806(c).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1020 Required Data Submitted with Renewal Application

The data requirements specified in §§ 65-140-1001 through 65-140-1015 shall be submitted with each well operations permit renewal application. Failure to provide this data will result in an incomplete renewal application. See part 1400 of this chapter regarding the penalties associated with submission of an incomplete well operations renewal application.

Modified, 1 CMC § 3806(c), (d).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1025 Reporting of Excessive Withdrawal Rate

Pumpage of any well in any month which exceeds 110 percent of the permitted maximum monthly withdrawal rate must be reported to the Division within seven working days after the end of the month in question. Failure to do so will result in violation of this chapter, with fines imposed for each continued day of violation until such time as the applicant files a report with the Chief explaining the circumstances leading up to exceeding the permitted pumpage rate, and a plan to avoid recurrence of exceeding the maximum monthly withdrawal rate. See part 1400 of this chapter regarding the imposition of fines and other penalties.

Modified, 1 CMC § 3806(c), (d), (e).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1030 Maintenance and Security of Wells

Permittee is responsible for proper maintenance and security of the well-head at all wells including exploratory. In the case of an exploratory well, after completion of the pump test, the well must be sealed (capped) and secured with a temporary fence of no less than six feet in height. The temporary fence must have adequate visual warnings to prevent destruction by vehicles such as earthmoving devices.

History: Amdts Adopted 16 Com. Reg. 11704 (Feb. 15, 1994); Amdts Proposed 15 Com. Reg. 11151 (Dec. 15, 1993).

§ 65-140-1035 Hazardous Materials/Wastes

Permittee is responsible for groundwater clean-up if hazardous materials/waste are placed down the well.

History: Amdts Adopted 16 Com. Reg. 11704 (Feb. 15, 1994); Amdts Proposed 15 Com. Reg. 11151 (Dec. 15, 1993).

§ 65-140-1040 Damage Report

Permittee is responsible to report any damage to the well-head to DEQ in writing within 24 hours. With the damage report the permittee must submit a schedule for the repair.

History: Amdts Adopted 16 Com. Reg. 11704 (Feb. 15, 1994); Amdts Proposed 15 Com. Reg. 11151 (Dec. 15, 1993).

Part 1100 - Exemptions for Seawater Wells

§ 65-140-1101 General

(a) In recognition of the limited public value of salty groundwater as a vital public resource, the regulations in this chapter provide for certain exemptions for wells to be

developed within saltwater groundwater. Except for the specific exemptions listed below, all other provisions of this chapter shall apply to seawater wells (see § 65-140-010 for the definition of “seawater well”). Verification of the analysis proving chloride or conductivity of well water shall be made by the Division.

(b) All seawater wells must undergo reverse osmosis treatment plus post-treatment chlorination if the exemptions of this part are to apply. Because this treatment process requires the application of sophisticated technology, the Division requires that supervision, operation, and maintenance of the water treatment facilities be performed by qualified, experienced personnel. Use of the reverse osmosis treatment process requires safe disposal of the treatment waste stream, in a manner that will not impact human health or the environment.

(c) All well drilling permit applications for seawater wells must include a complete water treatment waste stream disposal plan. This plan must prove that no degradation of the groundwater will occur as a result of discharging the water treatment waste stream, and must prove that the CNMI Water Quality Standards [NMIAC, title 65, chapter 130] will not be violated.

(d) Under all conditions and circumstances, public water supplies shall meet the requirements of the CNMI’s Drinking Water Regulations [NMIAC, title 65, chapter 20], regardless of the exemptions provided for in this part.

(e) For all seawater wells, the following exemptions from this chapter are provided.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: This section was originally the introduction to former § 14, codified at part 1100. The Commission designated subsections (a) through (e) and created the section title.

§ 65-140-1105 Well Siting Criteria

Down gradient and upgradient wellhead protection dimensions for seawater wells may be reduced at the Chief’s discretion by up to 66 percent for existing land uses listed in § 65-140-305 and § 65-140-310, down to no less than 50 feet, provided the well is constructed with at least 100 feet of solid casing. Seawater wells are exempted from the provisions of § 65-140-315. After the effective date of the revision of this chapter, 2/25/94, the reduction shall be limited to no more than 50 percent.

Modified, 1 CMC § 3806(c), (d).

History: Amdts Adopted 16 Com. Reg. 11704 (Feb. 15, 1994); Amdts Proposed 15 Com. Reg. 11151 (Dec. 15, 1993); Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1110 Well Development and Disinfection

Seawater wells are exempted from the provisions of § 65-140-510.

Modified, 1 CMC § 3806(c).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1115 Pump Testing Requirements

Seawater wells are exempted from the provisions of §§ 65-140-610, 65-140-625, and § 65-140-650. The pump test requirements for seawater wells shall be 24-hour duration, with chemical analysis and water level measurements taken at hour 0 (start of pump test), hour 4, 8, 16, and 24. Routine chemical analysis shall include chloride, total hardness, pH, TDS, and conductivity. The Chief may order tests for other parameters.

Modified, 1 CMC § 3806(c).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1120 Water Supply Capacity Guidelines

Seawater wells are exempted from the provisions of §§ 65-140-810, 65-140-815, and 65-140-835.

Modified, 1 CMC § 3806(c).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1125 Well Operations Permit Application Requirements

Seawater wells are exempted from the provisions of payment for well operations permit renewal fees (included in § 65-140-905(c)).

Modified, 1 CMC § 3806(c), (f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1130 Well Operations Permit Obligations

Seawater wells are exempted from the provisions of §§ 65-140-1001, 65-140-1005, 65-140-1010, and 65-140-1025.

Modified, 1 CMC § 3806(c).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1135 Action on Applications

Seawater wells are exempted from the provisions of § 60-140-1325.

Modified, 1 CMC § 3806(c).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1140 Monitoring Wells and Comprehensive Hydrogeologic Investigations

Seawater wells are exempted from the provisions of §§ 65-140-1705 through 65-140-1720.

Modified, 1 CMC § 3806(c).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Part 1200 - Exemptions for Wells Pre-determined to Undergo Reverse Osmosis Treatment

§ 65-140-1201 General

(a) In recognition of the effective removal of contaminants provided by reverse osmosis, exemptions from certain provisions of the regulations in this chapter are warranted for non-seawater wells pre-determined to undergo reverse osmosis treatment. Except for the specific exemptions listed below, all other provisions of this chapter shall apply to wells pre-determined to undergo reverse osmosis water treatment. The reverse osmosis membrane must have a molecular weight cut off (MWCO) value no greater than 300. The treatment process must include post-membrane chlorination.

(b) All well drilling permit applications for wells pre-determined to undergo reverse osmosis treatment must include a complete water treatment waste stream disposal plan. This plan must prove that no degradation of the groundwater will occur as a result of discharging the water treatment waste stream, and must prove that the CNMI Water Quality Standards [NMIAC, title 65, chapter 130] will not be violated.

(c) Under all conditions and circumstances, public water supplies shall meet the requirements of the CNMI's Drinking Water Regulations [NMIAC, title 65, chapter 20], regardless of the exemptions provided for in this part.

(d) For all wells pre-determined to undergo treatment by reverse osmosis, the following exemptions from this chapter are provided.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: This section was originally the introduction to former § 15, codified at part 1200. The Commission designated subsections (a) through (d) and created the section title.

§ 65-140-1205 Well Siting Criteria

Down gradient and upgradient wellhead protection dimensions for wells pre-determined to undergo reverse osmosis treatment may be reduced at the Chief's discretion by up to 66 percent for existing land uses listed in §§ 65-140-305 and 65-140-310, down to no less than 50 feet, provided the well is constructed with at least 100 feet of solid casing. Wells pre-determined to undergo reverse osmosis water treatment are exempted from the provisions of § 65-140-315. This section shall not apply if a reduction is requested under § 65-140-1105 for all wells constructed after the effective date of the revision of this chapter 2/25/94. After the effective date of the revision of this chapter 2/25/94, the reduction shall be limited to no more than 50 percent.

Modified, 1 CMC § 3806(c), (d).

History: Amdts Adopted 16 Com. Reg. 11704 (Feb. 15, 1994); Amdts Proposed 15 Com. Reg. 11151 (Dec. 15, 1993); Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1210 Well Development and Disinfection

Wells pre-determined to be treated by reverse osmosis are exempted from the provisions of § 65-140-510.

Modified, 1 CMC § 3806(c).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Part 1300 - Action on Applications

§ 65-140-1301 Additional Information

The Chief may require the applicant to furnish additional information, plans, or specifications before acting on an application for any license or permit.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: The Commission created the section titles in part 1300.

§ 65-140-1305 Determination of Completeness

Each applicant for license or permit shall be issued a notice, sent by the Chief, as to whether or not the Division finds the application complete within ten calendar days of receipt of the application. The Chief shall review and act on any permit application and license within thirty calendar days of determining the application complete.

Modified, 1 CMC § 3806(e).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1310 Decision on Application

The Chief shall notify the applicant in writing of his or her decision regarding the application for a well drilling license, or well drilling or well operations permit (original or renewal). The Chief shall inform the applicant of sufficient facts and reasons upon which a disapproval or conditional approval was based. The applicant shall be afforded the opportunity to file a written appeal of the Chief's decision. Request* for appeal shall be served upon the Division within seven calendar days from receipt of the disapproval or conditional approval. Failure to file this appeal within seven calendar days shall constitute a waiver of the applicant's rights to any future appeal of the Chief's decision.

* So in original.

Modified, 1 CMC § 3806(e).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1315 Transfer of Permits

A well drilling permit or a well operations permit issued pursuant to this chapter shall not be transferred from one location to another, or from one person to another, without the written approval of the Chief.

Modified, 1 CMC § 3806(d).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1320 Commonwealth Utilities Corporation

The Commonwealth Utilities Corporation shall receive priority in the issuance of all well drilling and well operations permits.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1325 Degradation of Groundwater

The Chief may order a reduction in the maximum monthly discharge allocation at the time of well operations permit renewal if subsequent hydrogeologic data, water quality analytical data, etc. warrants such change in order to protect the Commonwealth's groundwater resources from degradation.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Part 1400 - Penalties, Fines, Suspension, Revocation, and Other Orders

§ 65-140-1401 Order for Compliance

The Chief may issue any order to enforce compliance with the Act, or any regulations adopted pursuant to the Act, and any permit or license issued pursuant to the Act and

such regulations. Such orders may include but not be limited to a payment of a civil fine, taking corrective action, cease and desist order, or administrative order.

Modified, 1 CMC § 3806(f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: The Commission created the sections titles in part 1400.

§ 65-140-1405 Civil Fine

The Chief may order any person to pay a civil fine of not more than \$1,000.00 for each violation of the Act, regulations adopted pursuant to the Act, or any permit or license issued pursuant to the Act and such regulations. No prior notification of violation is necessary before imposition of a civil fine. Each day of continued violation after issuance of written notice is a separate offense.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1410 Suspension, Revocation, Modification

The Chief may suspend, revoke, or modify any permit or license issued by the Division for violation of the Act, any regulations adopted pursuant to the Act, any permit or license issued pursuant to the Act and such regulations.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1415 Suspension or Revocation; Well Operations Permit

The Chief may suspend or revoke a well operations permit under the following conditions:

- (a) The well is not being maintained or operated in accordance with this chapter or any permit or license conditions; or
- (b) The continued operation of the well threatens to contaminate the groundwater resources of the Commonwealth or threatens public health or the environment, as determined by the Chief; or
- (c) The well operations permittee has made material misrepresentation or misstatement concerning the quality or quantity of water produced by the subject well; or
- (d) Reporting requirements have not been met.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1420 Suspension of Well Operations Permit for a Public Water Supply

A well operations permit for a public water supply that does not undergo an appropriate form of treatment may be suspended under the conditions specified in § 65-140-1415 or under the following conditions:

- (a) The water produced from such well fails to meet the Commonwealth's Drinking Water Quality Standards [NMIAC, title 65, chapter 20]; or
- (b) The Division's or any other person's investigation and sampling of the well's production provides evidence of contamination. Under this provision, suspension of the operations permit shall remain in effect until laboratory analysis confirms that no contamination exceeding the Commonwealth's Drinking Water Regulations [NMIAC, title 65, chapter 20] are present.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1425 Misrepresentation of Water Quality or Quantity

The Chief may fine any well operations permittee for any material misrepresentation or misstatement of the quality or quantity of water produced by the subject well.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1430 Tampering with Well

The Chief may fine any well operations permittee for tampering with or rendering inoperable any well or appurtenant facility (such as meter, sample tap) necessary for the determination of compliance with the conditions of the well operations permit.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1435 Revocation of License or Permit

The Chief may revoke a well driller's license or well drilling permit for any material misstatement or misrepresentation made by the licensee or permittee made for the purposes of obtaining or retaining such license or permit. The Chief may suspend or revoke a well driller's license or well drilling permit for violation of the Act, regulations, license, or permit.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1440 Additional Penalties

A person shall be liable for an additional penalty for any amount expended by any agency of the Commonwealth in taking any action necessary to mitigate or reduce any significant

adverse effect caused by the person's failure to comply with the Act, regulations, permit, license, or any order issued thereunder.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1445 Application after Revocation

No application for a well driller's license or well drilling permit may be made within one year after revocation of such license or permit by the Chief for the reasons identified in § 65-140-1435 above.

Modified, 1 CMC § 3806(c), (e).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1450 Knowing, Willful Violations

Any person who knowingly and willfully commits any act in violation of the Act, regulations, permit, or license, and who is found guilty by a court of competent jurisdiction may be punished by a fine or not more than \$50,000.00 or by imprisonment for not more than one year, or both. Any other penalties or remedies provided by this chapter and ordered by the Chief shall also remain in effect.

Modified, 1 CMC § 3806(d), (e).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1455 Appeal of Order

Any person who is subject to civil penalties, revocation, or suspension pursuant to part 1400 may be served with an administrative order and notice of violation and may upon written request seek an appeal hearing before the Chief or his/her designee. Request for appeal may be served upon the Division within seven calendar days from receipt of the administrative order. Failure to request an appeal within seven calendar days shall result in the person's waiving the right to any appeal or hearing. The Chief may compromise any penalty.

Modified, 1 CMC § 3806(c), (e), (f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1460 Conditional Extension of Well Operations Permit

Any well operations permittee who does not or cannot meet the data submission requirements for a well operations permit renewal may be issued a conditional extension of the original operations permit for a period not to exceed 90 calendar days, during which time the permittee must submit a minimum of two sets of routine water quality samples (see § 65-140-1001) to the Division's laboratory, and submit monthly well production meter readings. If the permittee fails to accomplish these tasks during the

conditional extension, the Chief may revoke the well operations permit. The permittee shall also remain subject to the provisions of § 65-140-1405.

Modified, 1 CMC § 3806(c).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1465 Answer to Allegations

The written request for a hearing shall serve as the answer to the complaint. The request for a hearing or “answer” shall clearly and directly admit, deny, or explain each of the factual allegations contained in the complaint with regard to which the alleged violator (“respondent”) has any knowledge. Where respondent has no knowledge of a particular factual allegation and so state*

*So in original.

- (a) The circumstances or arguments which are alleged to constitute the grounds of defense,
- (b) The facts which respondent intends to place at issue, and
- (c) Whether a hearing is requested.
- (d) Failure to admit, deny, or explain any material factual allegation contained in the complaint constitutes an admission of the allegations.

Modified, 1 CMC § 3806(f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: The final paragraph was not designated. The Commission designated it subsection (d).

§ 65-140-1470 Informal Settlement Conference

The respondent may also request an informal settlement conference. An informal settlement conference shall not affect the respondent’s obligation to file a timely request for hearing. If a settlement is reached the parties shall forward a proposed consent order for the approval of both the Chief and the Director.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1475 Hearing Procedure

If a hearing is conducted, the Chief or his/her designee will preside over the hearing. The Chief shall control the taking of testimony and evidence and shall cause to be made an audio, audio-video, or stenographic record of the hearing. The evidence presented at such hearing need not conform with the prescribed rule of evidence, but may be limited by the

Chief in any manner he/she reasonably determines to be just and efficient and promote the ends of justice. The Chief shall issue a written decision within fifteen working days of the close of the enforcement hearing. The decision shall include written findings of fact and conclusions of law. The standard of proof for such a hearing and decisions shall be the preponderance of the evidence.

Modified, 1 CMC § 3806(e), (g).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: The Commission changed “reside” to “preside” to correct a manifest error.

§ 65-140-1480 Review of Decision

Upon issuance of the written decision, the respondent may seek a discretionary review of the decision by the Director. The request for the discretionary review must be filed within ten working days of the date of the issuance of the decision. The request must concisely state the specific objections to the decision. There is no right to a hearing before the Director. A copy of the request of review must be filed with the Chief on the same day it is filed with the Director. The Director may elect to review the case and issue a written decision within thirty calendar days.

Modified, 1 CMC § 3806(e).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1485 Appeal to Superior Court

The Director’s decision shall be final. An appeal from the final enforcement decision shall be to the Commonwealth Superior Court within thirty calendar days following service of the final agency decision.

Modified, 1 CMC § 3806(e).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1490 Counting Days

For filing deadline purposes counting of the days shall start on the day after issuance or receipt (whichever is specified) of any administrative order, notice of violation, cease and desist, or order for payment of a civil fine. If any filing date falls on a Saturday, Sunday, or Commonwealth holiday, the filing date shall be extended to the next working day.

Modified, 1 CMC § 3806(f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Part 1500 -Existing Wells

§ 65-140-1501 Information Required

Every owner or user of any well existing at the time the regulations in this chapter go into effect shall, upon written request from the Chief, disclose the location and all other facts and information within the owner's/user's knowledge relating to such well. The owner/user shall include a statement of the manner in which the well is being used or operated, the volume of water being drawn or flowing therefrom, and the methods and means of control thereof.

Modified, 1 CMC § 3806(d).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: The Commission created the section titles in part 1500.

§ 65-140-1505 Owners Without Well Operations Permits

Owners of wells in existence at the time the regulations in this chapter go into effect that do not have valid well operations permits shall be required to submit a complete well operations permit application by August 30 of the year following the effective date of the regulations in this chapter. All of the submission requirements for obtaining a well operations permit specified in this chapter shall apply.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1510 Owners with Well Operations Permits

Owners of wells in existence at the time the regulations in this chapter go into effect that do have valid well operations permits shall be required to submit a complete well operations permit renewal application by August 30 of the year following the effective date of the regulations in this chapter. All of the submission requirements for obtaining a renewed well operations permit specified in this chapter shall apply. All well operations permits in effect as of the effective date of the regulations in this chapter shall expire on September 30 of the year following the effective date of these regulations.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1515 Assessing Fees

For the purpose of assessing annual well operations permit and permit renewal fees for existing wells in operation on the effective date of the regulations in this chapter, well operations permit and permit renewal applicants must submit calculations defining the total well discharge capacity requirement. Failure of the applicant to submit this information may result in the Chief assigning a total well discharge capacity requirement.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1520 Other Requirements

Within 180 days of the effective date of the regulations in this chapter, owners of all wells in operation, whether or not in possession of a well operations permit, must comply with the requirements of §§ 65-140-405, 65-140-410, 65-140-415, 65-140-445, 65-140-1001, and 65-140-1015.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Part 1600 - Test Wells

§ 65-140-1601 When Required

For all water wells with a well capacity requirement greater than 350 gallons per minute, the Chief may require that test wells be installed in order to determine the limits of the well's radius of influence.

Modified, 1 CMC § 3806(f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: The Commission created the section titles in part 1600.

§ 65-140-1605 Test Wells Subject to Permit Requirements

Test wells shall be treated like other wells, subject to permit requirements, except that a group of test wells located on a single property may be considered under one permit.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1610 Destruction of Test Wells

Test wells, unless developed into water producing wells, monitoring wells, or underground injection wells, must be properly destroyed in accordance with pertinent paragraphs of part 1900 of this chapter.

Modified, 1 CMC § 3806(c), (d).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1615 Conversion of Test Well

A well originally permitted as a test well may be converted to a water well provided the applicant applies for and receives a well drilling permit for a water well prior to conversion.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Part 1700 -Monitoring Wells and Comprehensive Hydrogeologic Investigations

§ 65-140-1701 General

The Chief may require the installation of permanent groundwater monitoring wells in order to monitor the effects of groundwater withdrawal facilities or potential sources of contamination on the quality of the Commonwealth's groundwater resources, and to determine whether or not such facilities or potential sources of contamination are preventing the highest beneficial use for which these resources are capable.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: This section was originally the introduction to § 20, codified at part 1700. The Commission created the section titles in part 1700.

§ 65-140-1705 Comprehensive Hydrogeologic Investigation

Monitoring wells shall be constructed under the direct supervision of a qualified hydrogeologist or groundwater engineer, in accordance with best engineering practices (BEP), and shall be designed and sited in such a way as to assess any changes to groundwater quality that may be occurring. Determination of the number of monitoring wells, the contaminant parameters for which these wells will be sampled, and the frequency of sampling shall be made by a qualified hydrogeologist familiar with the general hydrogeology of the Commonwealth and the specific threats to groundwater quality posed. Such determinations shall be made as a part of a comprehensive hydrogeologic investigation (CHI) of the project area. Other hydrogeologic investigative tools, such as installation of test wells, ground penetrating radar (GPR), specific conductance surveys, review of existing geologic data, etc., will likely be required to properly conduct such an investigation. The hydrogeologist shall submit to the Chief a scope of work prior to beginning the CHI for review and comment. Upon completion of the CHI, the hydrogeologist shall summarize the means and methods of the investigation, summarize all findings, and propose a groundwater monitoring plan. The Chief shall review the plan, and may require modifications to it prior to its approval and implementation.

Modified, 1 CMC § 3806(f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1710 Projects Requiring CHI

A CHI may be ordered by the Chief for any project, either currently in operation or proposed which by their nature constitutes a potential threat to the groundwater resources of the Commonwealth and specifically to groundwater used for drinking water supplies, including but not limited to:

- (a) Underground fuel storage facilities;
- (b) Solid waste disposal facilities;
- (c) Hazardous waste storage or disposal facilities;
- (d) Hazardous materials manufacturing, storage, or disposal facilities;
- (e) Large scale groundwater withdrawal projects (projects with total well discharge capacity requirements greater than 0.5 million gallons per day);
- (f) Golf courses and other agro-commercial land uses which are regular users of pesticides, fungicides, or fertilizers;
- (g) Wastewater treatment and disposal facilities discharging directly or indirectly to the groundwater serving projects with an average daily wastewater generation rate of 10,000 gallons per day or more. These facilities may be either an approved IWDS or a wastewater treatment facility.
- (h) Any underground injection well (see the Division's Underground Injection Control Regulations [NMIAC, title 65, chapter 90] for a definition of an underground injection well).

Modified, 1 CMC § 3806(f).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1715 Contingency Plan

The CHI shall include a contingency plan in the event contamination of the groundwater is detected.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1720 Cost

The cost to conduct a CHI, and the cost of all groundwater monitoring and laboratory analysis shall be borne by the owner of the facility.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Part 1800 - Discontinued Use of Wells

§ 65-140-1801 Abandoned Wells

A well shall be considered abandoned if the well is not being used in compliance with or maintained under a valid operation permit or the well has not been used for a period of 24 consecutive months.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Commission Comment: The Commission created the section titles in part 1800.

§ 65-140-1805 Monitoring Wells

Monitoring wells used in the investigation or management of groundwater basins are not considered abandoned so long as they are maintained for this purpose.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1810 Inactive Wells

Owners of a well that is to be made inactive shall notify the Chief, in advance and in writing, of the expected period of inactivation and the reasons for inactivating the well.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Part 1900 - Requirements for Destruction of Abandoned Wells

§ 65-140-1901 Destruction of Abandoned Wells

All abandoned wells, including test wells, shall be destroyed by a licensed well driller in such a way that they will not produce water or act as a channel for the interchange of waters between aquifers. The owners of or those with a leasehold interest in the property upon which an abandoned well exists shall be responsible for all costs associated with abandonment, unless otherwise provided for by law.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1905 Proposal for Filling Abandon Well

Before the hole is filled, the well shall be inspected by a licensed well driller to determine its condition, details of construction, and whether there are any obstructions that will interfere with the process of filling and sealing. The well driller shall propose in writing the means and methods for filling the abandoned well to the Chief for review and approval prior to start of well filling work. All work shall be performed in accordance with applicable NWWA and AWWA standards.

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-1910 Notification to Division

The well driller shall notify the Division in writing at least three working days in advance of scheduled well filling operations.

Modified, 1 CMC § 3806(e).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

Part 2000 -Groundwater Management Zones

§ 65-140-2001 Applicability

(a) This part establishes groundwater management zones (GMZs) for the island of Saipan only. Specific requirements for activities in GMZs are not being promulgated at this time. Part 2200 of this chapter is reserved for future addition of requirements for certain activities in GMZs. Some existing requirements for activities in designated GMZs are found in other CNMI regulations (e.g., Underground Storage Tank Regulations, Water Quality Standards, Wastewater Treatment and Disposal Regulations) for which the GMZs are applicable.

(b) Requirements for wellhead protection, such as those under part 300 of this chapter, apply regardless of GMZ classification. Where GMZ requirements are adopted that are more stringent than specific wellhead protection requirements, the more stringent GMZ requirement shall apply.

(c) In the event that the precise location of a GMZ boundary is called into question for any activity, where such activity lies within 300 feet of a delineated GMZ boundary, the Director shall determine, on a case-by-case basis, which GMZ the proposed activity lies within. In making such determination, the overriding principal shall be protection of groundwater resources. Any decision to designate a lower classification of GMZ protection shall only be made on the basis of hydrogeologic evidence clearly demonstrating that the groundwater underlying the activity in question does not warrant the higher level of GMZ protection. Provision of such evidence shall be the responsibility of the proposing party, in the form of a report prepared and certified by a registered geologist. The burden of proof shall rest with the proposer to demonstrate a basis for delineation of a less stringent GMZ. In the absence of such evidence, the higher GMZ protection classification shall be presumed to apply.

Modified, 1 CMC § 3806(b), (c), (d).

History: Amdts Adopted 26 Com. Reg. 23759 (Dec. 17, 2004); Amdts Proposed 26 Com. Reg. 22996 (Oct. 26, 2004); Amdts Adopted 16 Com. Reg. 11704 (Feb. 15, 1994); Amdts Proposed 15 Com. Reg. 11151 (Dec. 15, 1993).

Commission Comment: The 1994 amendments added a new reserved § 25, entitled “Groundwater Management Zones.” To maintain the flow of this chapter, the Commission moved § 25, codified at part 2000, before the previously promulgated §§ 23 and 24, codified at part 2400.

The 2004 amendments promulgated regulations in part 2000.

§ 65-140-2005 Designation of Groundwater Management Zones

Groundwater management zone (“GMZ”) classifications have been designated on the basis of groundwater quality, availability of recharge, susceptibility to degradation, and present and future land use. For the purposes of the regulations in this part, chloride concentrations (milligrams per liter, or mg/l) shall be used as an indicator of water quality to delineate GMZs.

(a) Class I Groundwater Management Zones

Class I GMZs are established as critical groundwater protection areas capable of supplying high quality fresh water, and shall receive the highest level of environmental protection. Class I GMZs represent the most important groundwater resources and are considered vital for current and future water supplies. Because of the value of the resource and the permeable nature of the overlying geologic formations typical to the CNMI’s geology, class I GMZs are considered particularly vulnerable to degradation and contamination. Class I GMZs have been delineated to include the following:

- (1) All existing and potential areas of high-level (perched) groundwater. Groundwater that is encountered in high-level aquifer systems is of a near-pristine quality because it overlies low-permeability volcanic formations and is therefore not in direct contact with seawater. In the CNMI, such high level aquifers occur primarily beneath permeable limestone formations, and are highly susceptible to degradation and contamination.
- (2) Municipal well fields. Degradation of public water well fields clearly poses a severe threat to CNMI municipal water supplies, and thus these areas, as mapped by the USGS with the cooperation of the Commonwealth Utilities Corporation (CUC), have been included under the class I GMZ designation.
- (3) Watersheds contributing surface infiltration to springs and fresh surface water systems. Several springs in the CNMI have been developed as important public water supplies, and several other springs and surface water streams (e.g. Talofoto) are planned for future development. Such springs and streams are largely fed by recharge through shallow soil and weathered rock systems overlying the parent volcanic rock, and are highly susceptible to contamination.

(b) Class II Groundwater Management Zones

Class II GMZs are established as important protection areas considered capable of supplying good quality groundwater, but generally of lower quality (e.g. higher chloride concentration) than class I GMZs. Class II GMZs include relatively high quality basal groundwater lens resources with chloride concentrations less than roughly 500 mg/l. The 1-ft. contour line for the elevation of basal lens aquifers roughly corresponds to a basal groundwater lens thickness of 40 feet, and is generally considered to be the limit, seaward of which it becomes rapidly more difficult to obtain useable quantities of water with a chlorides concentration of less than 500 mg/l.

(c) Class III Groundwater Management Zones

Class III GMZs are areas providing recharge to primarily brackish aquifers, having some intrinsic value as a resource to supply desalination plants, but primarily of lower value than groundwater found in class I and II GMZs. Class III GMZs include the groundwater resources with chloride concentrations in excess of 500 mg/l, as delineated by the 1 ft. groundwater surface elevation described above under “class II GMZs.” The class III GMZs are primarily coastal groundwater that has been significantly impacted by saltwater intrusion or mixing with salty groundwater.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 26 Com. Reg. 23759 (Dec. 17, 2004); Amdts Proposed 26 Com. Reg. 22996 (Oct. 26, 2004).

§ 65-140-2010 Saipan Groundwater Management Zones

Basis for GMZ Designation. Groundwater management zones for the island of Saipan are designated as shown in figure 2000.1. GMZs for Saipan are based on: maps published by the United States Geological Survey (USGS) in their report *Ground-Water Resources of Saipan, Commonwealth of the Northern Mariana Islands*, by Robert L. Carruth, USGS Water Resources Investigations Report 03-4178, 2003; and topographic information published on the *Topographic Map of the Island of Saipan, Commonwealth of the Northern Mariana Islands*, USGS, 1999. In the event that there is a discrepancy between the narrative description and the mapped GMZs, the attached regulatory map (figure 2000.1) depicting the GMZs shall govern and shall supersede all narrative descriptions of GMZ boundaries.

(a) Class I GMZs for the island of Saipan have been delineated using the USGS maps showing municipal well fields, low permeability volcanic rocks at or above sea level (indicating the potential for high-level aquifers), and topography delineating the watershed boundaries of springs and fresh surface water systems. In some areas, roads have been used for clarity as boundaries where a boundary approaches the coastline.

(b) Class II GMZs for Saipan have been delineated as lying between the class I boundaries and the 1 ft. water-table contour as mapped by USGS. In some areas, roads have been used for clarity as boundaries where a boundary approaches the coastline.

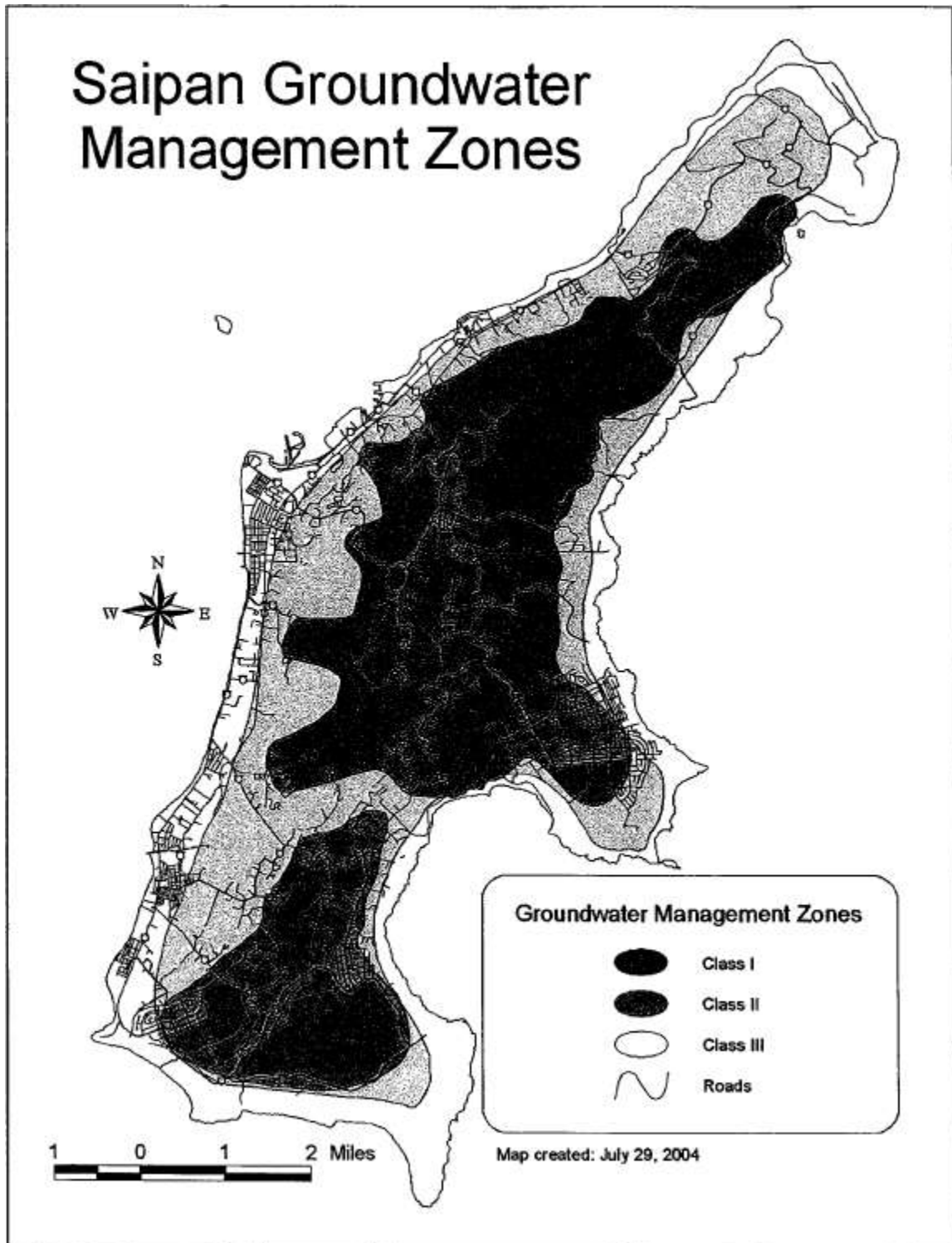
(c) Class III GMZs for Saipan have been delineated as lying between the 1 ft. water-table contour as mapped by USGS, and the coastline. In some areas, roads have been used for clarity as boundaries where a boundary approaches the coastline.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 26 Com. Reg. 23759 (Dec. 17, 2004); Amdts Proposed 26 Com. Reg. 22996 (Oct. 26, 2004).

Commission Comment: The Commission amended underlined titles of publications to italics pursuant to 1 CMC § 3806(g).

Figure 2000.1
Groundwater Management Zones
Island of Saipan



History: Adopted 26 Com. Reg. 23759 (Dec. 17, 2004); Proposed 26 Com. Reg. 22996 (Oct. 26, 2004).

§ 65-140-2015 Tinian Groundwater Management Zones

[Reserved.]

History: Amdts Adopted 26 Com. Reg. 23759 (Dec. 17, 2004); Amdts Proposed 26 Com. Reg. 22996 (Oct. 26, 2004).

§ 65-140-2020 Rota Groundwater Management Zones

[Reserved.]

History: Amdts Adopted 26 Com. Reg. 23759 (Dec. 17, 2004); Amdts Proposed 26 Com. Reg. 22996 (Oct. 26, 2004).

§ 65-140-2025 GMZ Maps

DEQ shall maintain the GMZ map(s) described in this part in electronic form, as data layers in a Geographic Information System (GIS) format. DEQ shall provide access to the GIS maps and shall provide GMZ determinations upon request. In the event that there is a discrepancy between the narrative description and the mapped GMZs, the attached regulatory map (figure 2000.1) depicting the GMZs shall govern and shall supersede all narrative descriptions of GMZ boundaries.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 26 Com. Reg. 23759 (Dec. 17, 2004); Amdts Proposed 26 Com. Reg. 22996 (Oct. 26, 2004).

Part 2100 - Water Shortage Declaration

§ 65-140-2101 Water Shortage Declaration

The Chief, after consultation with the Commonwealth Utilities Corporation, may declare a water shortage and impose restrictions on permits to protect the public health, safety, and welfare.

Modified, 1 CMC § 3806(b).

History: Amdts Adopted 16 Com. Reg. 11704 (Feb. 15, 1994); Amdts Proposed 15 Com. Reg. 11151 (Dec. 15, 1993).

Commission Comment: The 1994 amendments added new § 26, entitled “Water Shortage Declaration.” To maintain the flow of this chapter, the Commission moved § 26, codified as part 2100, before the previously promulgated §§ 23 and 24.

§ 65-140-2105 Publication of Notice

When a water shortage is declared, the Chief shall cause notice thereof to be published in a prominent place within a newspaper of general circulation or otherwise through the

media in the Commonwealth. Such notice shall be published each day for the first week of the shortage and once a week thereafter until the declaration is rescinded. Publication of notice shall serve as notice to all permittees in the area of a water shortage and any restrictions on their permits.

History: Amdts Adopted 16 Com. Reg. 11704 (Feb. 15, 1994); Amdts Proposed 15 Com. Reg. 11151 (Dec. 15, 1993).

Part 2200 -Groundwater Protection

§ 65-140-2201 Groundwater Protection Measures

In addition to the other groundwater protection measures within this chapter and the Act, to adequately protect the groundwater from contamination, measures shall include but not be limited to:

- (a) Prohibition of disposal or spill of any hazardous wastes onto the ground or in any manner which has the possibility of contaminating groundwater.
- (b) Prohibition of storing of any hazardous wastes or materials in such a manner which has the possibility of contaminating groundwater.
- (c) Prohibition of storing or spilling hazardous materials/ substances as defined by EPA, U.S. Department of Transportation, or DEQ in such a manner which has the possibility of contaminating groundwater.
- (d) Storage shall be done in a manner to prevent possible contamination to groundwater. The Chief may require more prevention measures as determined necessary by the Chief.

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

History: Amdts Adopted 16 Com. Reg. 11704 (Feb. 15, 1994); Amdts Proposed 15 Com. Reg. 11151 (Dec. 15, 1993).

Commission Comment: The final paragraph was not designated. The Commission designated it subsection (d).

The 1994 amendments added new § 27, entitled “Groundwater Protection.” To maintain the flow of this chapter, the Commission moved § 27, codified as part 2200, before the previously promulgated §§ 23 and 24. The Commission created the section title.

In the opening paragraph, the Commission changed the period after “contamination” to a comma to correct a manifest error.

Part 2300 -[Reserved.]

Modified, 1 CMC § 3806(b).

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History: Amdts Adopted 16 Com. Reg. 11704 (Feb. 15, 1994); Amdts Proposed 15 Com. Reg. 11151 (Dec. 15, 1993).

Commission Comment: The 1994 amendments added a new reserved § 28. To maintain the flow of this chapter, the Commission moved § 28, codified as part 2300, before the previously promulgated §§ 23 and 24.

Part 2400 - Miscellaneous Provisions

§ 65-140-2401 Access to Wells

Any duly authorized officer, employee, or representative of the Division may enter and inspect any property where a well is being constructed, operated, or filled, for the purpose of ascertaining the state of compliance with the regulations in this chapter. No person shall refuse entry to an authorized representative of the Division and who presents appropriate credentials, nor shall any person obstruct, hamper, or interfere with any such inspection.

Modified, 1 CMC § 3806(d).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

§ 65-140-2405 Severability

If any rule, section, sentence, clause, or phrase of the regulations in this chapter or its application to any person or circumstance or property is held to be unconstitutional or invalid, the remaining portions of these regulations or the application of these regulations to other persons or circumstances or property shall not be affected.

Modified, 1 CMC § 3806(d).

History: Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992); Adopted 14 Com. Reg. 9704 (Sept. 15, 1992); Proposed 14 Com. Reg. 9421 (July 15, 1992).

CHAPTER 65-90

UNDERGROUND INJECTION CONTROL REGULATIONS

Part 001	General Provisions	§ 65-90-301	Compliance with All
§ 65-90-001	Authority and Scope		Applicable Laws
§ 65-90-005	Purpose	§ 65-90-305	Class V Wells Defined
§ 65-90-010	Definitions	§ 65-90-310	Wells Excluded from Class V
Part 100	Classification of Injection Wells	§ 65-90-315	Registration
§ 65-90-101	Introduction	§ 65-90-320	Protection
§ 65-90-105	Class I	§ 65-90-325	Exemption
§ 65-90-110	Class II	Part 400	Access to Records
§ 65-90-115	Class III	§ 65-90-401	Access to Records
§ 65-90-120	Class IV	Part 500	Corrective Action
§ 65-90-125	Class V	§ 65-90-501	Corrective Action
Part 200	Prohibited Activities	§ 65-90-505	Appeals of Corrective Action
§ 65-90-201	Injection of Fluids Prohibited Unless Authorized	Part 600	Enforcement
§ 65-90-205	Certain Classes of Injection Wells Prohibited	§ 65-90-601	Responsibility of the Department
§ 65-90-210	Protection of Drinking Water	§ 65-90-605	Penalties
Part 300	Permitted Activities	Part 700	Miscellaneous Provisions
		§ 65-90-701	Severability

Chapter Authority: 1 CMC §§ 2646-2649; 1 CMC § 2650; 2 CMC §§ 3101-3135.

Chapter History: Amdts Adopted 7 Com. Reg. 3370 (Jan. 15, 1985); Amdts Proposed 6 Com. Reg. 3227 (Nov. 15, 1984); Amdts Proposed 6 Com. Reg. 3178 (Oct. 15, 1984); Adopted 6 Com. Reg. 2802 (May 15, 1984); Proposed 6 Com. Reg. 2712 (Apr. 15, 1984).

Commission Comment: For a complete history of the authority of the Division of Environmental Quality (DEQ), see the commission comment to NMIAC chapter 65-10.

Executive Order No. 2013-24, promulgated at 35 Com. Reg. 34596 (Nov. 28, 2013), established a new Bureau of Environmental and Coastal Quality. This Order reorganized the Division of Environmental Quality as a division of the Bureau of Environmental and Coastal Quality, and provided that “all rules, orders, contracts, and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Executive Order shall continue to be effective until revised, amended, repealed or terminated.”

Part 001 - General Provisions

§ 65-90-001 Authority and Scope

The regulations in this chapter have been promulgated by the Department in accordance with Public Law 3-23 [2 CMC §§ 3101, et seq.] of the Commonwealth of the Northern

Mariana Islands. The regulations in this chapter and technical provisions and specifications to be adopted by the Department from time to time shall have the force and effect of law and shall be binding on all persons and other legal entities subject to the jurisdiction of the Commonwealth of the Northern Mariana Islands.

Modified, 1 CMC § 3806(d).

History: Adopted 6 Com. Reg. 2802 (May 15, 1984); Proposed 6 Com. Reg. 2712 (Apr. 15, 1984).

§ 65-90-005 Purpose

The purpose of the regulations in this chapter is to establish requirements for any 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 in order to protect underground sources of drinking water as required in the Federal Safe Drinking Water Act, Pub. L. No. 95-523, as amended by Pub. L. No. 95-190, 42 U.S.C. §§ 300f, et seq. The regulations in this chapter prohibit deep injection of wastes, injection of fluids with oil and gas mining, solution mining, injection of hazardous wastes, and other categories identified in this chapter. They allow all other types of injection to exist, subject to applicable regulations. These regulations do not apply to drinking water supply wells and water production wells or monitoring well drilling, development, and rehabilitation processes.

Modified, 1 CMC § 3806(d).

History: Adopted 6 Com. Reg. 2802 (May 15, 1984); Proposed 6 Com. Reg. 2712 (Apr. 15, 1984).

Commission Comment: The Commission corrected the citation to the Federal Safe Drinking Water Act pursuant to 1 CMC § 3806(g).

§ 65-90-010 Definitions

- (a) “Aquifer” means a geological “formation,” group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.
- (b) “Chief” means the Chief of the Division of Environmental Quality.
- (c) “Contaminant” means any physical, chemical, biological, or radiological substance or matter in water.
- (d) “Department” means the Department of Public Health and Environmental Services.
- (e) “Director” means the Director of Public Health and Environmental Services.
- (f) “Division” means the Division of Environmental Quality.
- (g) “Drilling mud” means a heavy suspension used in drilling an “injection well,” introduced down the drill pipe and through the drill bit.

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- (h) “Exempted aquifer” means an “aquifer” or its portion that meets the criteria in the definition of “underground source of drinking water” but which has been exempted according to the procedures in § 65-90-325.
- (i) “Facility or activity” means any “injection well,” or any other facility or activity (including land or appurtenances thereto) that is subject to this chapter.
- (j) “Fluid” means any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state.
- (k) “Formation” means a body of rock characterized by a degree of lithologic homogeneity which is prevailingly, but not necessarily, tabular and is mappable on the earth’s surface or traceable in the subsurface.
- (l) “Formation fluid” means “fluid” present in a “formation” under natural conditions as opposed to introduced fluids, such as “drilling mud.”
- (m) “Generator” means any person by site location, whose act or process produces “hazardous waste” identified or listed.
- (n) “Ground water” means water below the land surface in a zone of saturation.
- (o) “Hazardous waste” means a hazardous waste as defined in 40 CFR 261.3.
- (p) “Injection well” means a “well” into which “fluids” are being injected.
- (q) “Injection zone” means a geological “formation,” group of formations, or part of a formation receiving fluids through a “well.”
- (r) “Owner or operator” means the owner or operator of any “facility or activity” subject to this chapter.
- (s) “Pollutant” means any fluid that contains a contaminant, or dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged in water. It does not mean sewage from vessels.
- (t) “Plugging” means the act or process of stopping the flow of water, oil, or gas into or out of a formation through a borehole or well penetrating that formation.
- (u) “Radioactive waste” means any waste which contains radioactive material in concentrations which exceed those listed in 10 CFR part 20, appendix B, table II, column 2.

(v) “Stratum” (plural strata) means a single sedimentary bed or layer, regardless of thickness, that consists of generally the same kind of rock material.

(w) “Total dissolved solids” means the total dissolved (filterable) solid as determined by use of the method specified in 40 CFR part 136.

(x) “Underground injection” means a “well injection.”

(y) “Underground source of drinking water” (USDW) means an aquifer or its portion:

(1)(i) Which supplies any public water system; or

(ii) Which contains a sufficient quantity of ground water to supply a public water systems; and

(A) Currently supplies drinking water for human consumption; or

(B) Contains fewer than 10,000 mg/1 total dissolved solids; and

(2) Which is not an exempted aquifer.

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

(aa) “Well injection” means the subsurface emplacement of “fluids” through a bored, drilled, or driven “well”; or through a dug well, where the depth of the dug well is greater than the largest surface dimension.

Modified, 1 CMC § 3806(d), (f), (g).

History: Amdts Adopted 7 Com. Reg. 3370 (Jan. 15, 1985); Amdts Proposed 6 Com. Reg. 3227 (Nov. 15, 1984); Amdts Proposed 6 Com. Reg. 3178 (Oct. 15, 1984); Adopted 6 Com. Reg. 2802 (May 15, 1984); Proposed 6 Com. Reg. 2712 (Apr. 15, 1984).

Commission Comment: The 1985 amendments amended subsection (s).

With respect to the reference to the Department of Public Health and Environmental Services, see Executive Order 94-3 (effective August 23, 1994) reorganizing the Commonwealth government executive branch, changing agency names and official titles and effecting numerous other revisions.

In subsection (s), the Commission corrected the spelling of “cellar.”

Part 100 - Classification of Injection Wells

§ 65-90-101 Introduction

Injection wells are classified as follows in this part.

Modified, 1 CMC § 3806(d), (g).

History: Adopted 6 Com. Reg. 2802 (May 15, 1984); Proposed 6 Com. Reg. 2712 (Apr. 15, 1984).

Commission Comment: This section was originally an introduction to part 100. The Commission created the section title. The Commission also changed the final colon to a period.

§ 65-90-105 Class I

(a) Wells used by generators of hazardous waste or owners or operators of hazardous waste management facilities to inject hazardous waste beneath the lowermost formation containing, within one quarter mile of the well bore, an underground source of drinking water.

(b) Other industrial and municipal disposal wells which inject fluids beneath the lowermost formation containing, within one quarter mile of the well bore, an underground source of drinking water.

Modified, 1 CMC § 3806(e).

History: Adopted 6 Com. Reg. 2802 (May 15, 1984); Proposed 6 Com. Reg. 2712 (Apr. 15, 1984).

§ 65-90-110 Class II

Wells which inject fluids:

(a) Which are brought to the surface in connection with conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as hazardous waste at the time of injection.

(b) For enhanced recovery of oil or natural gas; and

(c) For storage of hydrocarbons which are liquid at standard temperature and pressure.

History: Adopted 6 Com. Reg. 2802 (May 15, 1984); Proposed 6 Com. Reg. 2712 (Apr. 15, 1984).

§ 65-90-115 Class III

Wells which inject for extraction of minerals including:

(a) Mining of sulfur by the Frasch process;

(b) In situ production of uranium or* other metals. This category includes only in situ production from ore bodies which have not been conventionally mined. Solution mining of conventional mines such as stopes leaching is included in class V.

*So in original; probably should be “or.”

(c) Solution mining of salt or potash.

Modified, 1 CMC § 3806(f).

History: Adopted 6 Com. Reg. 2802 (May 15, 1984); Proposed 6 Com. Reg. 2712 (Apr. 15, 1984).

§ 65-90-120 Class IV

(a) Wells used by generators of hazardous waste or of radioactive waste, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste into a formation which within one quarter mile of the well contains an underground source of drinking water.

(b) Wells used by generators of hazardous waste or of radioactive waste, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste above a formation which within one quarter mile of the well contains an underground source of drinking water.

(c) Wells used by generators of hazardous waste or owners or operators of hazardous waste management facilities to dispose of hazardous waste, which cannot be classified under § 65-90-105(a) or subsection (a) and (b) of this section (e.g., wells used to dispose of hazardous waste into or above a formation which contains an aquifer which has been exempted pursuant to § 65-90-325).

Modified, 1 CMC § 3806(c), (e).

History: Adopted 6 Com. Reg. 2802 (May 15, 1984); Proposed 6 Com. Reg. 2712 (Apr. 15, 1984).

§ 65-90-125 Class V

Injection wells not included in class I, II, III, or IV.

Modified, 1 CMC § 3806(f).

History: Adopted 6 Com. Reg. 2802 (May 15, 1984); Proposed 6 Com. Reg. 2712 (Apr. 15, 1984).

Part 200 - Prohibited Activities

§ 65-90-201 Injection of Fluids Prohibited Unless Authorized

All injection of fluids through wells is prohibited except as authorized by this chapter.

Modified, 1 CMC § 3806(d).

History: Adopted 6 Com. Reg. 2802 (May 15, 1984); Proposed 6 Com. Reg. 2712 (Apr. 15, 1984).

Commission Comment: The Commission created the section titles in part 200.

§ 65-90-205 Certain Classes of Injection Wells Prohibited

No person shall construct, install, operate, or maintain any class I, II, III, or IV injection wells.

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Modified, 1 CMC § 3806(f).

History: Adopted 6 Com. Reg. 2802 (May 15, 1984); Proposed 6 Com. Reg. 2712 (Apr. 15, 1984).

Commission Comment: The Commission inserted a comma after the word “operate” pursuant to 1 CMC § 3806(g).

§ 65-90-210 Protection of Drinking Water

Owners and operators of class V wells are prohibited from causing or allowing movement of fluid, by injection or otherwise, containing any contaminant into underground sources of drinking water where presence of that contaminant may cause a violation of the CNMI Drinking Water Regulations [NMIAC, title 65, chapter 20], or which in the opinion of the Department may adversely affect the health of persons.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 7 Com. Reg. 3370 (Jan. 15, 1985); Amdts Proposed 6 Com. Reg. 3227 (Nov. 15, 1984); Amdts Proposed 6 Com. Reg. 3178 (Oct. 15, 1984); Adopted 6 Com. Reg. 2802 (May 15, 1984); Proposed 6 Com. Reg. 2712 (Apr. 15, 1984).

Commission Comment: The Commission changed “regulation” to “regulations” to correct a manifest error.

Part 300 - Permitted Activities

§ 65-90-301 Compliance with All Applicable Laws

The regulations in this chapter do not prohibit the construction, installation, operation or maintenance of any type of injection well not included in classes I-IV, provided there is compliance with this chapter and other applicable regulations and statutes. 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, in addition to being subject to this chapter, is subject to the Coastal Resources Management Regulations [NMIAC, title 15, chapter 10] governing projects which are designated as a “major siting,” or which are located or proposed to be located in an “area of particular concern,” as defined in the Coastal Resources Management Regulations.

Modified, 1 CMC § 3806(d), (f), (g).

History: Amdts Adopted 7 Com. Reg. 3370 (Jan. 15, 1985); Amdts Proposed 6 Com. Reg. 3227 (Nov. 15, 1984); Amdts Proposed 6 Com. Reg. 3178 (Oct. 15, 1984); Adopted 6 Com. Reg. 2802 (May 15, 1984); Proposed 6 Com. Reg. 2712 (Apr. 15, 1984).

Commission Comment: The Commission changed “proposes” to “proposed” to correct a manifest error.

The Commission created the section titles in §§ 65-90-301 through 65-90-310.

§ 65-90-305 Class V Wells Defined

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Class V wells shall include but not be limited to the following types:

- (a) Air conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling in a heat pump.
- (b) Cooling water return flow wells.
- (c) Drainage wells used to drain surface storm runoff into solid or bed rock.
- (d) Dry wells seepage pits, and leaching pits used for the introduction of waste fluids, other than those treated in septic systems.
- (e) Recharge wells used to replenish the water in an aquifer.
- (f) Salt water intrusion barrier wells used to inject water into a fresh water aquifer to prevent the intrusion of salt water into the fresh water.
- (g) Sand backfill, placing a mixture of water and sand, mill tailings, or other solids into surface and subsurface mines.
- (h) Dry wells or leaching pits used to dispose of septic system effluents.
- (i) Subsidence control wells used to inject fluids to reduce or eliminate subsidence associated with the overdraft of groundwater.
- (j) Geothermal disposal wells related to electrical generation and geothermal wells used for heating and aquaculture.

History: Adopted 6 Com. Reg. 2802 (May 15, 1984); Proposed 6 Com. Reg. 2712 (Apr. 15, 1984).

§ 65-90-310 Wells Excluded from Class V

Class V wells shall not include the following types:

- (a) Injection wells located on a drilling platform or other site that is beyond the CNMI's territorial waters.
- (b) Individual or single family residential waste disposal system such as domestic cesspools or septic systems.
- (c) Nonresidential cesspools, septic systems or similar waste disposal systems if such systems
 - (1) Are used solely for the disposal of sanitary waste, and
 - (2) Have the capacity to serve fewer than 20 persons a day.
- (d) Injection wells used for injection of hydrocarbons which are of pipeline quality and are gases at standard temperature and pressure for the purpose of storage.

- (e) Any dug hole which is not used for emplacement of fluids underground.

Modified, 1 CMC § 3806(f).

History: Adopted 6 Com. Reg. 2802 (May 15, 1984); Proposed 6 Com. Reg. 2712 (Apr. 15, 1984).

§ 65-90-315 Registration

The owner or operator of any class V well under his control, shall within one year of the effective date of this chapter, notify the Division (on a form to be supplied by the Division) of the existence of any well meeting the definition of class V. The form supplied by the Division shall require the owner or operator to provide at least the following information:

- (a) Facility name and location;
- (b) Name and address of legal contact;
- (c) Ownership of facility;
- (d) Nature and type of injection wells; and
- (e) Operating status of injection wells.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 6 Com. Reg. 2802 (May 15, 1984); Proposed 6 Com. Reg. 2712 (Apr. 15, 1984).

§ 65-90-320 Protection

All aquifer or parts of aquifers which meet the definition of an “underground source of drinking water” shall be protected as an underground source of drinking water except where exempted.

History: Adopted 6 Com. Reg. 2802 (May 15, 1984); Proposed 6 Com. Reg. 2712 (Apr. 15, 1984).

§ 65-90-325 Exemption

After notice and opportunity for public hearing, and subject to the approval of the U.S. Environmental Protection Agency, an aquifer, or portion thereof, may be exempted from being an underground source of drinking water when the Department identifies such aquifer in clear and definite terms using the following criteria:

- (a) It does not currently serve as a public source of drinking water; and
- (b) It cannot now and will not in the future serve as a public source of drinking water because:
 - (1) It is mineral, hydrocarbon or geothermal energy producing;

- (2) It is situated at a depth or location which makes recovery of water for drinking water purposes economically or technologically impractical;
- (3) It is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption; or
- (4) The total dissolved solids content of the groundwater is more than 3,000 and less than 10,000 mg/l and it is not reasonably expected to supply a public water system.

History: Adopted 6 Com. Reg. 2802 (May 15, 1984); Proposed 6 Com. Reg. 2712 (Apr. 15, 1984).

Part 400 - Access to Records

§ 65-90-401 Access to Records

Owners and operators of any injection well shall make all existing records and other pertinent information concerning the construction and operation of such well available to the Division upon request. Requests for information by the public shall be treated in accordance with the procedures described in 40 CFR part 2 (public information). Confidentiality of information shall be treated in accordance with 40 CFR part 144.5.

Modified, 1 CMC § 3806(f).

History: Adopted 6 Com. Reg. 2802 (May 15, 1984); Proposed 6 Com. Reg. 2712 (Apr. 15, 1984).

Part 500 - Corrective Action

§ 65-90-501 Corrective Action

For class V wells, if there is any movement of injection or formation fluids underground sources of drinking water, or drinking water, or the presence of that contaminant may cause a violation of the CNMI Drinking Water Regulations [NMIAC, title 65, chapter 20], Commonwealth Register, vol. 5, no. 3, March 31, 1983, or may adversely affect the health of persons, the Chief shall order such additional requirements as may be necessary for corrective action including closure through plugging and abandonment of the injection well to prevent such movement.

Modified, 1 CMC § 3806(f).

History: Adopted 6 Com. Reg. 2802 (May 15, 1984); Proposed 6 Com. Reg. 2712 (Apr. 15, 1984).

§ 65-90-505 Appeals of Corrective Action

An order for corrective action issued by the Chief may be appealed by recipient issued the order within fifteen days from the date the Division notifies him/her of such corrective action, as provided by law. This order is immediately effective upon issuance.

Modified, 1 CMC § 3806(e).

History: Adopted 6 Com. Reg. 2802 (May 15, 1984); Proposed 6 Com. Reg. 2712 (Apr. 15, 1984).

Part 600 - Enforcement

§ 65-90-601 Responsibility of the Department

The Department, acting through the Commonwealth Attorney General, is responsible for enforcement of the regulations in this chapter in consonance with, and in accordance with the applicable laws of the CNMI and in accordance with U.S. Pub. L. No. 93-523, known as the “Safe Drinking Water Act.” The Attorney General shall have the authority to institute legal actions to enjoin a violation, continuing violation or threatened violation of the regulations in this chapter.

Modified, 1 CMC § 3806(d), (g).

History: Adopted 6 Com. Reg. 2802 (May 15, 1984); Proposed 6 Com. Reg. 2712 (Apr. 15, 1984).

Commission Comment: The Commission moved the period after “Act” inside of the closing quotation mark to correct a manifest error. The Commission corrected the citation to the Safe Drinking Water Act pursuant to 1 CMC § 3806(g).

The Commission created the section title.

§ 65-90-605 Penalties

(a) Any persons* who violates any provision of this chapter or order issued by the Department or Division charged with responsibilities pursuant to this chapter shall be subject to a civil penalty of not more than one thousand dollars for each day of violation.

(b) Upon request of the Department, the Commonwealth Attorney General shall have the authority to petition the Commonwealth Trial Court or the United States District Court for the Northern Mariana Islands for a judgment assessing damages arising from a violation of this chapter or order of the Department or Division charged with responsibilities pursuant to this chapter. In determining such damages, if any, the court having jurisdiction of the matter shall consider the magnitude of harm caused by the violation, the nature and persistence of the violation, the length of time during which the violation has occurred and any corrective or ameliorative action or circumstances on the part of the person or persons against whom the damages are to be assessed.

(c) Any person who willfully or negligently, violates any provision of this chapter, or order of the Department or Division charged with responsibilities pursuant to this chapter, shall, be subject to criminal prosecution and upon conviction shall be punished by a fine of not more than fifty thousand dollars for each day of violation or by imprisonment not exceeding one year, or both.

(d) Any person who knowingly makes any false statement, representation, or certification in any registration, record, report, plan or other document filed or required to be maintained under this chapter, or by any certification, or order issued under this chapter, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required to be maintained pursuant to this chapter or order of the

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Department pursuant to this chapter shall be subject to criminal prosecution and upon conviction shall be punished by a fine of not more than fifty thousand dollars or by imprisonment for not more than one year, or both.

(e) All sums received as fines pursuant to this section and all fees collected pursuant to this chapter shall be paid to the treasurer of the Commonwealth for credit to the general fund of the Commonwealth.

* So in original.

Modified, 1 CMC § 3806(d), (e), (f).

History: Adopted 6 Com. Reg. 2802 (May 15, 1984); Proposed 6 Com. Reg. 2712 (Apr. 15, 1984).

Commission Comment: The “Commonwealth Judicial Reorganization Act,” PL 6-25 (effective May 2, 1989), renamed the Commonwealth Trial Court and directed that references to the Commonwealth Trial Court in the Commonwealth Code be interpreted to refer to the new Commonwealth Superior Court. See 1 CMC § 3201 and the commission comment thereto.

With respect to the references to the Department of Public Health and Environmental Services, see Executive Order 94-3 (effective August 23, 1994) reorganizing the Commonwealth government executive branch, changing agency names and official titles and effecting numerous other revisions.

Part 700 - Miscellaneous Provisions

§ 65-90-701 Severability

If any provision of this chapter within or the application thereof is held to be invalid, such invalidity shall not affect any provision of this chapter not specifically held to be invalid.

Modified, 1 CMC § 3806(d).

History: Adopted 6 Com. Reg. 2802 (May 15, 1984); Proposed 6 Com. Reg. 2712 (Apr. 15, 1984).

CHAPTER 65-120

WASTEWATER TREATMENT AND DISPOSAL RULES AND REGULATIONS

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Figure 800-2

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Part 1600 OWTS Design and Construction, and Treated Wastewater Effluent Re-use

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Part 2200 Certification of Waste Water System Operators

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Part 2300 Certification of Waste Water System Operators

§ 65-120-2301 Severability

Chapter Authority: 1 CMC §§ 2646-2649; 1 CMC § 2650; 2 CMC §§ 3101-3135.

Chapter History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29424 (Apr. 27, 2009); Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 15 Com. Reg. 11003 (Oct. 15, 1993); Amdts Proposed 15 Com. Reg. 10769 (Aug. 15, 1993); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Commission Comment: For a complete history of the authority of the Division of Environmental Quality (DEQ), see the commission comment to NMIAC chapter 65-10.

The 2002 Wastewater Treatment and Disposal Rules and Regulations repealed and reenacted the 1992 Individual Wastewater Treatment Systems Rules and Regulations, as amended. Where applicable, the history prior to 2002 is provided in the section histories.

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Executive Order No. 2013-24, promulgated at 35 Com. Reg. 34596 (Nov. 28, 2013), established a new Bureau of Environmental and Coastal Quality. This Order reorganized the Division of Environmental Quality as a division of the Bureau of Environmental and Coastal Quality, and provided that “all rules, orders, contracts, and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Executive Order shall continue to be effective until revised, amended, repealed or terminated.”

Part 001 - General Provisions

§ 65-120-001 Authority

The rules and regulations in this chapter have been promulgated by the Division of Environmental Quality in accordance with the Commonwealth Environmental Protection Act, (CEPA), 1982, 2 CMC §§ 3101 to 3134, PL 3-23, and the Commonwealth Environmental Amendments Act, (CEAA), 1999, PL 11-103 of the Commonwealth of the Northern Mariana Islands. These rules, regulations, technical provisions, and specifications, to be adopted by the Division of Environmental Quality, shall have the force and effect of law and shall be binding on all persons and other legal entities subject to the jurisdiction of the Commonwealth of the Northern Mariana Islands.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 15 Com. Reg. 11003 (Oct. 15, 1993); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Commission Comment: The 1992 amendments readopted and republished the Individual Wastewater Treatment Systems Rules and Regulations in their entirety with substantial revisions. The Commission, therefore, cites the 1992 amendments in the history sections throughout this chapter.

§ 65-120-005 Purpose

Whereas large numbers of Commonwealth residences currently rely and will continue to rely on on-site wastewater disposal systems for treatment and disposal of wastewater; and whereas proper design, construction, and operation of these systems provide personal and public benefit through protection of groundwater and surface water; whereas public health can be significantly impacted by design and continued use of substandard disposal systems, and whereas waste from livestock also impacts the quality of ground water and surface water and public health, the purpose of the regulations in this chapter is:

- (a) To protect the health of the wastewater disposal system user and his/her neighbors.
- (b) To establish minimum standards that will ensure that the discharge of wastewater:
 - (1) Will not contaminate or degrade the groundwater of the CNMI;
 - (2) Will not contaminate or degrade the waters of any bathing beach, shellfish breeding ground, or stream used for public or domestic water supply purposes or for recreational purposes;
 - (3) Will not be accessible to insects, rodents, or other possible carriers of disease which may come into contact with food or drinking water;

- (4) Will not pose a health hazard by being accessible to children;
- (5) Will not create a public nuisance due to odor or unsightly appearance; or
- (6) Will not violate any other local or federal laws or regulations governing water pollution or sewage disposal.
- (c) To provide for a reasonable service life for such systems.
- (d) To provide for registration and requirements for sanitary waste hauling and disposal.
- (e) To establish minimum standards for the treatment of animal wastes.
- (f) As with all of the Division of Environmental Quality regulations, the design standards and details described in this chapter and in the permitting processes are for minimum standards. The ultimate responsibility and success and failure of a project lies with the applicant. Although the Division sets these minimum standards that applicants must follow, it takes no responsibility for possible failures of systems it reviews. Each system must be designed for the specific location and use of the system.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 15 Com. Reg. 11003 (Oct. 15, 1993); Amdts Proposed 15 Com. Reg. 10769 (Aug. 15, 1993); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Commission Comment: The 1992 amendments added subsection (c) and amended the opening paragraph and subsections (a) and (b). The 1993 regulations added a new subsection (d). The 2002 regulations added new subsections (d) and (e), redesignated subsection (f) and amended the opening paragraph and subsections (a) and (f).

§ 65-120-010 Definitions

- (a) “Abutting property” means that property which lies next to any road, street, or easement in which a public sewer is located. The boundary of the property abutting the sewer need not physically touch the sewer easement so long as that piece of land separating the sewer easement from the abutting property consists of a public right-of-way, easement, road, or street not owned or controlled by another private owner, so that the abutting property owner would not be required to obtain an easement in order to connect his/her property with the sewer.
- (b) “The Act” means the Commonwealth Environmental Protection Act, (CEPA), 1982, 2 CMC §§ 3101 to 3134, Public Law 3-23, as amended by the Commonwealth Environmental Amendments Act (CEAA), 1999, PL 11-103, of the Commonwealth of the Northern Mariana Islands.
- (c) “Animal waste” means animal excreta and associated feed losses, bedding, spillage or overflow from watering systems, wash and flushing waters, sprinkling waters from

livestock cooling, precipitation polluted by falling on or flowing into a confined animal facility (“runoff”), and other materials polluted by livestock or their direct products.

(d) “Aquifer” means a geologic formation, group of formations, or part of a formation that is water bearing and which transmits water in sufficient quantity to supply springs and pumping wells.

(e) “Available,” as used in part 2200, means that based on system size, complexity, and wastewater quality, a certified operator must be on site or able to be contacted as needed to initiate the appropriate action in a timely manner.

(f) “Available sewer” means a public sewer which has been constructed in a road-way, street or easement abutting the property on which the subject building is located provided that:

(1) For a single family dwelling and duplexes:

(i) The public sewer; or

(ii) An existing building located on the subject property which is connected to the public sewer; is located within 200 feet of the single family dwelling or duplex, and connection to the public sewer is possible without the use of pumps.

(2) For all other buildings and structures the public sewer is no more than 50 feet above the lowest floor level.

(g) “Beneficial use” shall include the use of water reasonably required for domestic, agriculture, commercial, industrial, recreational, and other purposes, on both public and private lands.

(h) “Building” means a structure having a roof and intended to shelter people, animals, property, or business activity, or any structure used or intended to be used for supporting or sheltering any use or occupancy.

(i) “Certified Operator” means an individual who has passed an examination that tests their knowledge, skills, ability, and judgment as a wastewater operator for a particular classification level of wastewater treatment facility or wastewater collection system, and has been issued a certificate pursuant to part 2200 of this chapter.

(j) “Cesspool” means any buried chamber, including, but not limited to, any metal tank, perforated concrete vault or covered hollow or excavation, which receives discharges of sanitary sewage from a building sewer for the purpose of collecting solids and discharging liquids to the surrounding soil. Cesspools are not an approved method of sewage disposal under the regulations in this chapter, and all existing cesspools are considered to be substandard.

(k) “Class I aquifer recharge area” means the area contributing surface infiltration to a geologic formation, or part of a formation, that is water bearing and which currently transmits, or is believed capable of transmitting water to supply pumping wells or

springs. For the purpose of the regulations in this chapter, class I aquifer recharge areas shall be one of the following:

- (1) Areas so defined and mapped by the United States Geological Survey (USGS) as aquifer recharge zones;
- (2) Areas defined by the Director pursuant to the CNMI's Groundwater Management and Protection Act as a class I groundwater management zone; or
- (3) Areas determined in consultation with the USGS and the Commonwealth Utilities Corporation.

(l) "CNMI" means the Commonwealth of the Northern Mariana Islands.

(m) "Community sewer system" means a common sewer collection, conveyance, and treatment system serving more than one lot, directly controlled by an individual or community association duly authorized by those served (i.e., IWDS permittee) to undertake the responsibility of control and operation of the system.

(n) "Confined animal facility" means a lot or facility (other than an aquatic animal production facility) where animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained. Confined animal facilities include areas used to grow or house animals, areas used for processing and storage of product, manure, runoff storage areas, and silage storage areas.

(o) "Contamination" means the introduction of any physical, chemical, biological, or radiological substance into surface or groundwater which has the potential to pose a threat to human health or the environment, or to impede the most beneficial use of water.

(p) "CUC" means the Commonwealth Utilities Corporation, a public authority currently providing treatment for domestic and industrial wastewater.

(q) "Director" means the Director of the Division of Environmental Quality or his duly authorized representative unless otherwise specified.

(r) "Division" means the Division of Environmental Quality unless otherwise specified.

(s) "DPW" means the Department of Public Works.

(t) "Duplex" means a building which is designed exclusively for the occupancy of one family in each of two units which are attached to each other and which are detached from any other dwelling or commercial building.

(u) "Effluent filter" means an effluent treatment device installed on the outlet of a septic tank which is designed to prevent the passage of suspended matter larger than one-eighth inch in size.

(v) "EPA" means the United States Environmental Protection Agency.

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- (w) “Grazing unit” is any area of public or private pasture, range, grazed woodland, or other land that is grazed as an entity.
- (x) “Groundwater” is that part of the subsurface water which is in the zone of saturation.
- (y) “House sewer or building drain” means that part of the lowest piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer pipe beginning 5 feet outside the building walls.
- (z) “Individual wastewater disposal system” (“IWDS”) means a system designed and installed to treat and dispose of sewage from a single structure or group of structures using a septic tank, together with a leaching field or seepage pit.
- (aa) “Infiltrative practice” means any impoundment, excavation, depression, or subsurface system designed or intended to be used for the subsurface dispersion of water, wastewater, stormwater, or other liquids.
- (bb) “IWDS failure” or “system failure” means:
- (1) The IWDS refuses to accept sewage effluent at the rate of design application, resulting in interference with plumbing fixture use;
 - (2) Sewage effluent exceeds the infiltration capacity of the soil resulting in objectionable odors, ponding, seepage, or other discharge of the effluent to the surface of the ground or to surface waters;
 - (3) Effluent discharges from the absorption system result in contamination of a potable water supply, groundwater, or surface water.
- (cc) “Leaching field” means a buried system of perforated pipes, bedded in washed crushed rock, through which primary or secondary treated sewage effluent may seep or leach into the surrounding porous soil.
- (dd) “Livestock” means farm animals raised for human use.
- (ee) “MPLA” means the Marianas Public Land Authority.
- (ff) “MVA” means the Marianas Visitors Authority.
- (gg) “Monitoring well” is a well constructed for the purpose of observing subsurface hydrologic conditions and collecting hydrologic or water quality data, and not for use in extracting water for a beneficial use.
- (hh) “NPDES” means National Pollutant Discharge Elimination System. An NPDES permit is required for all municipal and industrial waste and waste treatment plant discharges to waters of the United States.

(ii) “Operating shift” means that period of time during which operator decisions that affect human health, safety and welfare are necessary for proper operation of the system.

(jj) “Operator” means a person engaged in the operation of a wastewater system; “operator” does not ordinarily mean an official, such as the city engineer or public works superintendent, exercising only general administrative supervision. Operator duties are varied and include but are not limited to operating wastewater process equipment, valves, pumps, engines and generators; cleaning of various process equipment for necessary unit process functions; taking wastewater samples; operating electrical controls; monitoring gauges, meters and control panels; recognition of process upsets and critical conditions in unit processes; determining and adjusting treatment process conditions using data, meter, and gauge readings; mixing of any chemicals required in treatment; and inspecting the facility for overall process conditions.

(kk) “Other wastewater treatment systems” (“OWTS”) means a system designed and installed to treat and dispose of sewage from a single structure or group of structures using a means other than a septic tank together with a leaching field or seepage pit.

(ll) “Permit” as used in this chapter shall mean an individual wastewater disposal system or an other wastewater treatment system permit.

(mm) “Person” means any individual; firm; partnership; association; corporation; both public and private; and any entity or agency of the Commonwealth government or the United States of America.

(nn) “Potable water” means water that is of a quality that meets the requirements of the CNMI’s Drinking Water Regulations [NMIAC, title 65, chapter 20] latest revision.

(oo) “Primary treated wastewater” for the purpose of this chapter means wastewater which has passed through a septic tank of the size and configuration as required by this chapter.

(pp) “Public sewer system” means a common sewage collection, conveyance, and treatment system serving more than one lot, directly controlled by a public authority.

(qq) “Responsible charge” – The operator(s) in responsible charge is defined as the person(s) designated by the owner to be certified operator(s) who makes decisions regarding the daily operational activities of a wastewater treatment and/or collection system that will directly impact the quality and/or quantity of wastewater.

(rr) “Restrictive horizon” means a layer that significantly impedes movement of water through the subsurface. Layers that differ from overlying soil material enough to be considered restrictive horizons include (but are not limited to) volcanic bedrock, compacted soil, saprolite, and certain clayey soils.

(ss) “Runoff” means that part of precipitation or irrigation water that runs off the land into streams or other surface water.

(tt) “Secondary treated effluent” for the purpose of this chapter means domestic non-industrial wastewater which has undergone physical, chemical, and/or biological treatment in order to effect the following characteristics:

- (1) 5-day biochemical oxygen demand, BOD(5), of not more than 20 mg/l;
 - (2) Total suspended solids, TSS, of not more than 20 mg/l;
 - (3) Total nitrogen concentration of not more than 1.0 mg/l; and
 - (4) Fecal coliform concentration of not more than 23 colony forming units per 100 ml.
- (5) All figures given are for 30-day averages, with single measurement not to exceed twice the 30-day average limit. Sampling frequency shall be dictated by the Director. BOD(5) and TSS analysis must be done by acceptable scientific practices as in the current Standard Methods for the Examination of Wastewater Analysis.

(uu) “Seepage pit” means a covered pit with open- jointed lining through which primary or secondary treated sewage effluent may seep or leach into the surrounding porous soil.

(vv) “Septage” means the domestic liquid and solid sewage pumped from septic tanks, cesspools, holding tanks, vault toilets, chemical toilets or other similar domestic sewage treatment components or systems and other sewage sludge not derived at sewage treatment plants.

(ww) “Septic tank” means a watertight receptacle which receives the discharges of sewage and is designed and constructed so as to retain solids, digest organic matter through a period of retention and allow the treated liquids to discharge to additional treatment system components or directly into the subsoil through a leaching field or seepage pit.

(xx) “Sewage” or “wastewater” means untreated or insufficiently treated human excreta; food wastes disposed of through sewers; wash water; liquid wastes from residences, commercial buildings, agriculture or animal husbandry/slaughter operations, industrial establishments, or other places of assembly; and such diluting water (e.g., storm water inflow) as may have entered the waste disposal system.

(yy) “Significant treatment system modification” means any change, replacement, or reconstruction of any IWDS or OWTS because of

- (1) System failure;
- (2) Increase in influent sewage flow rate above the design capacity of the existing system; or
- (3) Obsolescence.

(zz) “Single family dwelling” means a building designed exclusively for the occupancy of one family which is detached from any other dwelling or commercial building.

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(aaa) “State waters” shall be as defined in the CNMI Water Quality Standards (19 Com. Reg. at 14918 (Jan. 15, 1997)) [NMIAC, title 65, chapter 130] to mean all natural waters, fresh, brackish, or marine including wetlands, around and within the Commonwealth and as further delineated and defined under the Marine Sovereignty Act of 1980 (PL 2-7).

(bbb) “Storm water drainage system” means any privately or publicly owned structure or system of structures designed to collect, carry, and/or divert surface runoff. This term includes, but is not limited to, lined and unlined drainage ways, swales, ditches, culverts, drainpipes, catch basins, ponding basins, and infiltration beds.

(ccc) “Wastewater collection system” or “collection system” means pipelines or conduits, pumping stations and force mains, and all other related constructions, devices, and appliances used to conduct wastewater to a wastewater treatment system.

(ddd) “Wastewater treatment facility” means any place(s) used to treat, neutralize, stabilize, or dispose of wastewater and residuals.

(eee) “Wastewater treatment system” means devices, structures, and equipment used to treat, neutralize, stabilize, or dispose of wastewater of wastewater and residuals.

(fff) “Wastewater system” means the system of pipes, structures, and equipment used to treat, neutralize, stabilize, or dispose of wastewater and residuals.

(ggg) “Water supply” means the water withdrawn from a water source, or that might feasibly be withdrawn from an undeveloped or partially developed water source.

(hhh) “Waters of the United States” or “waters of the U.S.” shall be as defined in the Code of Federal Regulations, chapter 40, part 122.2 (40 CFR 122.2).

(iii) “Wetlands” shall be as defined in the CNMI Water Quality Standards (19 Com. Reg. at 14918 (Jan. 15, 1997)) [NMIAC, title 65, chapter 130] to mean an area which is inundated or saturated by surface or groundwater at a frequency and duration that is sufficient to support, and under normal circumstances does support, vegetation typically adapted for life in saturated soil conditions.

(jjj) “Used oil” means any oil that has been refined from crude oil, or synthetic oil, that has been used and as a result of such use may be contaminated by physical or chemical impurities.

(kkk) “USDA-NRCS” means United States Department of Agriculture, Natural Resources Conservation Service.

Modified, 1 CMC § 3806(c), (d), (g).

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29424 (Apr. 27, 2009); Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 15 Com. Reg. 11003 (Oct. 15, 1993); Amdts Proposed 15 Com. Reg.

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10769 (Aug. 15, 1993); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Commission Comment: The final paragraph of subsection (mm) was not designated. The Commission designated it subsection (mm)(5).

The 1992 amendments substantially revised this section and renumbered the subsections accordingly. The 1993 amendments added a new subsection (uu) and amended subsection (v).

The 2002 regulations deleted former subsections (a), (h), (n), (w), (ee), (ss) and (tt), added new subsections (c), (h), (i), (s), (u), (aa), (ll), (oo), (uu), (ww), (xx) and (zz), and renumbered the remaining subsections accordingly. The 2002 regulations also amended subsections (b), (e)(1), (i), (o), (x), (bb), (cc), (ee), (gg), (pp) and (tt).

The Commission changed the semi-colon to a period in subsection (fff) to correct a manifest error. The 2009 amendments added more definitions which were subsequently inserted alphabetically as subsections (e), (i), (aa), (ii), (jj), (qq) and (rr), see 31 Com. Reg. 29432, and subsections (ccc), (ddd), (eee), and (fff), see 31 Com. Reg. 29431.

Part 100 - Construction and Operation of an IWDS or OWTS

§ 65-120-101 Conditions for Construction and Operation of an IWDS

Construction and operation of an IWDS is permissible under the following conditions :

- (a) For all new single family dwellings or duplexes provided:
 - (1) There is no available public sewer; and
 - (2) The siting and design parameters outlined in the regulations in this chapter are met.
- (b) For all other new buildings and structures provided:
 - (1) There is no available public sewer;
 - (2) There is no discharge of oily, toxic, or hazardous wastes; and
 - (3) The siting and design parameters outlined in the regulations in this chapter are met.
- (c) In addition to the requirements outlined in subsections (a) and (b) for the types of activities described in the respective sections, for all new buildings, construction and operation of the IWDS must:
 - (1) Be done in a manner that will not contaminate or degrade the groundwater of the CNMI;
 - (2) Be done in a manner that will not contaminate or degrade the waters of any bathing beach, shellfish breeding ground, or stream used for public or domestic water supply purposes or for recreational purposes;
 - (3) Be done in a manner that will not be accessible to insects, rodents, or other possible carriers of disease which may come into contact with food or drinking water;
 - (4) Be done in a manner that will not pose a health hazard by being accessible to children;
 - (5) Be done in a manner that will not create a public nuisance due to odor or unsightly appearance;

- (6) Be done in a manner that will not violate any other local or federal laws or regulations governing water pollution or sewage disposal, or
- (7) Not be operated when an IWDS failure has occurred;
- (8) Be done in a manner to prohibit the disposal of used oil into the system.

Modified, 1 CMC § 3806(d), (f), (g).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 15 Com. Reg. 11003 (Oct. 15, 1993); Amdts Proposed 15 Com. Reg. 10769 (Aug. 15, 1993); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Commission Comment: The 1992 amendments moved former subsection (c) to § 65-120-115 and amended subsections (a) and (b). The 1993 amendments added subsection (c).

In subsection (c), the Commission corrected an error in the cross-reference. The original provision cited subsections (b) and (c) and the Commission corrected the reference so that it cites subsections (a) and (b).

The Commission created the section titles in part 100.

§ 65-120-105 Conditions for Construction and Operation of an OWTS

Construction and operation of an OWTS is permissible only under the following conditions:

- (a)(1) For any new residential project serving 100 persons or more, provided:
 - (i) There is no available public sewer;
 - (ii) The project owner(s) prove the technical and financial capability to meet the OWTS operational requirements specified in part 1600 of this chapter;
 - (iii) The siting and design parameters for an IWDS using a septic tank as outlined in this chapter cannot be met due to limitations of site, soil, topography, and/or lot size; and
 - (iv) The siting and design parameters for an OWTS outlined in this chapter are met.
- (2) Residential projects serving less than 100 persons shall not be permitted to construct and operate an OWTS unless otherwise provided for in subsection (d) and § 65-120-110 below. The number of persons served by a project shall be determined in accordance with part 500 of this chapter.
- (b) (1) For any non-residential commercial or industrial project with average daily sewage flows greater than 10,000 gallons a day, provided:
 - (i) There is no available public sewer;
 - (ii) The project owner(s) prove the technical and financial capabilities to meet the OWTS operational requirements specified in part 1600 of this chapter; and
 - (iii) The siting and design parameters for OWTS outlined in this chapter are met.
- (2) Non-residential or industrial projects with average daily sewage flows less than 10,000 gallons per day shall not be permitted to construct and operate an OWTS, unless otherwise provided for in subsection (d) and § 65-120-110 below.

- (c)(1) For any confined animal facility containing any of the following number of head:

- (1) 15 or more pigs;
 - (2) 20 or more goats;
 - (3) 10 or more cattle;
 - (4) 100 or more chickens; or
 - (5) Any confined animal facility which has been found by the Division to have caused, by evidence of direct or indirect discharge, violations of the CNMI Water Quality Standards or CNMI Drinking Water Regulations [NMIAC, title 65, chapters 130 and 20].
- (2) Such facilities shall be required to construct and operate an OWTS meeting the requirements of part 1700.

(d) The Director may allow, on a case-by-case basis, construction and use of an “alternative” OWTS as described in § 65-120-1640 for any residential, commercial, or industrial project with an average daily sewage flow less than 10,000 gallons per day.

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

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 15 Com. Reg. 11003 (Oct. 15, 1993); Amdts Proposed 15 Com. Reg. 10769 (Aug. 15, 1993); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: The original paragraphs of subsections (a), (b) and (c) were not designated. The Commission designated subsections (a)(1) and (a)(2), (b)(1) and (b)(2), and (c)(1) and (c)(2).

The 1993 amendments amended subsection (a)(1)(iii). The 2002 regulations amended subsections (a)(1)(ii), (a)(2), (b)(2) and (c) and added new subsection (d).

In subsection (d), the original cross-reference to “section 19.19” was incorrect. See 24 Com. Reg. at 19787 (Nov. 27, 2002). This section does not exist and the Commission changed the citation to section 19.9, codified at § 65-120-1640.

§ 65-120-110 Projects in a Class I Aquifer Recharge Area

For projects located within a class I aquifer recharge area (see § 65-120-010(i)) with an average daily flow greater than 5,000 gallons per day, the applicant must install and operate an OWTS meeting the siting, design, operations, and financial requirements of this chapter.

Modified, 1 CMC § 3806(c), (d), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

§ 65-120-115 New Building or Structure

A building or structure will be considered new when originally constructed, or when remodeled or extended such that the floor area is increased by greater than twenty percent.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Commission Comment: The 1992 amendments moved this section from former section IV(A)(3), codified at § 65-120-101.

§ 65-120-120 Connection to Public Sewer

All building and structures connected to an existing IWDS or OWTS shall be connected to a public sewer if and when required to do so by the Commonwealth Utilities Corporation's Sewer Use Regulations, as amended, [NMIAC, title 50, chapter 20] or as directed by the Director.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

§ 65-120-125 Prohibitions

(a) Discharge of treated or untreated sewage directly or indirectly onto the ground surface or into state waters constitutes a public health hazard and is prohibited, unless otherwise authorized or permitted within this chapter.

(b) Discharge of wastewater from a confined animal facility, and discharge of runoff that has contacted animal wastes from a confined animal facility of any size into state waters is prohibited, unless otherwise authorized or permitted within this chapter.

(c) Discharge of cooling water, air conditioning water, water softener brine, reverse osmosis ("RO") effluent and filter backwash, groundwater, oil, hazardous materials, roof drainage, or other aqueous or non-aqueous substances which are, in the judgment of the Director, detrimental to the performance of the system or to groundwater, shall not be discharged into any IWDS or OWTS.

(d) Increased Flows Prohibited: Except where specifically allowed within this chapter, no person shall cause the total sewage flow to an IWDS or OWTS, as calculated in part 500 of this chapter, to be increased beyond that allowed under the original permit through the connection an additional dwelling(s) or building(s); increased occupancy; change of a facility's use (e.g., conversion of a single-family dwelling to a barracks); renovation; or construction of an addition; without first obtaining a permit for a new or modified IWDS or OWTS under this chapter.

Modified, 1 CMC § 3806(c), (d), (f).

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History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002).

Part 200 - Applicability of Regulations to Existing and New IWDS, OWTS, and Confined Animal Facilities

§ 65-120-201 New IWDS Subject to Regulations

All new IWDS shall be subject to the design and siting criteria set forth in the regulations in this chapter. IWDS applications submitted to the Division after the effective date of the regulations in this chapter shall be subject to the requirements set forth herein.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: The Commission created the section titles in part 200.

§ 65-120-205 Existing IWDS

The Director may require modifications and repairs on any existing individual sewage disposal system if the IWDS has failed.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Commission Comment: The 1992 amendments deleted former section V(B). See 8 Com. Reg. at 4354 (June 3, 1986).

§ 65-120-210 New OTWS Subject to Regulations

All new OWTS shall be subject to the design, siting, financial, and operational criteria set forth in the regulations in this chapter. OWTS applications submitted to the Division after the effective date of the regulations in this chapter shall be subject to the requirements set forth herein.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: The 2002 regulations deleted former § 5.3. See 14 Com. Reg. at 10326 (Dec. 15, 1992).

§ 65-120-215 Existing OWTS

Owners of all existing publicly owned OWTS (i.e., CUC) are not required to obtain a permit from the Division to reconstruct, modify, or operate an OWTS provided that the publicly owned OWTS is subject to the NPDES permitting process, administered by the EPA. Provisions of this chapter may be designated as “not applicable” by the Director for future publicly owned OWTS. The rationale for any such designation shall be based on sound engineering principles, with due consideration of all potential impacts to public health and the environment. Such rationale shall be clearly explained in the permit documentation and in any public notice that may be required as part of the NPDES permitting process.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

§ 65-120-220 Existing Confined Animal Facility OWTS

All existing confined animal facility OWTS shall be subject to the permitting, design, siting, and operational criteria set forth in the regulations in this chapter within two years of the effective date of the regulations in this chapter, with the following exception:

(a) Confined animal facilities that have been found by the Division to have caused, by evidence of direct or indirect discharge, violations of the CNMI Water Quality Standards or CNMI Drinking Water Regulations [NMIAC, title 65, chapters 130 and 20], may be required to comply with the provisions of this chapter within a shorter period of time as part of any order issued by the Director under part 2000 of this chapter.

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

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002).

Part 300 - IWDS and OWTS Permit Application Requirements

§ 65-120-301 Permit Application Required

(a) No IWDS or OWTS (together referred to as “waste treatment system”) may be constructed unless the owner of the land upon which the waste treatment system is to be constructed, or the lessee of said land (together to be known herein after as the “applicant”), has obtained an IWDS or OWTS permit from the Director. An IWDS/OWTS permit application shall be completed and submitted to the Director for all new waste treatment and disposal systems, repairs, or modifications and/or expansions to same. Before construction may commence on an IWDS or OWTS, a permit for construction must be issued by the Director.

(b) The application may be filled out by the applicant or by the applicant's authorized representative. In either case, the applicant shall sign and date the application, and shall be responsible for all statements and information contained therein.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Commission Comment: This section was originally part of an introduction to part 300. The Commission designated subsections (a) and (b). The Commission created the section titles in part 300. The Commission corrected the phrase "a IWDS or OWDS permit" in subsection (a) to "an IWDS or OWDS permit" pursuant to 1 CMC § 3806(g).

The 1992 amendments added new subsection (b) and amended subsection (a). The 2002 regulations amended subsection (a).

§ 65-120-305 Required Information on Application

Information required on the IWDS/OWTS permit application shall consist of the following:

(a) Name, address, and telephone number of the applicant. If the applicant is not the owner of the land, the lease or other title document must be provided with the application to prove the applicant's legal right to use the property.

(b) Type of application (new, revision, or renewal).

(1) A new application is for those applicants who seek to construct new IWDS or OWTS, or make significant modifications to existing IWDS or OWTS.

(2) A revised application is for those applicants who seek to make a change to the scope of work after original submission of the application (i.e., upward or downward change in sewage flows, service population, or change in treatment system) and before start of construction. After construction begins, a new application must be submitted.

(3) A renewal application is for those applicants whose proposed IWDS/OWTS construction activities has not commenced within 90 days from the date of issuing the original IWDS/OWTS construction permit.

(c)(1) IWDS/OWTS permit application fees shall be in accordance with the following fee schedule. Payment of application fee is required at the time of submitting each permit application and is non-refundable. Fees shall be paid by check, and made payable to the Division. All CNMI government agencies, and semi-autonomous agencies such as the Public School System, CUC, Mayors' Office, MPLA, and MVA shall be exempt from payment of application fees. However, no agency is exempt from the requirements of the regulations in this chapter unless specifically stated in this chapter.

(2)

IWDS/OWTS New Permit Application Fee Table

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SYSTEM TYPE	SERVICE LEVEL	APPLICATION FEE
IWDS	Single Family/Duplex	\$75.00
IWDS	All Others	\$450.00
OWTS	Confined Animal Facilities	\$300.00
OWTS	“Large” Confined Animal Facilities ¹	\$550.00
OWTS	All Others	\$0.25/gal. plant capacity

¹ The criteria determining what constitutes a “large” confined animal facility is contained in § 65-120-1710.

(3) There is a \$50.00 fee for all revised applications, regardless of system type or level of service. For changes from IWDS to OWTS, there is an additional fee equal to the difference as calculated from the above table. There is no fee for a renewal application.

(d) Percolation test and soil log report for all IWDS and OWTS systems proposing subsurface disposal of treated effluent, except as provided for in § 65-120-715.

(e) Calculations defining average loading to the wastewater treatment system (refer to part 500).

(f) Proposed construction start and completion dates.

(g) Detailed plans and specifications of the proposed treatment system, with complete and concise design calculations, design references employed, and assumptions made.

(h) Site Plan. The site plan must contain at a minimum all of the following:

- (1) Delineation of property boundaries and lot number.
- (2) Delineation of public right of way, easements and access roads, if applicable.
- (3) Indication of all existing and proposed structures on the lot including their location with respect to the lot boundaries.
- (4) Location of proposed disposal system in relation to property boundaries, water wells, public right of way, easements and access roads, existing structures and utilities, and the proposed building(s).
- (5) Topography of the project site, showing contour lines drawn at 1-foot intervals, or other intervals approved by the Director, and floor elevation of the existing or proposed building(s) to be served by the proposed wastewater treatment system. Indicate reference elevation point (benchmark). This provision is not applicable to single family/duplex IWDS applications.
- (6) Vicinity map showing adjacent streets with names and other landmarks that will allow DEQ personnel to locate the project site.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29424 (Apr. 27, 2009); Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Commission Comment: This section includes part of the introduction to part 300 and former section 6.1 through 6.8. The original paragraphs of subsection (c) were not designated. The Commission designated subsections (c)(1) through (c)(3).

The 1992 amendments made substantial revisions to former section VII(A) and deleted former sections VII(B) and (C). See 8 Com. Reg. at 4357 (June 3, 1986). The 2002 amendments amended subsection (c) and (h)(5). The 2009 amendments revised the fee schedule in subsection (c).

§ 65-120-310 Inspection of Proposed Site

The proposed wastewater treatment system site shall be inspected by the Director or Division staff member prior to issuance of a IWDS/OWTS permit. The applicant or his/her authorized representative may be called upon to accompany DEQ on the initial site visit.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

§ 65-120-315 Completed IWDS Permit Application

A fully completed permit application for an IWDS shall be submitted to the Director for review at least thirty calendar days prior to the planned start of construction.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

§ 65-120-320 Completed OWTS Permit Application

A fully completed permit application for an OWTS shall be submitted to the Director for review at least ninety calendar days prior to the planned start of construction.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

§ 65-120-325 IWDS/OWTS Permit Void

An IWDS/OWTS permit shall be void if the work authorized by said permit is not commenced within three months after its issuance; or is suspended or abandoned for a period of three months at any time the work has commenced. Such a voided permit shall require submission of a new IWDS/OWTS permit application (under “renewal”).

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

§ 65-120-330 Certification Requirements

Permit application certification requirements:

(a) IWDS permit applications shall be certified (“stamped”) by a professional civil engineer licensed by the Board of Professional Licensing to practice in the CNMI who has proven a complete understanding of the requirements of IWDS design. IWDS systems that serve a single family home or duplex are exempt from the certification requirement unless otherwise required by the Board of Professional Licensing. Architects, unlicensed engineers, and unqualified licensed engineers shall not certify any IWDS or OWTS permit applications.

(b) All proposed septic tanks and seepage pits subject to traffic loads (i.e., those located in parking areas, driveways) MUST submit complete structural design drawings and calculations, certified by a licensed professional engineer. The plans must be in compliance with the Department of Public Works, building code requirements.

(c) All OWTS permit applications must contain complete structural, hydraulic, and kinetic design calculations certified by a CNMI licensed professional engineer. The Director may allow exceptions from the certification requirement for confined animal facility OWTS applications, depending on size, complexity, and potential impacts, and as consistent with the Board of Professional Licensing requirements. The rationale for any such exception shall be clearly explained in the permit documentation.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 15 Com. Reg. 11003 (Oct. 15, 1993); Amdts Proposed 15 Com. Reg. 10769 (Aug. 15, 1993); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: The 1993 amendments amended subsection (b). The 2002 regulations amended subsections (a) and (c).

§ 65-120-335 Wastewater Disposal on Another Lot

If an applicant wishes to dispose of primary or secondary treated wastewater on another lot, duly recorded with the CNMI Registrar of Deeds, then that applicant must request

and obtain a written easement recorded on the deed of the lot designated for disposal of wastewater. The easement shall reflect the location of the septic tank and leaching field(s) or seepage pit(s), and further reflect the setbacks listed in part 1000 of this chapter (i.e., the easement must state that no building may be built within 10 feet of the septic tank, etc.). This requirement to record an IWDS easement shall apply even if the owner or lessee of the other lot is the applicant for the IWDS.

Modified, 1 CMC § 3806(c), (d), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Part 400 - IWDS General Design Parameters

§ 65-120-401 General Design Parameters

The following general design provisions shall apply to all new IWDS:

- (a) Where permitted by part 100 of these regulations, a building may be connected to an individual sewage disposal system which complies with other provisions set forth in these regulations. The type of system shall be determined on the basis of location, soil porosity, and groundwater level and shall be designed to receive all sanitary sewage from the property. The system, except as otherwise provided, shall consist of a septic tank with effluent discharge into a sub-surface leaching field or seepage pit.
- (b) All individual sewage disposal systems shall be so designed that additional subsurface drain fields, equivalent to at least 100% of the required original system, may be installed if the original system cannot absorb all the sewage.
- (c) No property shall be improved in excess of its capacity to properly absorb sewage effluent in the quantities and by the means provide in this chapter.
- (d) When there is insufficient lot area or improper soil conditions for adequate sewage disposal from a proposed building or proposed use of land as determined by application of the requirements of the regulations in this chapter, the building or proposed use shall not be permitted.
- (e) Where public sewers may be installed at a future date, provision should be made in the household plumbing system for connection to such sewer, in the time frame specified by the Director.
- (f) Nothing contained in the regulations in this chapter shall be construed to prevent the Director from requiring compliance with higher requirements than those contained herein where such higher requirements are essential to maintain a safe and sanitary condition.

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Modified, 1 CMC § 3806(c), (d).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Commission Comment: The 1992 amendments moved former section VI to this part with numerous amendments and deleted former subsections VI(B), (C), (I) and (K). See 8 Com. Reg. at 4354-55 (June 3, 1986). The 2002 amendments deleted subsection (g).

The Commission created the section title.

Part 500 - Identify Average Daily Wastewater Flow Rate

§ 65-120-501 Unit Flow Rates

For the purpose of the regulations in this chapter, the unit flow rates are found on table 500-1 below:

Table 500-1
Quantities of Sewage Flows

Type of Development	Gallons per Unit per Day	Number of Persons
Airports - per passenger	5 per passenger	
Airports - per employee	15 per employee	
Apartments, without laundry	120 per bedroom	2 per bedroom
Apartments with laundry; Condominiums	150 per bedroom	2 per bedroom
Barracks/worker's housing	60 per bed	1 per bed
Bars/lounges - per employee	15 per employee	
Bars/lounges - per seat	10 per seat	
Boarding houses	50 per guest	
Bowling alleys	75 per lane	
Campgrounds - per tent or trailer site, central bathhouse	50	
Camps - construction	50	
Camps - luxury	100	
Camps - resort - night and day, with limited plumbing	50	
Car Wash	40 per vehicle served	
Clubs - country	100 per resident member	
Clubs - country	25 per non-res. member	
Dwellings - single family	150 per bedroom	2 per bedroom
Factories - (exclusive of industrial wastes, no showers)	25 per person, per shift	
Factories - add for showers	10 per person, per	

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	shift	
Hospitals	250+ per bed	
Hotels - Business	150 per room	2 per room
Hotels - Resort	225 per room	2 per room
Institutions - other than hospitals (nursing homes)	125 per resident/patient	
Laundromats	250 per washer	
Office Space	15 per 100 square feet	
Parks - picnic (toilet wastes only) - gallons per picnicker	5 per user	
Parks - picnic (with bathhouses, showers, and flush toilets)	10 per user	
Restaurants - (total)	40 per seat	
Restaurants - (kitchen wastes) per meal served	7 per meal served	(for grease traps)
Retail/commercial space/warehouse	10 per 100 square feet	
Schools - boarding	100 per student or faculty	
Schools - day (without cafeterias, gyms, or showers)	15 per student or faculty	
Schools - day (with cafeterias, but no gyms or showers)	20 per student or faculty	
Schools - day (with cafeterias, gyms, and showers)	25 per student or faculty	
Shopping centers - (no food)	10 per 100 square feet	
Sports stadiums	5 per seat	
Stores - per toilet room	400	
Swimming pools and bathhouses	10 per person	
Theaters - movie	5 per auditorium seat	
Trailer Parks	150 per trailer	

Modified, 1 CMC § 3806(c), (d), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 15 Com. Reg. 11003 (Oct. 15, 1993); Amdts Proposed 15 Com. Reg. 10769 (Aug. 15, 1993); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Commission Comment: The Commission created the section titles in part 500.

§ 65-120-505 All Other Uses

Please specify flow rates for all other uses. Unit flow rates employed for “other uses” are subject to modification by the Director if, in his/her judgment, such unit flow rates are unreasonable. The rationale for any such modification shall be clearly explained in writing to the applicant.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Part 600 - Septic Tank Design and Construction

§ 65-120-601 Septic Tank Required

All IWDS require a septic tank unless the system is an approved OWTS.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 15 Com. Reg. 11003 (Oct. 15, 1993); Amdts Proposed 15 Com. Reg. 10769 (Aug. 15, 1993); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: The 1992 amendments deleted former section IX, entitled “Location and Installation of Sewage Disposal System,” and former section X, entitled “Area of Disposal Fields and Seepage Pits.” See 8 Com. Reg. at 4358 (June 3, 1986). In former part XI, codified in this part, the 1992 amendments added §§ 65-120-601 and 65-120-605, and renumbered the remaining sections accordingly.

The Commission created the section titles in part 600.

§ 65-120-605 Net Volume of Septic Tanks

The net volume of a septic tank is measured from below the effluent pipe. The following shall apply for sizing septic tanks:

- (a) For average daily sewage flows 0 to 500 gallons per day (gpd), the septic tank net volume must be 750 gallons (100 cubic feet).
- (b) For average daily sewage flows between 501 to 1500 (gpd), the septic tank net volume must be 1.5 times the average daily sewage flow (1.5 days’ storage capacity).
$$\text{VOL} = Q \times 1.5, \text{ where } Q \text{ is the average daily sewage flow.}$$
- (c) For average daily sewage flows greater than 1500 gpd, the septic tank net volume must be $1,125 + 0.75$ times the average daily sewage flow.
$$\text{VOL} = 1,125 + (0.75 \times Q)$$

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

§ 65-120-610 Septic Tank Design

Septic tank design shall be such as to provide access for cleaning, adequate volume for settling, and for sludge and scum storage. The structural design shall provide for a sound durable tank which will sustain all loads and pressures and will resist corrosion.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg.

9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

§ 65-120-615 Siting Criteria

The siting criteria specified in part 1000 of this chapter shall be met for all new septic tanks.

Modified, 1 CMC § 3806(c), (d).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

§ 65-120-620 Required Liquid Depth

The liquid depth (as measured from the bottom of the tank outlet pipe to tank bottom) shall be at least five feet and not more than six feet deep. A liquid depth greater than six feet shall not be considered in determining tank capacity.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

§ 65-120-625 Minimum Septic Tank Dimensions

(a) No tank or compartment thereof shall have an inside horizontal dimension of less than four feet for the initial compartment. A second compartment may be less if approved by the Director.

(b) For all single compartment tanks the minimum dimensions of septic tank shall not be less than six feet depth including the air space by four feet width by six feet length. Scum storage shall equal 15% of the total liquid depth and shall be measured from the liquid level to the vertical top of the inlet tee and outlet tee excluding the one inch air space at the top of the tank.

(c) The Director may approve other designs provided sufficient information is submitted demonstrating that the design will perform at least as effectively as the above referenced design. Information must include sufficient studies to demonstrate the treatment levels of the alternative design are equal to or greater than that of the above referenced standards. Such studies may be based either on settling capabilities or biochemical oxygen demand removal. Studies must be conducted using recognized practices and methods. The applicant for such alternate designs has the burden to prove to the Director's satisfaction that such a system will adequately treat the waste. A system may not be approved without such sufficient studies as described above.

(d)(1) I.e., for 5-foot liquid depth tanks, the distance from the bottom of the inlet pipe to the inside surface of the top of the septic tank shall be 10 inches.

(2) I.e., for 6-foot liquid depth tanks, the distance from the bottom of the inlet pipe to the inside surface of the top of the septic tank shall be 12 inches.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 15 Com. Reg. 11003 (Oct. 15, 1993); Amdts Proposed 15 Com. Reg. 10769 (Aug. 15, 1993); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (d).

The 1993 amendments added subsection (c) and amended subsections (a) and (b). The 2002 amendments amended subsections (a), (b) and (c).

§ 65-120-630 Inlet and Outlet Pipes

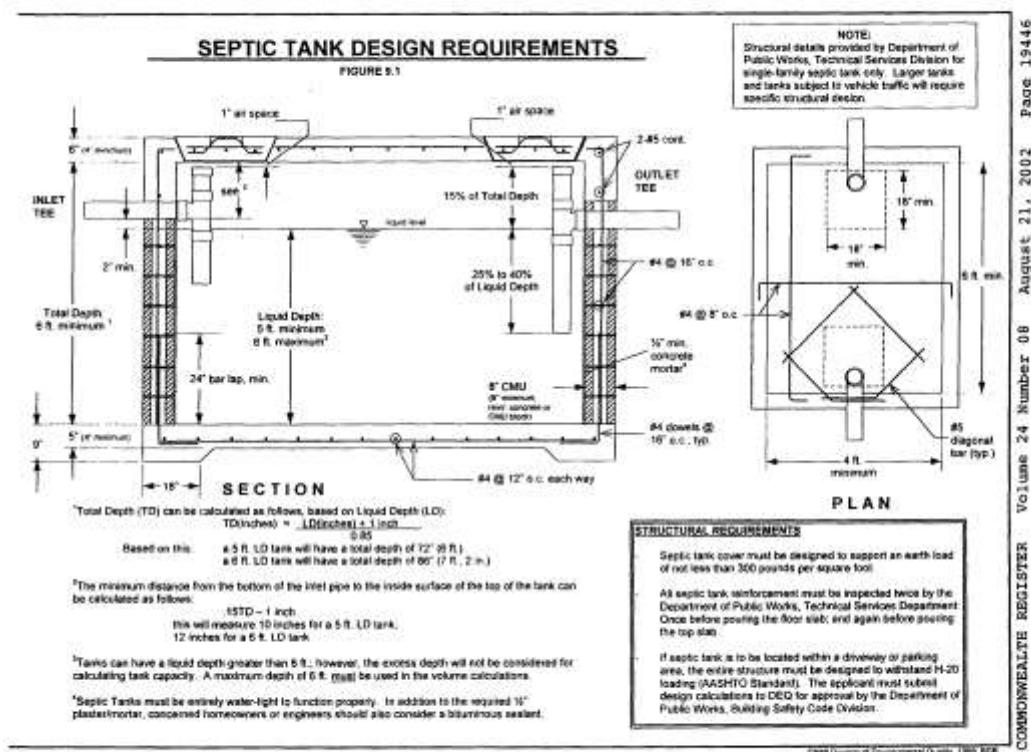
The bottom of the septic tank inlet pipe shall be at least two inches above the bottom of the septic tank outlet pipe(s). The septic tank outlet pipe(s) shall be at least the size of the septic tank inlet pipe (see figure 600-1).

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: The 1992 amendments deleted former section XI(D) and replaced it with this section.

Figure 600-1



History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

§ 65-120-635 Vertical Outlet Tee

The vertical leg of the outlet tee shall extend upward to within one inch of the underside of the cover and downward to a point which is not less than 25% nor greater than 40% of the liquid depth below the liquid surface (see figure 600-1).

Modified, 1 CMC § 3806(c), (e), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 15 Com. Reg. 11003 (Oct. 15, 1993); Amdts Proposed 15 Com. Reg. 10769 (Aug. 15, 1993); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

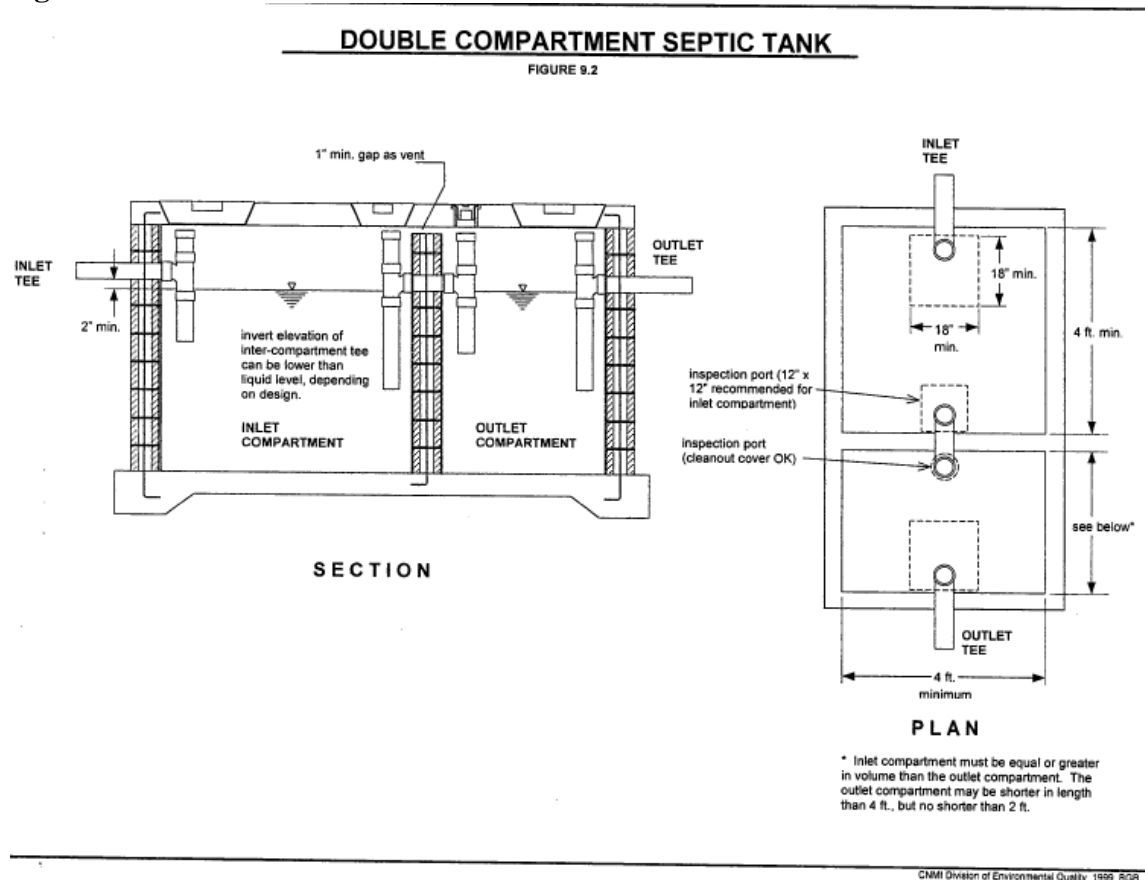
§ 65-120-640 Multi-compartment Tanks

When multi-compartment tanks are used, the volume of the first compartment shall be equal to or greater than that of the second compartment (see figure 600-2).

Modified, 1 CMC § 3806(c), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 15 Com. Reg. 11003 (Oct. 15, 1993); Amdts Proposed 15 Com. Reg. 10769 (Aug. 15, 1993); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Figure 600-2



History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002).

§ 65-120-645 Access to Septic Tanks

Access to each compartment of the tank shall be provided by a 18" x 18" inch minimum manhole or removable cover. The inlet and outlet tee connections shall also be accessible through properly placed manholes, or easily removed covers.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

§ 65-120-650 Manholes Built to Ground Grade Level

Where the top of the septic tank is below ground grade level, manholes shall be built up to ground grade level.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

§ 65-120-655 Strength of Septic Tanks

The wall of the septic tank shall not be less than 6 inches thick reinforced concrete poured in place; or not less than 6 inches thick load bearing concrete hollow block reinforced at every 16 inches on center, and laid on a solid foundation with mortar joints well filled, and plastered with ½ inch concrete mortar in the inside of the tank or other impermeable lining material if approved in writing by DEQ prior to application. The tank covers and floor slabs shall be not less than 4 inch thick reinforced concrete. Septic tank covers may either be poured-in-place or pre-cast. The minimum compressive strength of any concrete septic tank wall, top and covers, or floor shall not be less than 2,500 psi (pound per square inch). Other materials may be approved by the Director on a case by case basis, provided the materials are of comparable strength. The applicant must provide sufficient proof as the Director deems necessary to prove that a material is of comparable strength.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 15 Com. Reg. 11003 (Oct. 15, 1993); Amdts Proposed 15 Com. Reg. 10769 (Aug. 15, 1993); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

§ 65-120-660 Strength of Septic Tank Covers

All septic tank covers shall be capable of supporting an earth load of not less than 300 pounds per square foot where the maximum coverage does not exceed three feet. Where septic tanks may be subject to traffic and/or live loads of any nature (e.g., parking lot, driveway), the entire structure shall be designed to withstand H-20 loading (AASHTO

standard). Placing of any part of an IWDS under a parking lot or driveway must meet all Department of Public Works, building code requirements.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 15 Com. Reg. 11003 (Oct. 15, 1993); Amdts Proposed 15 Com. Reg. 10769 (Aug. 15, 1993); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

§ 65-120-665 Cleaning Before Use

After the completion of the septic tank and before it is put into use, the inside shall be cleaned and all forms removed.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

§ 65-120-670 Grease Traps

Grease traps shall be installed for all buildings containing food processing facilities, including restaurants, schools, hospitals, factories, barracks, or other installations from which large quantities of grease related to food processing can be expected to be discharged. Grease traps shall be subject to the following minimum requirements:

- (a) Location - Grease traps should be installed on a separate building sewer serving that part of the plumbing system into which the grease shall be discharged. Toilet waste shall not be discharged to a grease trap. The discharge from the grease trap must flow to a septic tank meeting the requirements of this chapter.
- (b) Capacities - Grease traps shall have a minimum depth of 4 feet and a minimum capacity of 1,000 gallons, and shall have sufficient capacity to provide at least a 24 hour detention period for the kitchen flow.
- (c) Construction - Grease traps shall be water-tight and constructed of sound and durable materials not subject to excessive corrosion, decay, or to cracking or buckling due to settlement or backfilling. Tanks and covers shall be designed and constructed so as to withstand normal structural loading. A tank installed in groundwater shall be weighted to prevent the tank from floating when it is emptied.
- (d) Depth of Tees - The inlet tee shall extend to the mid depth of the tank. The outlet tee shall extend to within 12 inches of the bottom of the tank. Tees shall be cast iron or Schedule 40 PVC and properly supported by a hanger, strap or other device.
- (e) Baffles - Baffles may be provided as necessary to maximize the separation of grease from the sewage.

- (f) Base - Grease traps shall be installed on a level stable base that will not settle.
- (g) Materials - Grease traps may be constructed of poured reinforced concrete, precast reinforced concrete, or prefabricated material acceptable to the Director.
- (h) Access Manholes - Grease traps shall be provided with a minimum 24 inch diameter manhole frame and a cover to grade over the inlet and outlet.
- (i) Accessibility - Grease traps shall be located on the lot so as to be accessible for servicing and cleaning.
- (j) Invert Elevation - The invert elevation of the inlet of a grease trap shall be at least 2 inches above the invert elevation of the outlet. Inlet and outlet shall be located at opposite ends of the tank to maximize separation, and at least 12 inches above the maximum groundwater elevation.
- (k) Backfill - Backfill around the grease trap shall be placed in such a manner as to prevent damage to the tank.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Commission Comment: The 2002 regulations amended the opening paragraphs and added new subsections (a) through (k).

The 2002 regulations also deleted former § 9.14. See 14 Com. Reg. at 10333 (Dec. 15, 1992).

§ 65-120-675 Effluent Filter Required

The outlet of all septic tanks serving IWDS and OWTS with total design flows greater than 1,000 gallons per day shall be equipped with an effluent filter. The effluent filter shall be an Orenco Systems “Biotube” Effluent Filter, or other similar manufacture, subject to approval by the Director. The filter size shall be selected and installed according to manufacturer’s recommendations to maximize the time between cleanings.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002).

Part 700 - Percolation Testing Procedures

Subpart A

§ 65-120-701 Percolation Testing Manual

The August, 2007 DEQ Percolation Testing Manual (or its most recent version) shall be made available by the Division to provide detailed guidance as to procedures, safety, and certification requirements for Commonwealth of the Northern Mariana Islands Wastewater Treatment and Disposal Rules and Regulations Amendments percolation testers. The manual shall be available for free downloading on the internet or as a hard copy, for a reasonable fee which covers the costs of publication.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29424 (Apr. 27, 2009); Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Commission Comment: The original paragraphs of subsections (a) and (f) were not designated. The Commission designated subsections (a)(1) and (a)(2) and (f)(1) and (f)(2).

This section includes former sections 10.1 through 10.7. See 24 Com. Reg. at 19801 (Nov. 27, 2002).

The 1992 amendments deleted former sections XII(A), (B) and (D) from this part. See 8 Com. Reg. at 4362 (June 3, 1986). Former section XII(C) is codified in this section. The 1992 amendments added subsection (a)(2) and readopted and republished the provisions in this section with numerous amendments.

The 2009 amendments deleted former sections (a) through (g). See 31 Com. Reg. at 29433-29434 (April 27, 2009).

§ 65-120-702 Percolation Tests for IWDS Applications

Percolation tests shall be required in support of all multi-residential, commercial, and industrial IWDS applications.

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29424 (Apr. 27, 2009); Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: The 2009 amendments renumbered this section but did not change the content. See 31 Com. Reg. at 29433 (April 27, 2009).

§ 65-120-704 Percolation Tests for OWTS Applications

Percolation tests shall be required in support of all multi- residential, commercial, and industrial OWTS applications where the applicant proposes subsurface disposal of the treated wastewater effluent.

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29424 (Apr. 27, 2009); Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

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Commission Comment: The 2009 amendments renumbered this section but did not change the content. See 31 Com. Reg. at 29433 (April 27, 2009).

§ 65-120-706 Single Family and Duplex IWDS Applications

Percolation tests shall be required in support of all single family and duplex IWDS applications EXCEPT where data from IWDS percolation tests conducted in accordance with the regulations in this chapter and conducted within 250 feet of the proposed IWDS site, and in similar soils and geological conditions are submitted by the applicant and can be verified by the Division.

Modified, 1 CMC § 3806(d), (f), (g).

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29424 (Apr. 27, 2009); Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: The Commission changed “application” to “applications” to correct a manifest error. The 2009 amendments renumbered this section but did not change the content. See 31 Com. Reg. at 29433 (April 27, 2009).

Subpart B - Number and Location of Tests

§ 65-120-708 Deep Observation Pit

The purpose of the deep observation pit is to expose the soil column to allow for detailed soil description and to check for potentially adverse conditions including high groundwater and restrictive horizons.

(a) At least one (1) deep observation pit shall be required for most sites. Additional pits may be required for large facilities (over 1 acre), facilities that include multiple leaching fields or stormwater practices, or where varying soil conditions warrant additional pits.

(b) Deep observation pits are to be excavated to a minimum depth of 4 feet below the bottom of the proposed infiltrative practice. Excavation may stop if groundwater or another restrictive horizon is found within 3 feet of the bottom of the proposed infiltrative practice. Pits with a total depth greater than 5 feet are required to meet U.S. Occupational Safety and Health Administration (OSHA) excavation safety requirements. See percolation testing manual for safety guidance and “safety pit” designs.

(c) Pits in limestone may not be required if ALL of the following can be shown to apply: The bottom of the infiltrative practice (e.g., leaching field or stormwater infiltration practice) will be wholly in limestone; ground level is greater than 10 feet above mean sea level; and the proposed location of the infiltrative practice is not within 100 feet of a wetland, stream, or any area identified as volcanic rock or volcanic saprolite based on observation and/or USGS geological maps.

(d) The deep observation pit shall not be located within the potential footprint of the proposed infiltrative practice, or any other structure.

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29434-29435 (April 27, 2009).

§ 65-120-710 Percolation Test Holes

The purpose of the percolation test hole(s) is only to measure percolation rate. The percolation test hole shall not be the same excavation as the deep observation pit, except as noted below.

(a) For single-family residences, duplexes, and small facilities (with less than half an acre of proposed development) only one percolation test hole is required. However, three percolation test holes are recommended for all applications to avoid instances of anomalously low or high measured percolation rates.

(b) Facilities which develop areas larger than one acre will require at least three test holes. The total number of test holes needed depends on the size, location, and number of infiltrative practices (e.g. leaching fields, ponding basins) proposed.

(c) The percolation test holes shall be located within the potential footprint of the proposed infiltrative practice. If three or more percolation tests are conducted, one test may be conducted within the deep observation pit.

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29434 (April 27, 2009). The Commission deleted the figures “3” and “1” pursuant to 1 CMC § 3806(e).

Subpart C - Percolation Test Procedures

§ 65-120-712 Excavation

The bottom of the initial excavation must be approximately 13 inches above the expected bottom of the leaching field or infiltrative practice. The percolation test hole is augered or hand-dug at the bottom of the excavation. Where three or more percolation tests are conducted, one test may be performed within the deep observation pit on a shelf dug into the entry ramp for this purpose. The shelf shall be at least 3 feet wide, and the test hole shall be bored/dug as far back from the shelf as possible. See percolation testing manual for illustration and guidance.

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29435 (April 27, 2009).

§ 65-120-714 Percolation Test Hole

The percolation test hole shall be bored or dug starting from the bottom of the excavation, to a depth equal or close to that of bottom surface of the proposed leaching field or infiltrative practice.

- (a) Final diameter is 5.5 to 6.5 inches, after scraping. Larger sizes are acceptable, as they yield slower infiltration rates.
- (b) Depth is 13 to 14 inches below bottom of initial excavation.
- (c) Place 2 inches of pea-gravel over bottom.

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29435 (April 27, 2009).

§ 65-120-716 Notification of Test

The Division must be notified at least 24 hours in advance of the start of soaking of the test pit, and at its discretion, may monitor all or portions of the percolation test procedures. Notification must be by fax or hand-delivered note (forms available in percolation testing manual), and must include:

- (a) Directions (map) to site;
- (b) Estimated time that soaking will start; and
- (c) Estimated time that percolation test will begin.

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29435 (April 27, 2009). The Commission named this section.

§ 65-120-718 Soaking

Fill hole with 12 in. of clear water (10 in. above the gravel)

- (a) If 10 in. of water seeps away twice in less than 10 min and soil is coarse-textured (sand, limestone), testing can be conducted immediately; otherwise:

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(b) For 6 inch diameter holes: maintain level (8-16 in.) overnight, or until 5 gallons have been absorbed.

(1) Invert a full 5-gallon water bottle over the 8-10 in. level after ensuring the bottle is well secured and surges will not scour the sides of hole.

(2) In coarse-textured soils or limestone, with percolation rates of 15 to 60 inches per hour (iph), the bottle will be empty after about 1 hour or less; in 4 iph soils, after about 7 hr; in 0.67 iph soil, the bottle will not be empty the following day.

(c) For larger diameter holes; Provide enough water to maintain level (8-16 in.) overnight. This may be considerably more than 5 gallons.

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29435-29436 (April 27, 2009).

§ 65-120-720 Testing

(a) Except as noted in section 65-120-718(a) and (b) above, begin testing after 15 hours and finish within 30 hours after beginning of soaking. Refill as necessary to obtain the minimum required number of measurements. Measure from a fixed reference point.

(b) Fill hole to about 8 inches from the bottom of the hole (6 inches from the top of gravel)

(c) At regular, timed intervals, measure the drop in water level from the start time against a fixed reference point, using a removable measurement recording form, as provided in the percolation testing manual. Use a measurement interval that provides for a drop of 1 to 2 inches (a drop of less than 1 inch is unavoidable in clayey soils and other low permeability soils and rock)

Table 700.1

Suggested measurement intervals based on soil type (actual interval used must be determined in field)

<u>Soil Type</u>	<u>Typical perc. rates (in./hr)</u>	<u>Measure-ment Interval</u>	<u>Typical Drop (in.)</u>
Clayey soils	0.5 to 3.0	30 min	0.25 to 1.5
Mixed limestone, alluvial sediments	4.0 to 10	10 min	0.67 to 1.7
Clean limestone, silty sand	10 to 20	5 min	0.83 to 1.7
Fractured limestone, sand	25 to 60	2 min	0.83 to 2.0
Very fractured limestones, sands	60+	1 min	1.0+

(d) Measure to the nearest 1/16th inch. Lower precision may be acceptable if results justify such imprecision (e.g., very fast percolation rates).

(e) Make at least six consecutive measurements until three do not vary by more than 1/16th inch. (Lower precision may be acceptable if justified.) For slower soils using 30 minute measurement intervals, the test may be stopped after the initial three intervals if all are within 1/16th of an inch. For all other soils, the test may be stopped after recording 10 measurements.

Table 700.2

Minimum number of measurements

Soil Type	Measure-ment Interval	Minimum number of measurements (drops)
"Slow" soils	30 min.	3 and all 3 within +/- 1/16 th
"Fast" soils	10 min. or less	6 and final 3 within +/- 1/16 th

Table 700.3

Maximum number of measurements

Soil Type	Measure-ment Interval	Minimum number of measurements (drops)
"Slow" soils	30 min.	6 (3 hours)
"Fast" soils	10 min.	10 (1 hr., 40 min.)
	5 min.	10 (50 min.)
	2 min.	10 (20 min.)
	1 min.	10 (10 min.)

(f) The final percolation rate is the final drop measured, converted to inches per hour.

(g) If multiple percolation tests have been performed, the final recommended design rate is the average of all tests performed for each particular infiltrative practice. If there are significant differences between percolation tests performed for any infiltrative practice, the percolation tester and/or engineer using the measurements must evaluate which rates to keep and which to discard, based on the following guidelines:

(1) For very slow percolation rates (2 inches per hour or less), the lowest measured rate should be used instead of the average.

(2) If any percolation measurement is less than 0.67 inches per hour, extra caution is warranted. Additional information such as past history of failed leaching fields in the area, or a soil profile indicating clayey soils or restrictive horizons may warrant selection of the lowest measured rate, even if that rate falls below the minimum allowable for construction under these regulations.

(3) Percolation rates that are much higher (faster) than others, particularly in limestone, should be discarded.

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29436-29438 (April 27, 2009). The Commission changed the phrase “in 10.5.4 (a) and (b)” in subsection (a) to “in section 65-120-718(a) and (b)” pursuant to 1 CMC § 3806(d).

Subpart D - Percolation Test Reporting

§ 65-120-722 Percolation Test Reporting

Percolation test reports must be submitted in the format provided by the Division (see the percolation testing manual, or in any other format containing substantially the same information. The test report must identify the results of all percolation tests and the final recommended percolation rate(s) to be used in the design of the infiltrative practices, along with an explanation of how the recommended rate was selected.

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29438 (April 27, 2009).

Subpart E - Certification

§ 65-120-724 Percolation Testers

Any person performing percolation testing in support of an application for any permit under these regulations must possess a current Percolation Tester Certification issued by the Division. All percolation tests must be directly supervised, on-site, by the individual to whom the certification is issued. No delegation of percolation testing activities to persons not individually certified by the Division will be permitted, with the exception of excavation.

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29438 (April 27, 2009).

§ 65-120-726 Site Evaluators

[Reserved.]

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

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Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29438 (April 27, 2009).

§ 65-120-728 Certification Requirements

(a) A person seeking certification under this regulation shall submit an application to the Division on a form approved by the Division.

(b) Percolation Testers: The Division will certify an applicant who has met the examination requirements of section 65-120-730 of these regulations and the experience and education requirements of section 65-120-732 of these regulations. Anyone in possession of a verified percolation testing certification issued by the Division between July 2007 and the date of publication of this regulation will also be certified upon re-application.

(c) Site Evaluators: [Reserved.]

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29438 (April 27, 2009). The Commission changed the phrase “§ 10.7.4” to “section 65-120-730” and changed the phrase “§ 10.7.5” to “section 65-120-732” in subsection (b) pursuant to 1 CMC § 3806(d).

§ 65-120-730 Examination Requirements

(a) To be certified to perform percolation tests and report results, an applicant must pass both a written examination administered by the Division and a hands-on test demonstrating the applicant’s skills, knowledge, ability and judgment to perform such tests and report the results to designers and/or the Division.

(b) [Reserved (site evaluator examination requirements)]

(c) The applicant must obtain a minimum score of 70% on the written exam, and perform the hands-on test satisfactorily in order to pass the examination.

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29438-29439 (April 27, 2009).

§ 65-120-732 Education and Experience Requirements

(a) To be certified to perform and report percolation tests, an applicant must have at least a high school diploma or the equivalent thereof, and at least one year experience and/or ten percolation tests under the supervision of a percolation tester certified under these regulations or under the supervision of DEQ personnel.

(b) [Reserved (site evaluator education and experience requirements)]

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29439 (April 27, 2009). The Commission changed the brackets surrounding the phrase “site evaluator education and experience requirements” in subsection (b) to parenthesis, as brackets indicate material inserted by the Commission. The Commission struck the figures “1” and “10” pursuant to 1 CMC § 3806(e).

§ 65-120-734 Certificate Term and Renewal

(a) A certificate and renewal issued under sections 65-120-724 through 65-120-732 is valid for a period of two years from the date of issuance.

(b) The Division will renew a certificate only if the applicant has paid the required fee, and is otherwise in compliance with these regulations.

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29439 (April 27, 2009). The Commission changed “under §§ 10.7.3 – 10.7.5 of these regulations” to “under sections 65-120-724 through 65-120-732” pursuant to 1 CMC § 3806(d).

§ 65-120-736 Certification Fees

(a) Percolation tester: The fee for initial application is \$50. The fee for on-time renewal is \$25 (Paid on or before the date the certificate expires). The fee for late renewal is \$50.

(b) [Reserved (site evaluator)]

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29439 (April 27, 2009).

§ 65-120-738 Lapsed Certificates

(a) An applicant seeking renewal of a lapsed certificate shall submit a request for renewal within 90 days after the certificate lapses. Upon receipt of a valid request for renewal, including payment of the appropriate fee, the Division shall renew the certificate.

(b) The Division will require reexamination of an applicant whose renewal application is received more than 90 days after the certificate lapses.

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29439 (April 27, 2009).

§ 65-120-740 Revocation of Certification

(a) After an investigation and review of the facts, and in accordance with all applicable Commonwealth laws and regulations, the Director may revoke the certification of a percolation tester for any of the following reasons:

(1) The percolation tester has practiced fraud or deception, has, falsified percolation test measurements or soil profile observations, or falsified other records. A person committing such actions may be liable for civil or criminal penalties in accordance with 2 CMC § 3131(d) or other applicable law;

(2) The tester does not use, in the judgment of the Director, reasonable care, judgment, or the application of knowledge in the performance of the percolation tester's duties. The Director's reasons for such a determination shall be stated in detail and in writing at the time of revocation;

(3) The percolation tester fails to perform his duties with respect testing in compliance with the requirements of Division or with the requirements of any other agency or subdivision of the Commonwealth, as determined by a competent authority. The Director's reasons for such a determination shall be stated in detail and in writing at the time of revocation; or

(4) The certification of the percolation tester has expired.

(b) A percolation tester whose certificate is revoked may not apply for certification for 365 days after revocation. An application received under this subsection will be treated as an initial application.

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29439-29440 (April 27, 2009).

Part 800 - Leaching Field Design and Construction

§ 65-120-801 Leaching Fields Permitted

An applicant for an IWDS, or an OWTS proposing subsurface disposal of treated wastewater effluent, may employ a leaching field (also known as an "absorption field," "absorption bed," or "leaching bed") to dispose of primary or secondary treated effluent. This part of this chapter describes the design and construction requirements associated with uses of a leaching field.

Modified, 1 CMC § 3806(d), (g).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: This section was originally the introduction to part 800. The Commission created the section titles in part 800.

The 1992 amendments completely revised former section XIII, entitled “Subsurface Absorption Field,” and adopted the provisions in this part. See 8 Com. Reg. at 4362-63 (June 3, 1986). The 1986 regulations are cited in the history sections where applicable.

The Commission changed “a” to “an” and moved the commas after “field” and “bed” inside of the closing quotation marks to correct manifest errors.

§ 65-120-805 When Leaching Fields Are Acceptable

Where percolation rates and soil characteristics and site conditions meet the requirements of this chapter, a leaching field may be installed.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

§ 65-120-810 Area of Leaching Bed

The area of a leaching bed shall depend on:

- (a) The tested or assumed percolation rate (see part 700 for percolation testing procedures), and
- (b) The average daily sewage flow rate (see part 500 for quantifying average daily sewage flow rate).

Modified, 1 CMC § 3806(c), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

§ 65-120-815 Criteria for Construction of Leaching Fields

A leaching field may be constructed if ALL of the following criteria are met:

- (a) The leaching field is to be located in an area which is well drained (no storm water flooding), and to which no storm water is diverted for percolation or sedimentation.
- (b) The leaching field is to be located in an area which has a ground slope no greater than 15 percent.
- (c) The leaching field is to be located in an area which has safe access, and is not subject to severe erosion.

- (d) The leaching field can be constructed in the required size while maintaining the setback requirements specified in part 1000 of this chapter.
- (e) The leaching field does not exceed the dimensional limitations specified in this part.
- (f) The percolation test indicates a percolation rate between 0.67 inches per hour and 30 inches per hour.
- (g) The soil test pit did not reveal groundwater within six feet of the existing ground surface.
- (h) The soil test pit did not reveal groundwater within three feet of the bottom of the proposed leaching bed.

Modified, 1 CMC § 3806(c), (d), (e).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

§ 65-120-820 Total Needed Absorption Area

The total needed absorption area of a leaching field shall be determined by table 800-1 (part 1600 gives leaching field sizing criteria when used in connection with an OWTS). The applicant shall determine the required soil absorption factor from the results of the percolation test, and multiply the required soil absorption factor by the average daily sewage flow rate determined through the use of table 500-1.

Table 800-1

Leaching Field Design

Final Soil Percolation Rate

18 inches to 30 inches per hour.
12 inches to 17.99 inches per hour.
6 inches to 11.99 inches per hour.
4 inches to 5.99 inches per hour.
2 inches to 3.99 inches per hour.
1.33 inches to 1.99 inches per hour.
1 to 1.32 inches per hour.
0.67 to 0.99 inches per hour.

Required Soil Absorption Factor

2.5 gallons/sq. ft./day
2.2 gallons/sq. ft./day
1.6 gallons/sq. ft./day
1.3 gallons/sq. ft./day
0.9 gallons/sq. ft./day
0.8 gallons/sq. ft./day
0.6 gallons/sq. ft./day
0.5 gallons/sq. ft./day

Modified, 1 CMC § 3806(c), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

§ 65-120-825 Leaching Field Construction

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All leaching field construction shall conform to the dimensional limitations and requirements shown on table 800-2. (See figure 800-1).

Table 800-2

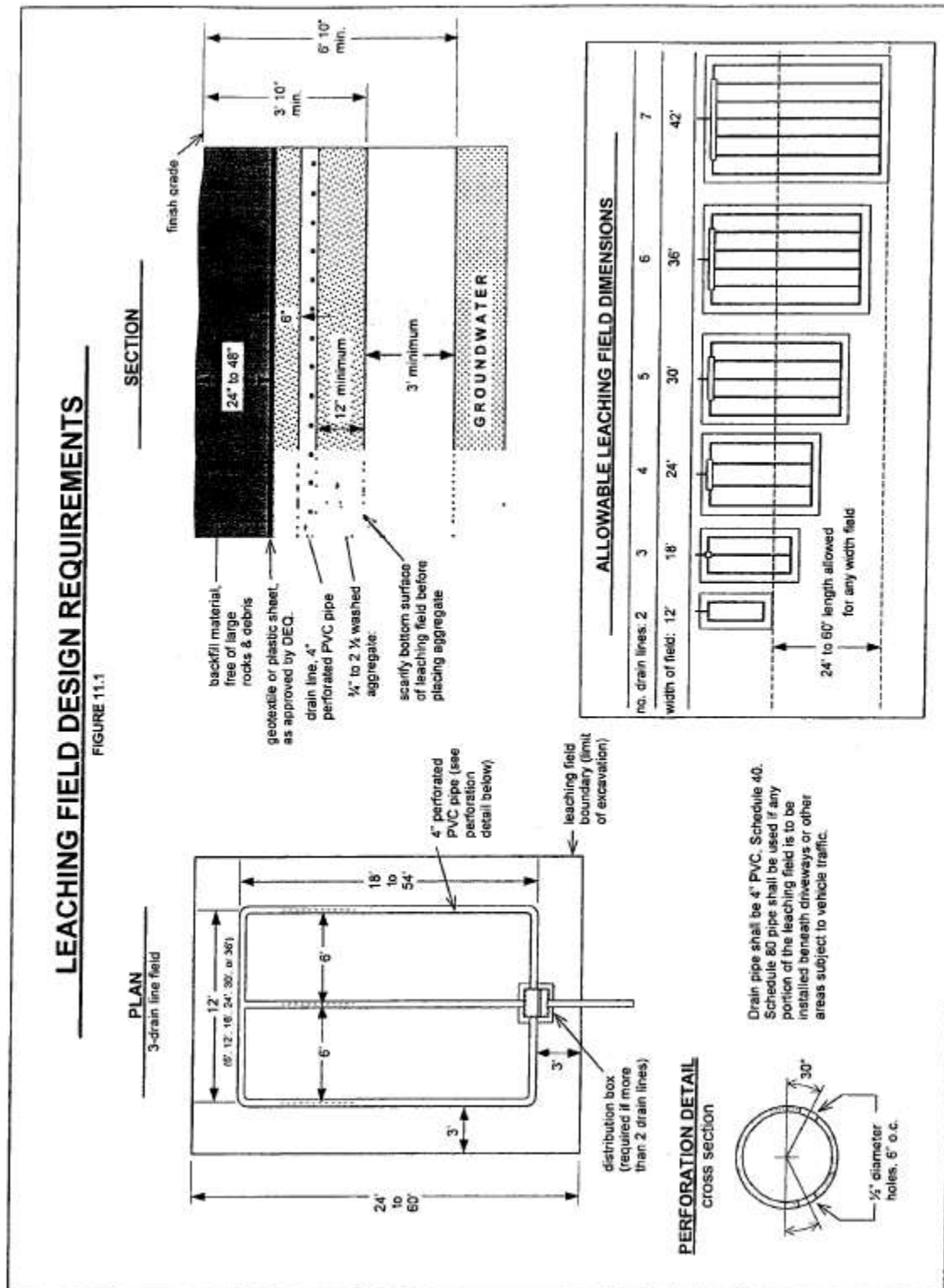
Leaching Field Construction

<u>Design Parameter</u>	<u>Max Value</u>	<u>Min Value</u>
Number of drain lines	7 lines	2 lines
Diameter of drain lines	4 inches	4 inches
Length of drain lines	54 feet	18 feet
Width of drain lines	36 feet	6 feet
Length of leaching field	60 feet	24 feet
Width of leaching field	42 feet	12 feet
Spacing of drain lines center to center	6 feet	6 feet
Distance from drain line to edge of field	3 feet	3 feet
Depth of final cover (total) over drain lines	48 inches	24 inches
Depth of gravel fill material under drain lines	no maximum	12 inches
Depth of gravel fill material over drain lines	12 inches	6 inches
Size of gravel fill	2 1/2 inch	3/4 inch
Depth from bottom of gravel fill to water table	no maximum	3 feet

Modified, 1 CMC § 3806(c), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Figure 800-1



History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

§ 65-120-830 Leaching Fields in Filled Ground

Construction of leaching field in filled ground is permitted only if the bottom of the leaching bed (bottom of gravel fill material below drain lines) extends continuously beneath the drain lines to a depth of at least 24 inches below the original ground surface.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

§ 65-120-835 Distribution Drain Lines

Distribution drain lines shall be:

- (a) Constructed of perforated PVC pipes. Perforations shall be 1/2-inch diameter, spaced at 6-inches on center on both sides of the pipe, drilled 30 degrees below the horizontal center axis (transverse) of the pipe. (See figure 800-1)
- (b) Laid with a slope ranging from flat to 0.001 foot/ foot, as measured along the length of the drain line. The ends of the drain lines shall be capped or looped to other drain lines.
- (c) Schedule 80 if the leaching field is placed in an area subject to heavy loads, such as from cars and other vehicles.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: The 2002 regulations amended subsection (a).

§ 65-120-840 Distribution Box

A distribution box containing a separate outlet for each distribution line shall be installed for all leaching field disposal systems whenever there are more than two drain lines. Outlet pipes from the distribution box shall have exactly the same bottom of pipe elevation. (See figure 800-2)

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: Figure 800-2 is found in the 2002 amendments as Figure 11.2. See 24 Com. Reg. at 19454 (Aug. 21, 2002).

§ 65-120-845 Two or More Leaching Fields

If two or more separate leaching fields are proposed, each field shall have applied a proportionate daily volume of sewage. Leaching fields must be separated by at least a 10-foot clear buffer between the outside edges of each field. Separate leaching fields constructed at different elevations (drain pipe, bottom of bed) shall be separated by the following formula:

Distance = 10 feet + (4 x difference in elevation (ft))

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: The Commission converted brackets to parentheses, as brackets are reserved for Commission use.

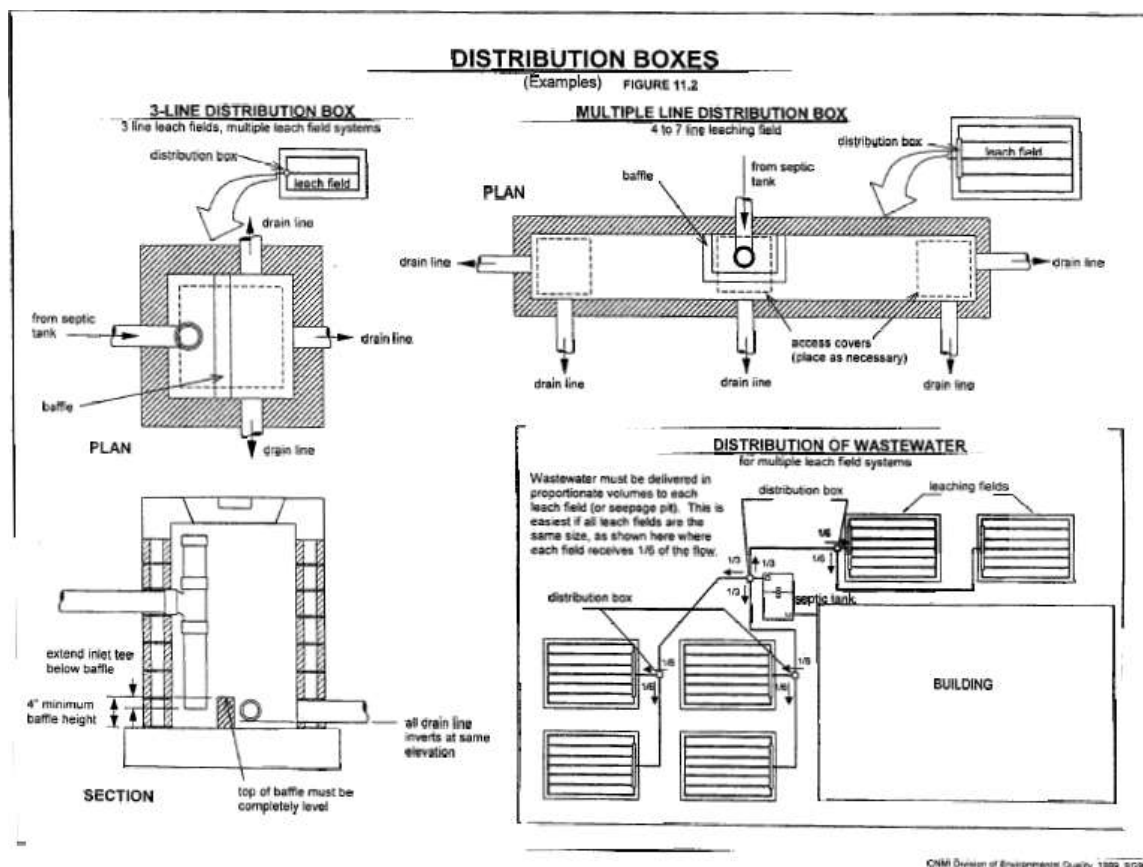
§ 65-120-850 Placing Gravel or Drain Lines

Before placing gravel filter material or drain lines in a prepared excavation, all smeared or compacted surfaces shall be removed from the leaching bed area by raking to a depth of 1-inch and the loose material removed. Clean stone, gravel, free from fines, soils, dust or debris varying in sizes from $\frac{3}{4}$ inch to $2\frac{1}{2}$ inches shall be placed in the trench above and below the drain lines to a depth required in table 800-2.

Modified, 1 CMC § 3806(c), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Figure 800-2



History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002).

§ 65-120-855 Geotextile Cover Required

After placement of all gravel fill material, but before backfilling with earth over the leaching field, the entire leaching field area shall be covered with a geotextile or other material acceptable to the Division. The geotextile shall be Geomat 100, Mirafi 140, Terra Tex GS, or other similar manufacture. After placement of the geotextile, but before earthen backfilling, Division staff shall be afforded the opportunity to inspect the leaching field construction to assure compliance with this chapter.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: The 2002 regulations deleted § 11.12 from the end of this part. See 14 Com. Reg. at 10340 (Dec. 15, 1992).

Part 900 - Seepage Pit Design and Construction

§ 65-120-901 Seepage Pits Permitted

An applicant for an IWDS, or an OWTS proposing subsurface disposal of treated wastewater effluent, may employ a seepage pit to dispose of primary or secondary treated effluent. This part of this chapter describes the design and construction requirements associated with use of a seepage pit(s).

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: This section was originally the introduction to part 900. The Commission created the section titles in part 900.

The 1992 amendments completely revised former section XIV, entitled “Seepage Pits,” and adopted the provisions in this part. See 8 Com. Reg. at 4364-65 (June 3, 1986). The 1986 regulations are cited in the history sections where applicable.

§ 65-120-905 When Seepage Pits Are Acceptable

Where percolation rates and soil characteristics and site conditions meet the requirements of this chapter, a seepage pit may be installed.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

§ 65-120-910 Absorption Area Defined

The absorption area of a seepage pit is the wall area below the bottom of the inlet pipe. The outside dimensions of the gravel backfill around the seepage pit shall not be used in calculation of absorption area.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

§ 65-120-915 Required Absorption Area

The required absorption area of a seepage pit shall depend on:

- (a) The tested or assumed percolation rate (see part 700 for percolation testing procedures), and

(b) The average daily sewage flow rate (see part 500 for quantifying average daily sewage flow rates).

Modified, 1 CMC § 3806(c), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

§ 65-120-920 Seepage Pit Criteria

A seepage pit may be constructed if ALL of the following criteria are met:

(a) The seepage pit is to be located in an area which is well drained (no storm water flooding), and to which no storm water is diverted for percolation or sedimentation.

(b) The seepage pit is to be located in an area which has a ground slope no greater than 15% percent*.

(c) The seepage pit is to be located in an area which has safe access, and is not subject to severe erosion.

(d) The seepage pit can be constructed in the required size and configuration specified in this section, while maintaining the setback requirements specified in part 1000 of this chapter.

(e) The percolation test indicates a percolation rate in the range of 0.67 inches per hour to 30 inches per hour.

(f) The soil test pit did not reveal groundwater within twelve feet of the existing ground surface.

(g) The soil test pit did not reveal groundwater within five feet from the bottom of the seepage pit.

(h) The total required absorption area of a seepage pit shall be determined by table 900-1 (Part 1600 gives seepage pit sizing criteria when used in connection with an OWTS). The required soil absorption area equals the required soil absorption factor (from table 900-1) multiplied by the average daily sewage flow rate (from table 500-1).

Table 900-1

Seepage Pit Design

Final Soil Percolation Rate

18 inches to 30 inches per hour.
12 inches to 17.99 inches per hour.
6 inches to 11.99 inches per hour.
4 inches to 5.99 inches per hour.

Required Soil Absorption Factor

2.5 gallons/sq. ft./day
2.2 gallons/sq. ft./day
1.6 gallons/sq. ft./day
1.3 gallons/sq. ft./day

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2 inches to 3.99 inches per hour.	0.9 gallons/sq. ft./day
1.33 to 1.99 inches per hour.	0.8 gallons/sq. ft./day
1 to 1.32 inches per hour.	0.6 gallons/sq. ft./day
0.67 to 0.99 inches per hour.	0.5 gallons/sq. ft./day

* So in original.

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

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: The final subsection was not designated. The Commission designated it subsection (h).

§ 65-120-925 Dimensions Required for Seepage Pits

All seepage pit construction shall conform to the dimensional limitations and requirements shown on table 900-2.

Table 900-2

Seepage Pit Construction

<u>Design Parameter</u>	<u>Max Value</u>	<u>Min Value</u>
Length/width ratio	4:1	1:1
Total inside depth	20 feet	6 feet
Percentage openings in wall	4%	2%
Depth of gravel fill below pit floor	no maximum	24 inches
Thickness of gravel fill around pit	no maximum	12 inches
Depth below gravel fill to water table	no maximum	3 feet
Size of gravel fill	2½ inches	¾ inch
Earthen cover over top of pit	24 inches	no minimum

Modified, 1 CMC § 3806(c), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

§ 65-120-930 More than One Seepage Pit

When more than one seepage pit is used, the following criteria must be met:

- (a) Installation shall be made in parallel.
- (b) Each seepage pit shall be the same size.
- (c) A distribution box shall be used to assure that each seepage pit is given an equal daily sewage flow.

(d) The pits shall be separated by at least two times the inside pit diameter (if pits are circular), or at least two times the average of the length and width of the pits (if the pits are rectangular).

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

§ 65-120-935 Septic Tank to Seepage Pit Connection

PVC pipes with tight joints shall be used in connecting the septic tank to the seepage pit.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

§ 65-120-940 Access to Seepage Pits

Access to the seepage pit shall be provided by a 18" x 18" inch manhole or removable cover. The inlet connection(s) shall also be accessible through properly placed manholes, lifting rings or by easily removed covers.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

§ 65-120-945 Manholes Built to Grade Level

Where the top of the seepage pit is below grade level, manholes shall be built up to finished grade level.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

§ 65-120-950 Rectangular Seepage Pit

For a rectangular seepage pit:

(a) The walls shall not be less than 6 inches thick reinforced concrete poured in place, laid on a solid foundation, provided that a minimum of 2% percent* of the wall area evenly distributed below the bottom of the inlet pipe is open to the surrounding soil, or

(b) The walls shall not be less than 6" inches thick load bearing concrete hollow block reinforced at every 16" inches on center, and laid on a solid foundation and placed with

horizontal mortared joints. The vertical joints shall not be mortared, and shall have a clear opening of 3/8" to 5/8" inches between each block. (See figure 900-1.)

* So in original.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: The 2002 regulations amended subsection (b). Figure 900-1 is found in the 2002 amendments as Figure 12.1. See 24 Com. Reg. 19458 (Aug. 21, 2002).

§ 65-120-955 Circular Seepage Pits

Circular seepage pits are acceptable, provided that the wall area has the required minimum two percent openings to the surrounding soil.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

§ 65-120-960 Seepage Pit Covers

All seepage pit covers shall be capable of supporting earth load of not less than 300 pounds per square foot where the maximum coverage does not exceed three feet. Where seepage pits may be subject to traffic loads (e.g., parking lot, driveway), the entire structure shall be designed to withstand H-20 loading (AASHTO standard).

Modified, 1 CMC § 3806(e), (f).

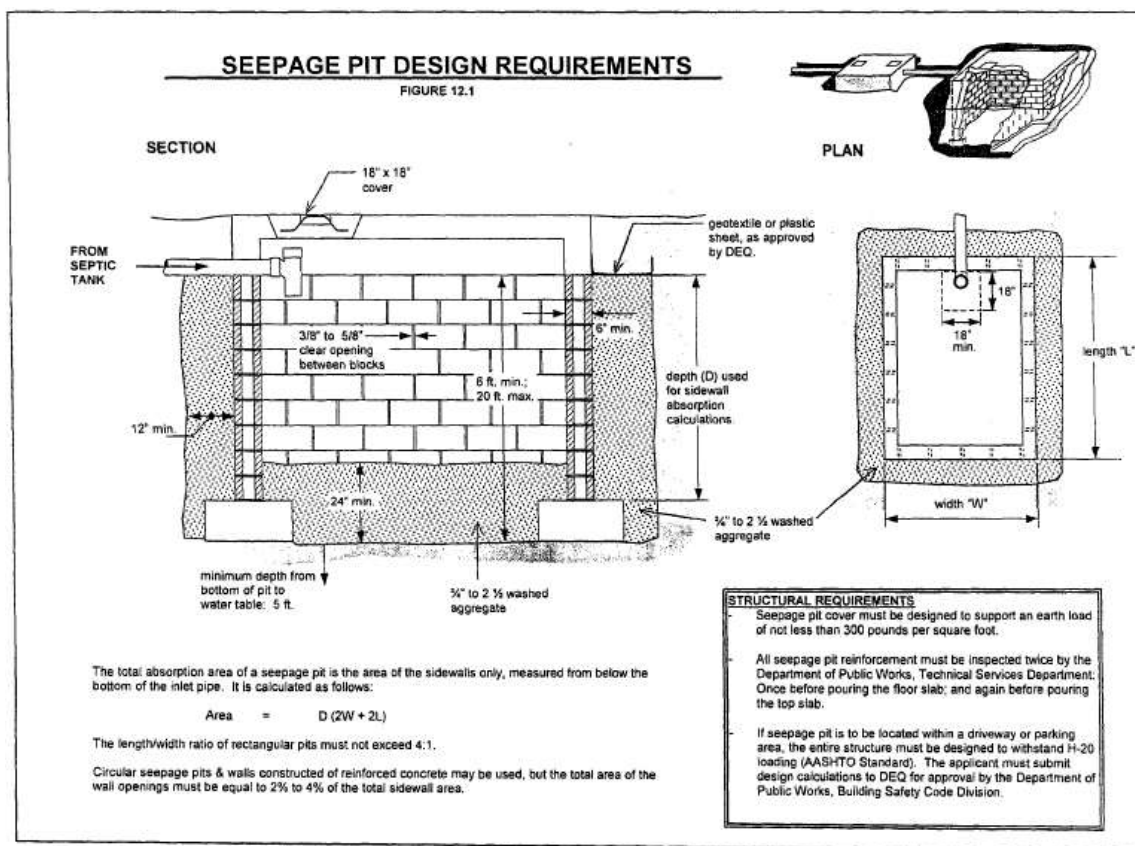
History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

§ 65-120-965 Cleaning Before Use

After the completion of the seepage pit and before it is put into use, the inside shall be cleaned and all forms removed.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Figure 900-1



History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002).

§ 65-120-970 Crushed Rock or Gravel Fill

The space between the seepage pit lining and the earth shall be filled with clean 3/4" to 2 1/2" crushed rock or gravel, free from fines, soils, dust and debris from a depth of at least three feet below the bottom of the pit up to the bottom of the inlet pipe.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

§ 65-120-975 Geotextile Cover

After placement of all gravel fill material, but before backfilling with earth over the gravel fill material around the seepage pit, the gravel area shall be covered with a geotextile. The geotextile shall be Geomat 100, Mirafi 140, Terra Tex GS, or other

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similar manufacture. After placement of the geotextile, but before earthen backfilling, Division staff shall be afforded the opportunity to inspect the seepage pit construction to assure compliance with the regulations in this chapter.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: The 2002 regulations deleted former § 12.16 from the end of this part. See 14 Com. Reg. at 10344 (Dec. 15, 1992).

Part 1000 -IWDS and OWTS Siting Criteria

§ 65-120-1001 Set Back Distances

All IWDS components are subject to the set back distances specified in table 1000-1. If an OWTS proposes disposal of the treated wastewater effluent through either a leaching field or seepage pit system, then the set back requirements for these shall be as listed below.

(a) Table 1000-1 IWDS and OWTS Siting Criteria

<u>IWDS Component</u>	<u>Features</u>	<u>Minimum Required Set Back Distance</u>
Septic tank	State waters	100 feet
	Buildings	10 feet
	Leaching fields	5 feet
	Seepage pit	0 feet
	Property lines	10 feet
	Water wells	50 feet
	Underground water tanks	50 feet
	Water lines	10 feet
Leaching fields & Confined Animal Facilities	Waters of the CNMI*	150 feet
	Buildings ¹	15 feet
	Septic tank	5 feet
	Property lines	5 feet
	Water wells ²	see table 1000-2
	Underground water	50 feet

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	tanks	
	Water lines	25 feet
	Cliff/steep embankments ³	25 feet
Seepage pits *	Waters of the CNMI*	150 feet
	Buildings ¹	15 feet
	Septic tank	0 feet
	Property lines	10 feet
	Water wells ²	see table 1000-3
	Underground tanks	50 feet
	Water lines	25 feet
	Cliff/steep embankments ³	25 feet

*So in original; see the commission comment to this section.

Notes:

(1) Minimum distance. The Building Safety Code may require greater distances. Includes above ground water tank.

(2) Includes springs.

(3) Greater than 10 foot vertical drops having 50% slope.

(4) This applies only to storm water drainage systems that the Director determines to be reasonably susceptible to contamination from an IWDS or OWTS. In considering whether a storm water drainage system is reasonably susceptible to contamination, the Director shall consider the following factors:

(i) The size of the proposed IWDS or OWTS;

(ii) The location and depth of the IWDS or OWTS relative to the storm water drainage system;

(iii) The design, construction, and discharge location of the storm water drainage system;

(iv) The soils, slopes, depth, and other factors affecting the likelihood or frequency of discharge to the storm water drainage system;

(v) Other relevant factors.

(5) This setback distance may be increased to 100 feet for septic tanks and 150 feet for leaching fields, seepage pits, and confined animal facilities for storm water drainage systems that discharge to a "State water," if determined to be reasonably susceptible to contamination as outlined above.

(b) Table 1000-2 Leaching Field and Water Well Minimum Setback Distances

Number of Persons Served	Leaching Field Upgradient from Well	or* Leaching Field Downgradient from Well
Less than 25	150 feet	75 feet

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25 or more	300 feet	150 feet
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*So in original, probably should be “is;” see 14 Com. Reg. at 10346 (Dec. 15, 1992).

(c) Table 1000-3 Seepage Pit and Water Well Minimum Set Back Distances

Number of Persons Served By Well	Seepage Pit is Upgradient from Well	Seepage Pit is Downgradient from Well
Less than 25	150 feet	75 feet
25 or more	300 feet	150 feet

(d) Table 1000-4 Confined Animal Facility and Water Well Minimum Setback Distances

Number of Persons Served By Well	Confined Animal Facility is Upgradient from Well	Confined Animal Facility is Downgradient from Well
Less than 25	150 feet	75 feet
25 or more	300 feet	150 feet

Modified, 1 CMC § 3806(c), (f), (g).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: The 2002 regulations amended subsection (a) and added subsection (d). Table 1000-1 is found in the 2002 amendments as Table 13.1. See 24 Com. Reg. at 19460. Table 1000-2 is found in the 2002 amendments as Table 13.2. See 24 Com. Reg. at 19461. Table 1000-3 is found in the 2002 amendments as Table 13.3. See 24 Com. Reg. at 19461. Table 1000-2 is found in the 2002 amendments as Table 13.4. See 24 Com. Reg. at 19461.

In table 1000-1, the starred blank space should probably read “State waters.” See 24 Com. Reg. at 19812 (Nov. 27, 2002). In note 5 of subsection (a), the Commission moved the comma after “State water” inside of the closing quotation mark.

§ 65-120-1005 Director Determines Gradient

The Director has the authority to make final determination of upgradient and downgradient directions for the purpose of applying set back standards.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

§ 65-120-1010 Increase of Set Back Distances

The Director may increase the set back distances specified above if, in his/her judgment, the volume of sewage discharge, the hydrogeologic conditions, and/or the size of the water well service population warrants further protective measures. The rationale for any decision to increase setback distances shall be clearly explained in the permit documentation.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

§ 65-120-1015 Reduction in Set Back Distance from Water Well

The minimum set back distance from the existing water well to a proposed leaching field or seepage pit may be decreased by up to 2/3, but in no case to less than 50 feet, provided ALL of the following conditions are met:

- (a) If water produced from the water well(s) in question undergoes reverse osmosis (RO) treatment with membranes having a molecular weight cut-off of 300 or less.
- (b) The RO treatment process provides post-treatment disinfection, capable of maintaining a residual chlorine concentration of at least 0.2 mg/l30 minutes after treatment.
- (c) The depth to the groundwater is at least 250 feet.
- (d) The existing water well(s) located within the set back distances specified above have been constructed in accordance with the CNMI's Well Drilling and Well Operations Regulations [NMIAC, title 65, chapter 120].
- (e) The applicant submits evidence that existing water well(s) located within the set back distances specified above currently undergo RO treatment.
- (f) The existing water well(s) is owned by the applicant. If the water well(s) is owned by another person, that persons consent must be submitted with the permit application. All of the other requirements listed above must still be met if the well is owned by another person.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Part 1100 -Holding Tanks

§ 65-120-1101 Introduction

- (a) Where site limitations of lot size and/or soil type are such that methods of on-site wastewater disposal described herein cannot be utilized, the possibility of storing a dwelling's or small commercial operation's wastewater in water-tight tanks (holding tanks), with periodic pumping by licensed hauler (see part 1500) may be permitted in very limited circumstances. The purpose of permitting holding tanks is to provide land owners with some economic beneficial use of the land without compromising environmental quality or public health.

(b) Holding tanks are not seen as viable long-term solutions to on-site treatment and disposal of wastewater, because of:

- (1) Continuing costs;
- (2) Potential for illicit connections to drains, ditches, or surface water; and
- (3) Lack of regulatory management resources to assure proper system maintenance and operation.

(c) Holding tank systems must be approved by DEQ prior to construction of the dwelling or commercial establishment intended to be served by such system.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: This section was originally an introduction to part 1100. The Commission designated subsections (a) through (c).

In subsection (c), the Commission changed “of” to “or” to correct a manifest error. Compare 14 Com. Reg. at 10347 (Dec. 15, 1992) and 24 Com. Reg. at 19814 (Nov. 27, 2002).

The Commission created the section titles in part 1100.

§ 65-120-1105 Conditions for New Holding Tanks

New holding tanks, designed for the purpose of containing wastewater without the release to the surrounding soil, shall be permitted **ONLY** if **ALL** of the following conditions are met:

- (a) There is no available sewer.
- (b) The holding tank system serves residential or commercial uses with average daily wastewater flows less than 1,000 gpd, as determined by table 500-1 of this chapter.
- (c) The holding tank is designed and constructed with a storage capacity equal to at least five days of average day wastewater flow.
- (d) The holding tank system is provided with a septic tank sized in accordance with part 600 of this chapter.
- (e) The holding tank meets the setback requirements for septic tanks, as listed in part 1000 of this chapter.
- (f) The owner of the holding tank system submits a copy of a written contract for wastewater pumping service. The contract must be made with a licensed hauler, and must include a commitment to pump the holding tank daily, in an amount equal to at least the average daily sewage flow for the project. The term of the agreement must be for at least 90 days. Copies of all subsequent hauler’s contract(s) must be submitted to the Division

prior to expiration of current contract. All holding tank owners must have contracts with a licensed hauler.

(g) Submission of a five year economic analysis, comparing the total costs associated with the holding tank/hauling system verses the following alternatives:

- (1) Connection to the public sewer;
- (2) Purchase/lease of additional land necessary to construct an IWDS in accordance with this chapter; and
- (3) Change of use of the building to a non-water consuming (“dry”) use, such as warehousing. In addition, the source(s) of revenue necessary to cover costs of the holding tank/hauling system must be identified.

(h) All holding tanks shall be monitored with a water level device suitably designed for wastewater service. The water level device shall be connected to an audible alarm. The alarm setting shall be made between 66% and 75% of the holding tank’s liquid capacity. The alarm shall not be disarmed by the holding tank owner, hauler, or any other individual, without first obtaining approval from the Director.

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

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: The 2002 regulations amended subsection (h).

§ 65-120-1110 Conditions for Existing Holding Tanks

Holding tanks may be permitted for dwellings and commercial establishments occupied and in use at the time the regulations in this chapter become effective ONLY if ALL of the following conditions are met:

- (a) The need for a holding tank is brought about by the failure of the existing septic system. A holding tank shall not be permitted for existing buildings or uses seeking expansion.
- (b) There is no available sewer.
- (c) The holding tank system serves residential or commercial uses with average daily wastewater flows less than 2,500 gpd.
- (d) The holding tank is designed and constructed with storage capacity equal to at least five days of average day wastewater flow.
- (e) The holding tank system is provided with a septic tank sized in accordance with part 600 of this chapter.

(f) The holding tank meets the setback requirements for septic tanks, as listed in part 1000 of this chapter.

(g) The owner of the holding tank system submits a copy of a written contract for wastewater pumping service. The contract must be made with a licensed hauler, and must include a commitment to pump the holding tank daily, in an amount equal to at least the average daily sewage flow for the project. The term of the agreement must be for at least 90 days. Copies of all subsequent hauler's contract(s) must be submitted to the Division prior to expiration of current contract. All holding tank owners must have contracts with a licensed hauler.

(h) Submission of a five year economic analysis, comparing the total costs associated with the holding tank/hauling system versus the following alternatives;

(1) Connection to the public sewer;

(2) Purchase/lease of additional land necessary to construct an IWDS in accordance with this chapter;

(3) Change of use of the building to a non-water consuming ("dry") use, such as warehousing. In addition, the source(s) of revenue necessary to cover costs of the holding tank/hauling system must be identified.

(i) All holding tanks shall be monitored with a water level device suitably designed for wastewater service. The water level device shall be connected to an audible alarm. The alarm setting shall be made between 66% and 75% of the holding tank's liquid capacity. The alarm shall not be disarmed by the holding tank owner, hauler, or any other individual, without first obtaining approval from the Director.

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

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: The 2002 regulations amended subsection (i).

In subsection (c), the Commission changed "serve" to "serves" to correct a manifest error.

§ 65-120-1115 Permission for Holding Tanks Required

As of the effective date of the regulations in this chapter, holding tanks shall not be permitted for projects that have not first obtained permission to operate a holding tank/hauling system.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Part 1200 - Inspection of Work in Progress

§ 65-120-1201 Inspection of Projects

The project shall be inspected on a regular basis by Division staff to assure that construction of IWDS or OWTS components (i.e., septic tanks, seepage pits, leaching fields, packaged treatment plants, etc.) are in compliance with approved plans and specifications, and in accordance with these and other CNMI and federal regulations.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Commission Comment: The Commission created the section titles in part 1200.

§ 65-120-1205 Notification of Concrete Pouring

Notification of concrete pouring must be made twenty- four hours (one working day) in advance to Division staff.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

§ 65-120-1210 Inspection Prior to Covering

All construction work shall be inspected by Division staff prior to covering or concealment. Notification shall be made at least twenty-four hours (one working day) in advance of scheduled covering.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

§ 65-120-1215 Failure to Comply

Failure to comply with the above requirements may result in unnecessary delays to the project, a suspension of work, denial of a certification for use, and/or an order to remove portions or all of the offending structures.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Commission Comment: The Commission changed “requirement” to “requirements” to correct a manifest error.

§ 65-120-1220 Final Inspection after Completion

After completion of the project, final inspection by Division staff shall be conducted on IWDS or OWTS components to assure that the work has been accomplished in accordance with the approved plans and specifications and that CNMI requirements are met.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Commission Comment: The 1992 amendments deleted former section XVI, entitled “Stop Work Orders.” See 8 Com. Reg. at 4366 (June 3, 1986).

Part 1300 -IWDS Certification for Use

§ 65-120-1301 IWDS Certification for Use

After final inspection of an IWDS indicates that the work performed was done in accordance with approved plans and specifications, and that the system is in compliance with the requirements of this chapter and any permit conditions issued under this chapter, the Director or his authorized representative shall issue an IWDS certification for use. A certification for use must be granted to the applicant prior to the disposal of wastes into an IWDS.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Commission Comment: The Commission created the section titles in part 1300.

§ 65-120-1305 Additional Requirements for OWTS

For OWTS in addition to the certification for use: The applicant must have an operation and maintenance (O&M) manual approved by the Director. The O&M manual must be revised on a bi-annual basis for the Director’s review and approval. In addition the OWTS will be issued a permit with specific requirements of operation and monitoring. The permit will be valid for a period not to exceed three years. The permittee must apply for a renewal three months prior to the permit expiration. Provided that the permittee applies for the renewal permit in the time period specified, the existing permit shall be considered valid until revised or revoked in writing by the Director. Other requirements as specified in part 1600 will also apply.

Modified, 1 CMC § 3806(c), (e), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 15 Com. Reg. 11003 (Oct. 15, 1993); Amdts Proposed 15 Com. Reg. 10769 (Aug. 15, 1993).

Part 1400 -IWDS Maintenance

§ 65-120-1401 Owner Shall Maintain

Maintenance of septic tanks, seepage pits, and leaching fields shall be the responsibility of the owner.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Commission Comment: The 1992 regulations moved former section XX, entitled “Maintenance,” to section 17, which is codified in this part. See 8 Com. Reg. at 4369-70 (June 3, 1986).

The Commission created the section titles in part 1400.

§ 65-120-1405 Cleaning and Emptying of Septic Tanks

Owners of septic tanks or seepage pits shall have them emptied and cleaned as necessary by a licensed IWDS cleaning and hauling contractor (referred to herein after as “hauler”), and the contents disposed of in accordance with local and federal laws. For Saipan, disposal shall be through the public sewer system, and the disposal points shall be designated by CUC (Commonwealth Utilities Corporation). For other islands, disposal shall be at a septic disposal site approved by the Division.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

§ 65-120-1410 Inspection of Septic Tanks by Owners

Septic tanks should be inspected by the owner at intervals of not more than three years, to determine the rates of scum and sludge accumulation. The inlet and outlet structures and key joints should be inspected for damage after each pump-out.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

§ 65-120-1415 When Cleaning Is Necessary

A septic tank should be cleaned whenever:

- (a) The bottom of the scum layer is within three inches of the bottom of the outlet device.
- (b) The sludge levels is within eight inches of the bottom of the outlet device.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

§ 65-120-1420 Disposal of Sludge

Septic tank and temporary toilet sludge shall be disposed of only by licensed haulers and only at pre-approved points as described above in § 65-120-1405.

Modified, 1 CMC § 3806(c), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

§ 65-120-1425 Septic System Cleaning Agents

Septic system cleaning agents (i.e. degreasers) shall be approved by the EPA for such use.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Part 1500 -Cleaning Wastewater Systems, Disposal of Wastewater Requirements and Procedures

§ 65-120-1501 Requirements for Haulers

All persons engaged in the business of cleaning individual sewage disposal systems or disposing of the wastes there from (“hauler”) shall comply with appropriate business licensing under CNMI law and, in addition, shall apply for sanitary waste handling registration from the Director. Such businesses shall be conducted in conformity with the following requirements and in accordance with the regulations in this chapter.

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- (a) The name of the company using a vehicle for cleaning purposes, and the word “WASTEWATER” shall be legibly lettered on both sides of each such vehicle.
- (b) Every vehicle used for cleaning purposes shall be equipped with a watertight tank or body and maintained in a clean and sanitary condition. Sewage waste shall not be transported in an open body vehicle.
- (c) All portable receptacles used for transporting liquid or solid waste shall be factory-built for the purpose of hauling wastewater, shall be watertight, equipped with tight-fitting lids, and shall be cleaned daily.
- (d) All pumps and hose lines shall be properly maintained so as to prevent leakage.
- (e) The hose or any similar device used for discharging waste must be inserted into the earmarked manhole to a depth of approximately two feet to prevent any spray or spillage into the surrounding area.
- (f) Every precaution must be taken to prevent any public nuisance or health hazard which may be caused by their service.

Modified, 1 CMC § 3806(d), (e), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Commission Comment: The 1992 regulations deleted former subsection (e) and amended the opening paragraph and subsections (a) and (c).

The Commission created the section titles in part 1500.

§ 65-120-1505 Registration Application

Registration shall be issued to any person properly making application therefore, who is not less than twenty-one years of age, has successfully demonstrated the ability to handle the equipment and the knowledge of where the liquid wastes may be legally disposed of. Registration forms are available from the Division. The registration fee is \$150.00 per registered vehicle, non-refundable, and must be paid at the time of applying for registration, or renewal thereof.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

§ 65-120-1510 Registration Not Transferable

Registration issued pursuant to this chapter is not transferable and shall expire on December 30th of each year. A registration may be renewed for ensuing year by making application for renewal of the registration, which shall be issued upon determination of the applicant's observance of sanitary laws, ordinance, and directions. Such applications shall have the effect of extending the validity of the current registration until a new registration is received or the applicant is notified by the Director that the renewal of the registration has been refused.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

§ 65-120-1515 Daily Log of Service

All haulers shall keep a daily log of service, identifying name, address, date, and volume of sewage removed. Upon request by the Director, all haulers shall file with the Director a statement giving the name and the address of the owner of each and every one of the premises cleaned by said hauler. In addition, upon request by the Director, all haulers shall make the daily logs available for review and reproduction by the Director or persons designated by the Director.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

§ 65-120-1520 Revocation or Suspension of Hauler's Registration

Non-compliance of the requirements of the regulations in this chapter may result in the revocation or suspension of a hauler's registration.

(a) The Director shall issue a notice of intent to suspend registration to the hauler informing him/her of the facts warranting suspension, and providing the hauler with the opportunity to avoid suspension by showing compliance with all requirements for the retention of registration within seven calendar days of receipt of the notice.

(b) If the hauler fails to show compliance within the specified time period, the suspension shall become effective, and Director shall notify the hauler of the reasons for the suspension and that he/she must correct all discrepancies noted in the suspension within thirty calendar days, otherwise his or her registration may be revoked. The Director shall also notify the hauler of the opportunity to request a hearing as provided in §§ 65-120-2010 and 65-120-2015. The hauler must request a hearing within seven calendar days of receipt of the notice of suspension.

(c) If the hauler fails to correct all discrepancies within the thirty calendar day time period, the revocation shall become effective and the Director shall notify the hauler of the reasons for the revocation and the opportunity to request a hearing as provided in §§ 65-120-2010 and 65-120-2015. The hauler must request a hearing within seven calendar days of receipt of the notice of suspension.

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

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Commission Comment: The 2002 regulations added subsections (a) and (c) and amended subsection (b).

In subsection (c), the Commission inserted the final period.

§ 65-120-1525 Other Laws and Regulations

Registration under the regulations in this chapter shall not be construed as impairing in any manner, the powers and duties established by law or regulation of any other authorized government entity in the CNMI.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

§ 65-120-1530 Penalties for Illegal Disposal

Disposal of sewage to any location other than the location(s) specified by CUC and/or approved by the Division is illegal, and shall be subject to administrative, civil and/or criminal penalty.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Part 1600 -OWTS Design and Construction, and Treated Wastewater Effluent Re-use

§ 65-120-1601 Standards for OWTS Design and Construction

Except as provided for below in § 65-120-1640 for “alternative” treatment systems, and in part 1700 for animal waste management, the design and construction of all OWTS shall follow the criteria and recommended practices outlined in the “Recommended Standards for Wastewater Facilities,” a report by the Great Lakes- Upper Mississippi River Board of State Public Health and Environmental Managers, latest edition. Copies

of the “Recommended Standards for Wastewater Facilities” may be obtained for \$8.00 per copy (plus shipping) through the Health Research Inc. Health Education Services Division, Publisher, at P.O. Box 7126, Albany, NY 12224, telephone number (518) 439-7286, fax number (518) 439-7022, or on the world wide web at <http://www.hes.org/HES/ten.html>. In addition, OWTS design, construction, operation practices and financial requirements shall meet with any specified criteria as may be set forth by the Director for any particular project.

Modified, 1 CMC § 3806(c), (f), (g).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: The 1992 amendments added this part and renumbered the remaining parts accordingly.

The Commission moved the comma after “facilities” inside of the closing quotation mark. The Commission created the section titles in part 1600.

§ 65-120-1605 Disposal of Secondary Treated Effluent

OWTS, except as specifically provided for in § 65-120-1640 and part 1700, shall be designed and operated to produce, at a minimum, a secondary treated effluent. A secondary treated effluent may be disposed of in the following ways, subject to the approval of the Director and other local and federal government agencies:

(a) Through a subsurface disposal system, such as a seepage pit or a leaching field system, subject to the requirements of this chapter. The Director may permit up to 50% reduction in soil absorption area for secondary treated effluent. No subsurface disposal systems for OWTS secondary treated effluent shall be permitted in a class I aquifer recharge area, except in very limited circumstances to allow public projects providing essential public services in isolated areas not served by public sewer. In such cases the burden of proof will be upon the applicant to show that no other reasonable alternative to the proposed project site is available. The design of such systems shall assure that total effluent loading does not exceed 2,250 gallons per acre (the equivalent of five three-bedroom homes) across the entire project site.

(b) Through an underground injection well, subject to CNMI’s Underground Injection Well Regulations [NMIAC, title 65, chapter 90] and CNMI’s Well Drilling and Well Operations Regulations [NMIAC, title 65, chapter 140]. No underground injection disposal systems for OWTS secondary treated effluent shall be permitted in a class I aquifer recharge area.

(c) Through direct discharge to state waters or waters of the U.S., subject to the CNMI’s Water Quality Standards [NMIAC, title 65, chapter 130], EPA NPDES permitting requirements, and section 404 Department of the Army permitting requirements.

- (d) Through land application, subject to the requirements of this part of this chapter.

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

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: The 2002 regulations amended the opening paragraph and subsection (a).

In the opening paragraph, the original cross-reference to “section 19.19” was incorrect. See 24 Com. Reg. at 19821 (Nov. 27, 2002). This section does not exist and the Commission changed the citation to section 19.9, codified at § 65-120-1640.

In subsection (b), the Commission changed “regulation” to “regulations” to correct a manifest error.

§ 65-120-1610 Criteria for Land Application of Treated Wastewater

Treated wastewater may be land applied only if it meets the secondary treated effluent standards stated in § 65-120-010, and only if the treated effluent is first discharged directly to a ponding basin which has the equivalent of 30-days’ storage of treated effluent. The ponding basin must be lined with a high density polyethylene (60 mil minimum) membrane which inhibits downward percolation of effluent into the groundwater. The membrane shall be installed with at least 6-inches of sand below and 12-inches of sand above the membrane. From this ponding basin, secondary treated effluent may be land applied provided ALL of the following criteria are met:

- (a) The treated effluent is not used for the irrigation of food crops.
- (b) The treated effluent is not used for the irrigation of parks, playgrounds, school yards, residential/commercial garden landscaping, or for use in fountains.
- (c) The treated effluent is applied at a rate not to exceed 2.0 inches per week (10,000 gallons per hectare per day), and never applied at such a rate that the effluent has the opportunity to pond or puddle before being absorbed into the upper soil horizon.
- (d) The area undergoing irrigation with treated effluent is marked with signs in such number and location that members of the public subject to exposure could be reasonably expected to encounter such a sign. The signs shall be written in Chamorro, Carolinian, and English (Japanese, Chinese, and Korean at the discretion of the Director), stating: “CAUTION: This area is irrigated with treated domestic wastewater and may contain harmful human pathogens.”

Modified, 1 CMC § 3806(c).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

§ 65-120-1615 OWTS Design for Treated Effluent Land Application

OWTS design for treated effluent land application must be designed by an experienced licensed professional engineer in the field of wastewater treatment. At a minimum, the OWTS design shall provide for the following:

- (a) A contingency plan which assures that no untreated or partially treated wastewater will be delivered to the final use area.
- (b) Back-up power facilities, activated by an automatic transfer switch.
- (c) Laboratory, or access to laboratory services, which are capable of measuring BOD(S), TSS, pH, and fecal coliform.
- (d) Standby replacement equipment for vital mechanical and electrical components of the plant.
- (e) The capacity to treat to secondary effluent standards at least 1.5 times the estimated average daily sewage flow calculated for the project.
- (f) Disinfection, with the ability to maintain a monthly average of not more than 23 colony forming units (cfu)/100 ml of fecal coliform in the treated effluent stream, and to maintain and monitor a chlorine residual of 0.1 mg/l before discharge to the ponding basin.
- (g) Continuous measurement of influent and effluent flow rates, with flow totalizing.
- (h) Critical components of the treatment process shall be monitored by alarms, indicating a condition which threatens the finished effluent quality.
- (i) A complete operations and maintenance manual for all aspects of the plant.
- (j) Application of corrosion resistant materials and typhoon resistant construction practices wherever possible.
- (k) Irrigation plan, defining means of irrigation, locations to be irrigated, times of day for irrigation, etc.
- (l) Establishment and maintenance of an adequate supply of spare parts.
- (m) A complete sludge handling and disposal plan.
- (n) An odor control plan.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 15 Com. Reg. 11003 (Oct. 15, 1993); Amdts Proposed 15 Com. Reg.

10769 (Aug. 15, 1993); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: The 1993 amendments amended subsection (f). The 2002 regulations amended the opening paragraph.

§ 65-120-1620 Licensed Wastewater Treatment Plant Operator

[Repealed.]

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29424 (Apr. 27, 2009); Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 15 Com. Reg. 11003 (Oct. 15, 1993); Amdts Proposed 15 Com. Reg. 10769 (Aug. 15, 1993); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: The 2009 amendments repealed former section 19.5 and created new licensing requirements, codified at part 2200. See 31 Com. Reg. at 29440 (April 27, 2009).

§ 65-120-1625 Reporting Requirements

The Director shall specify the reporting requirements for each specific OWTS permitted under this chapter. At a minimum, reporting shall be made monthly, and include influent and effluent total and average daily flow, influent and effluent water quality data, and a description of plant maintenance performed.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

§ 65-120-1630 Required Data for Applications

The Applicant for an OWTS must submit the following data:

- (a) Estimated construction cost for the OWTS (provide information in support of the estimate).
- (b) Estimated annual operations and maintenance (O&M) cost (provide firm cost basis).
- (c) The source of revenue to cover the annual (O&M) cost identified above, plus a minimum allocation to a contingency fund of at least 15 percent of the estimated annual O&M costs.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

§ 65-120-1635 Failure to Comply

Failure to comply with the requirements of this and other parts of this chapter pertaining to OWTS may result in suspension or revocation of the OWTS permit. No OWTS may operate without a valid OWTS permit issued by the Director.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); 15, 1993); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

§ 65-120-1640 Alternative OWTS

(a) “Alternative” OWTS - The Director may approve wastewater treatment system designs or individual components not covered under § 65-120-1601 on a case-by-case basis. Alternative designs will only be considered for approval if proof of acceptance for general use by another state permitting agency or the EPA is submitted. For the purposes of this chapter, proof of acceptance, at a minimum, shall consist of the existence of an EPA design manual, or the inclusion of the system or component on another state’s list of approved products or technologies. The burden of proof for demonstrating new processes, treatment systems, and technologies that the Division is unfamiliar with, lies with the applicant.

(b) “Alternative” OWTS may be excluded from the supervision, monitoring, reporting, and financial requirements of §§ 65-120-1620, 65-120-1625, and 65-120-1630 by the Director on a case-by-case basis for small systems (less than 5,000 gallons per day) and designs which do not rely on mechanical or electrical components. The Director shall ensure that exclusion from any of the requirements of this part does not create an unreasonable threat to public health and the environment. “Alternative” OWTS are not excluded from the provisions of §§ 65-120-1605 (except as noted), 65-120-1610, and 65-120-1615, nor are “alternative” OWTS excluded from the setback criteria specified in this chapter.

Modified, 1 CMC § 3806(c), (d), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002).

Part 1700 - Animal Waste Management

§ 65-120-1701 OWTS Construction Required

Confined Animal Facilities - Facilities containing any of the following number of head:

- (a) 15 or more pigs;
- (b) 20 or more goats;

- (c) 10 or more cattle;
- (d) 100 or more chickens; or
- (e) Any confined animal facility which has been found by the Division to have caused, by evidence of direct or indirect discharge, violations of the CNMI Water Quality Standards or CNMI Drinking Water Regulations [NMIAC, title 65, chapters 130 and 20], are required to construct and operate an OWTS.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002).

Commission Comment: The 2002 regulations added this part and renumbered the remaining parts accordingly. The Commission created the section titles for part 1700.

§ 65-120-1705 Design of Confined Animal Facility OWTS

Confined animal facility OWTS, except for systems meeting the specifications for “large” confined animal facilities under § 65-120-1710, are excluded from the OWTS land application, design, supervision, monitoring, reporting, and financial requirements of §§ 65-120-1610, 65-120-1615, 65-120-1620, 65-120-1625, and 65-120-1630. Confined animal facility OWTS shall be designed to prevent direct and indirect discharge of untreated animal waste to state waters and groundwater, through the utilization, as appropriate, of components and practices such as septic tanks and leach fields, waste storage ponds, waste storage structures, application of manure or runoff water to agricultural land, waste utilization, composting, burial, or any other method determined to provide adequate protection of public health and the environment by the Director. Systems designed and certified by the USDA-NRCS under an EQUIP cost-share grant shall be considered to meet the requirements of this section.

Modified, 1 CMC § 3806(c), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002).

§ 65-120-1710 Large Confined Animal Facilities

OWTS for “large” confined animal facilities, which for the purpose of the regulations in this chapter are facilities containing more than 100 head of pigs, 1000 chickens, or 50 cattle, may be required to meet more stringent requirements, determined by the Director on a case- by-case basis.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002).

§ 65-120-1715 Siting Criteria

Confined animal facility OWTS are required to meet the siting criteria specified in part 1000 of this chapter. Facilities that are required to obtain an OWTS permit because of violations of the CNMI Water Quality Standards [NMIAC, title 65, chapter 130] or the CNMI Drinking Water Standards [NMIAC, title 65, chapter 20], and which violate the siting criteria, will be required to re-locate to meet the siting criteria, unless the facility can be re-designed to reasonably prevent discharge and further violations, and such re-design is certified by a professional engineer and approved by the Director as part of the OWTS permit. Facilities that cannot re-locate to meet the siting criteria, and from which discharge cannot be reasonably prevented by facility re-design, shall not be permitted.

Modified, 1 CMC § 3806(c), (d), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002).

§ 65-120-1720 OWTS Operation

Owners of confined animal facility OWTS are required to continuously operate and maintain their systems in accordance with the instructions given by the system designer. Failure to do so may result in suspension or revocation of the OWTS permit.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002).

§ 65-120-1725 Grazing Units

Grazing units are not considered confined animal facilities for the purposes of the regulations in this chapter, and are not required to construct or operate an OWTS. However, all owners and operators of grazing units shall employ the following practices, at a minimum, to prevent the direct or indirect discharge of animal waste to state waters:

- (a) Owners and operators of grazing units shall confine livestock within the grazing unit through properly constructed and maintained fences.
- (b) Owners and operators of grazing units shall exclude livestock from within 20 feet of any state water through the use of properly constructed and maintained fences. Stream crossings are allowed where necessary.
- (c) If the Director has evidence that suggests runoff from a grazing unit has caused or contributed to violations of the CNMI Water Quality Standards [NMIAC, title 65, chapter 130] or CNMI Safe Drinking Water Regulations [NMIAC, title 65, chapter 20], the Director may require the owner or operator of the grazing unit to implement the range and pastureland components of a resource management system (RMS) as defined in the Field Office Technical Guide of the USDA-NRCS.

Modified, 1 CMC § 3806(d), (f).

TITLE 65: DIVISION OF ENVIRONMENTAL QUALITY

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002).

Part 1800 - Temporary Toilets Facilities (TTF)

§ 65-120-1801 When Required

Temporary toilet facilities (TTF) shall be provided for:

(a) Any construction job-site where working toilets connected to a sanitary sewer system are not readily available for the needs of the employees. The minimum number of TTF required for a construction site shall be consistent with table 1800-1.

(b) Any carnival, fair, sporting event, outdoor concert or large public gathering requiring any CNMI government permit (e.g., a Coastal Resources Management Office “minor development permit”), hereafter, collectively referred to as a “special event,” where adequate working toilet facilities connected to a sanitary sewer do not exist. The number of TTF required shall be calculated as follows:

$$TTF = TTF = 1 + \frac{(No.of\ persons\ expected\ x\ hours\ of\ event)}{2,000}$$

$$EXAMPLE: TTF = 1 + \frac{(3,000\ people\ x\ 4\ hours)}{2,000} = 7\ TTF$$

Modified, 1 CMC § 3806(c), (f), (g).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Commission Comment: The 1992 amendments moved this part from former section XVIII, entitled “Temporary Toilet Facilities (TFF).” See 8 Com. Reg. at 4367-4368 (June 3, 1986).

The 1992 amendments amended subsections (a) and (b). The 2002 regulations amended subsection (b).

In subsection (a), the cross-reference incorrectly referred to “Table 20-1.” The reference was not updated after the 2002 regulations added a new section 20, codified at part 1700 and redesignated the existing section 20 as section 21, codified in this part. The Commission corrected the error. In subsection (b), the Commission moved the comma after “event” inside of the closing quotation mark. The Commission created the section titles in part 1800.

§ 65-120-1805 Allowable Types of TTFs

Temporary toilet facilities may be portable toilet type, chemical, recirculating or combustion providing they comply with existing CNMI codes.

Modified, 1 CMC § 3806(f).

TITLE 65: DIVISION OF ENVIRONMENTAL QUALITY

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

§ 65-120-1810 Proof of Minimum TTFs

Any construction site or special event requiring DEQ approval for permitting will provide proof that the minimum required number of toilet facilities is available or will be available for the period of time that the permits are valid.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Commission Comment: The Commission changed “are” to “is” to correct a manifest error.

§ 65-120-1815 Failure to Comply

Any construction site not complying with the minimum number of TTF will be given a written warning and given 48 hours to comply. Failure to comply within the given period will result in a cease and desist order issued by the Director and the revocation of the Division’s approval required for any permit(s) associated with the project, and/or civil fines as provided for in part 2000.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Table 1800-1

Number of TTF Required for Construction Sites

<u>Number of Employees</u>	<u>Minimum of TTF Required</u>
1 to 15	1
16 to 30	2
31 to 50	3
over 50	Additional 1 unit per 20 persons of fraction thereof.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Part 1900 - Action on Applications

§ 65-120-1901 Additional Information

The Director may require the applicant to furnish additional information, plans, or specifications before acting on an application for any registration or permit.

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: The 1992 amendments added this part. The Commission created the section titles in part 1900.

§ 65-120-1905 Completeness Review

Each application for hauler's registration, OWTS or IWDS permit shall be reviewed for completeness. The Division shall review and act on any application for registration or OWTS or IWDS permit within twenty one calendar days of the date the application is deemed complete.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

§ 65-120-1910 Incomplete Applications

For all applications found to be incomplete, the Division will notify the applicant via a short written statement, describing the deficiencies found within fourteen calendar days of the date the application is received. Corrective and/or follow-up action, design, field test, etc., is the responsibility of the applicant. The Division is not responsible, nor will Division personnel undertake, completion or correction of an incomplete or incorrect permit or license application.

Modified, 1 CMC § 3806(e), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: The 2002 regulations deleted former § 22.3 and renumbered the sections in this part accordingly. See 14 Com. Reg. at 10357 (Dec. 15, 1992).

§ 65-120-1915 Reconsideration of Director's Decision

The Director shall notify the applicant in writing of his or her decision regarding any application for registration or permit. The Director shall inform the applicant of sufficient

facts and reasons upon which a disapproval or conditional approval of a complete application was based. The applicant shall be afforded the opportunity to file a written request for reconsideration of the Director's decision and shall include justification for the request. The request for reconsideration shall be served upon the Division within seven calendar days from receipt of the disapproval or conditional approval. Failure to file this request within seven calendar days shall constitute a waiver of the applicant's rights to any future reconsideration by the Director. In the event no request for reconsideration is filed within the time specified, the Director's decision shall be considered final agency action for purposes of judicial review under the Administrative Procedure Act, 1 CMC §§ 9101, et seq.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Commission Comment: The Commission changed "Procedures" to "Procedure" to correct a manifest error.

§ 65-120-1920 Transfer of Permits or Registration

A permit or registration issued pursuant to this chapter shall not be transferred from one location to another, or from one person to another, without the written approval from the Director.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992).

Part 2000 - Penalties, Fines, Suspension, Revocation, and Other Orders

§ 65-120-2001 Order to Enforce Act, Regulations or Permit

In accordance with 2 CMC § 3131(a), if the Director has reason to believe a violation of the provisions of the Act, this chapter, and/or the terms of any permit issued pursuant to the Act and this chapter has occurred or is occurring, the Director may issue any necessary order to enforce the aforementioned provisions and permit conditions. Such order shall be in the form of a written warning, notice of violation, cease and desist order, or administrative order signed by the Director or his authorized representative and shall provide notice of the facts constituting the violation, penalties that may be imposed, and, where appropriate, provide a reasonable time frame in which to take corrective action.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002).

TITLE 65: DIVISION OF ENVIRONMENTAL QUALITY

Commission Comment: The 2002 regulations replaced “section 22,” entitled “Penalties, Fines, Suspension, Revocation, and Other Orders,” codified at part 2000, in its entirety. For the original provisions, see 15 Com. Reg. at 11010-13 (Oct. 15, 1993); 14 Com. Reg. at 10358-60 (Dec. 15, 1992). The 1986 regulations contained section XXIII, entitled “Enforcement, Remedies, and Penalties.” See 8 Com. Reg. at 4388-90 (June 3, 1986). The 1992 amendments replaced section XXIII.

The Commission created the section titles in part 2000.

§ 65-120-2005 Order with Penalties Imposed

If any person subject to an order issued pursuant to § 65-120-2001 fails to comply with the order, the Director may issue an administrative order or other such order imposing penalties as provided by 2 CMC § 3131(c). The order shall state the facts constituting the violation, the particular sections of the Act, regulations or permit involved, the proposed penalty including any proposed permit suspension, revocation, or modification, and monetary penalties including any penalty for cost of corrective action taken by the Division, and the opportunity to request a hearing. Such order shall be personally served or served by certified mail, return receipt, on persons subject to the penalties in the order.

Modified, 1 CMC § 3806(c), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002).

Commission Comment: See the commission comment to § 65-120-2001.

§ 65-120-2010 Request for Hearing

Any person subject to an order imposing penalties pursuant to § 65-120-2005, may request, in writing, a hearing before the Director or his/her designee. Request for a hearing shall be served upon the Division within seven calendar days from receipt of the order. Failure to request a hearing within seven calendar days shall constitute a waiver of the right to a hearing and the Division may take the necessary action to enforce the order.

Modified, 1 CMC § 3806(c), (e), (f).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002).

Commission Comment: See the commission comment to § 65-120-2001.

§ 65-120-2015 Enforcement Hearing Procedures

Procedures for hearings shall be conducted in accordance with the Administrative Procedure Act (APA), 1 CMC §§ 9101, et seq., and as follows:

- (a) The Director shall serve notice of the hearing in accordance with APA 1 CMC § 9109(a) at least ten calendar days before the scheduled hearing date.

(b)(1) The alleged violator or “respondent” shall submit a written response to the order at least five calendar days before the hearing. The written request for a hearing may serve as the response to the order. The request for hearing or “response” shall clearly and directly admit, deny, or explain all the factual allegations contained in the order with regard to which the respondent has knowledge. Where respondent has no knowledge of a particular factual allegation and so states, the allegation is deemed denied. The response shall also state

(i) The circumstances or arguments which are alleged to constitute the grounds of defense, and

(ii) The facts which respondent intends to place at issue.

(2) Failure to admit, deny, or explain any material factual allegation contained in the order may be deemed an admission of the allegation.

(c) The respondent may also request an informal settlement conference. An informal settlement conference shall not affect the respondent’s obligation to file a timely request for hearing. If a settlement is reached the parties shall forward a proposed consent order for the approval of the Director.

(d) The Director or designee will preside over the hearing. The presiding officer shall control the taking of testimony and evidence and shall cause to be made an audio, audio-video, or stenographic record of the hearing. The type of record made shall be at the discretion of the presiding officer. Evidence presented at the hearing need not conform with the prescribed rules of evidence, but may be limited by the presiding officer in any manner she/he reasonably determines to be just and efficient and promote the ends of justice. The presiding officer shall issue a written decision within twenty one calendar days of the close of the enforcement hearing. The decision shall include written findings of fact and conclusions of law. The standard of proof for such a hearing and decisions shall be the preponderance of the evidence.

(e) The decision of the Director or presiding officer shall be final. An appeal from the final enforcement decision shall be to the Commonwealth Superior Court within thirty calendar days following issuance of the final agency decision.

Modified, 1 CMC § 3806(e), (f), (g).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002).

Commission Comment: The original paragraphs of subsection (b) were not designated. The Commission designated subsections (b)(1) and (b)(2). See also the commission comment to § 65-120-2001.

In the opening paragraph, the Commission changed “Procedures” to “Procedure” to correct a manifest error.

§ 65-120-2020 Emergency Suspension of Permits

If the Director determines that a violation of a permit issued pursuant to the Act and this chapter has resulted in an imminent threat to public health, safety, or welfare, the

Director may summarily suspend a permit. A hearing for revocation or other action shall be promptly instituted and determined pursuant to the procedures in § 65-120-2015.

Modified, 1 CMC § 3806(c), (d).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002).

Commission Comment: See the commission comment to § 65-120-2001. The Commission inserted a comma after the word “safety” pursuant to 1 CMC § 3806(g).

§ 65-120-2025 Revocation of Hauler’s Registration

(a) In addition to the provisions in § 65-120-1520, the Director may revoke a hauler’s registration for any material misstatement or misrepresentation made by the licensee for the purposes of obtaining or retaining such registration. The Director shall notify the hauler in writing of the facts warranting revocation. The hauler shall have seven calendar days from the date of receipt of the revocation notice to provide a written response addressing the facts in the notice and showing compliance with all lawful requirements for retention of the registration. Failure to timely request a hearing or to provide reasonable explanation for the alleged misstatements or misrepresentations shall result in revocation of the registration. The Director shall notify the hauler of the revocation and the opportunity to request a hearing within seven calendar days of receipt of the notice. Any hearing will be conducted pursuant to § 65-120-2015.

(b) No application for a hauler’s license may be made within one year after revocation of such registration by the Director for the reasons identified above.

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

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002).

Commission Comment: The first paragraph was not designated. The Commission designated subsections (a) and (b).

In subsection (a), the Commission deleted the repeated word “made” to correct a manifest error. See also the commission comment to § 65-120-2001.

§ 65-120-2030 Criminal Penalties

Any person who knowingly and willfully commits any act in violation of the Act, regulations, or permit, may be subject to criminal penalties as set forth in 2 CMC § 3131(d).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002).

Commission Comment: See the commission comment to § 65-120-2001.

Part 2100 - Right of Entry

§ 65-120-2101 Right of Entry

In accordance with 2 CMC § 3132, the Director or his authorized representative may inspect any facility or records subject to the provisions of the Act and this chapter. The inspection may be conducted with or without advance notice, as authorized by § 3132.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002).

Commission Comment: The 2002 regulations replaced “section 23,” entitled “Right of Entry,” in its entirety. For the original provisions, see 14 Com. Reg. at 10360-61 (Dec. 15, 1992); see also 8 Com. Reg. at 4389-90 (June 3, 1986).

The 1992 amendments deleted former section XXIV, entitled “Fees.” See 8 Com. Reg. at 4390 (June 3, 1986).

Part 2200 - Certification of Waste Water System Operators

Subpart A - General Provisions

§ 65-120-2201 General Provisions

(a) The purpose of this subpart is to assure that wastewater treatment and collection system operators are trained and certified, and that they have knowledge and understanding of the public health reasons for wastewater treatment and disposal standards.

(b) No later than March 1, 2010, owners of all OWTS must place the direct supervision of their OWTS system, including each treatment facility and/or collection system, under the responsible charge of an operator holding a valid certification equal to or greater than the classification of the treatment facility and/or collection system. “Alternative” OWTS may be excluded from the requirements in this section on a case-by-case basis as described in section 65-120-1640(b).

(c) All operating personnel making process control/system integrity decisions about wastewater quality or quantity must be certified.

(d) A designated certified operator must be available for each operating shift.

(e) The Division may charge reasonable fees to cover the expenses of the certification program. These fees may include an initial application fee for new applicants, an exam fee if an exam is to be administered, and a renewal fee for an operator that is already certified.

History: Adopted 31 Com. Reg. 29634 (June 22, 2009); Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

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Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29440-29441 (April 27, 2009). The Commission changed the phrase “in paragraph 19.9.1” in subsection (b) to “in section 65-120-1640(b)” pursuant to 1 CMC § 3806(d).

Subpart B - Certification Requirements

§ 65-120-2205 Application

A person seeking certification under this regulation shall submit an application to the Division on a form approved by the Division.

History: Adopted 31 Com. Reg. 29634 (June 22, 2009); Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29440-29441 (April 27, 2009). The Commission created the title of this section.

§ 65-120-2210 Certification and Fees

The Division will certify an applicant who has met either the examination requirements of section 65-120-2215 of these regulations and the experience and education requirements of section 65-120-2220 of these regulations, or the comity requirements of section 65-120-2225 of these regulations. All applicants must submit the appropriate fees prior to certification.

History: Adopted 31 Com. Reg. 29634 (June 22, 2009); Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29441 (April 27, 2009). The Commission created the title of this section. The Commission changed the phrase “§ 26.2.3” to “section 65-120-2215,” changed the phrase “§ 26.2.4” to “section 65-120-2220,” and changed the phrase “§ 26.2.5” to “section 65-120-2225” pursuant to 1 CMC § 3806(d).

§ 65-120-2215 Examination Requirements

(a) To be certified to operate a OWTS classified as Class 1 -Class 4 under subpart C, an applicant must pass a validated examination that demonstrates the applicant’s skills, knowledge, ability, and judgment to operate a system of that classification in compliance with the requirements of these regulations.

(b) The applicant must obtain a minimum score of 70% on the exam in order to pass the examination.

(c) An applicant may not take the same wastewater treatment or wastewater collection exam more than once within a span of 90 days.

(d) The applicant must submit the exam fee for each exam before taking the exam.

History: Adopted 31 Com. Reg. 29634 (June 22, 2009); Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

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Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29441 (April 27, 2009). The Commission changed the phrase “under § 26.3” to “under subpart C” pursuant to 1 CMC § 3806(d).

§ 65-120-2220 Education and Experience Requirements

(a) To be certified as a Class 1 - Class 4 wastewater treatment plant operator or wastewater collection operator, an applicant must have at least a high school diploma or the equivalent thereof.

(b) To be certified as an Operator-in-Training wastewater treatment plant operator or wastewater collection operator, an applicant must be enrolled in a high school degree program, or have at least a high school diploma or the equivalent thereof.

(c) Experience requirements for each classification level of operator are outlined in the following table:

Table 2200-1

Years of Experience for Certification at each Classification Level

Classification Level	OIT	Class 1	Class 2	Class 3	Class 4
Wastewater Treatment	0	1	3	4	4
Wastewater Collection	0	1	3	4	4

*OIT means Operator-in-Training. An operator certified at the OIT level is a certified operator, but can not be the supervising operator having responsible charge over an OWTS because the certification level is not at the classification level of the OWTS.

History: Adopted 31 Com. Reg. 29634 (June 22, 2009); Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29442 (April 27, 2009).

§ 65-120-2225 Comity Requirements

- (a) The Division will recognize the certification of operators who have current wastewater operator certifications in good standing from any U.S. state, territory, or possession, or from the Association of Boards of Certification. Such recognition is termed comity certification.
- (b) The Division will determine the classification level that the operator qualifies to be recognized at based on the operator's experience and education.
- (c) In order to be certified by comity in the Commonwealth, a certified operator must provide the Division with the following:
- (1) A current and valid certificate documenting that the individual is a certified operator in any jurisdiction described in section 65-120-2225(a) of these regulations;
 - (2) All support documents required by the original certifying authority to authenticate the qualifications of the operator; and
 - (3) The appropriate fees.

History: Adopted 31 Com. Reg. 29634 (June 22, 2009); Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29442 (April 27, 2009). The Commission corrected the capitalization of "state" in subsection (a) pursuant to 1 CMC § 3806(f). The Commission changed the phrase "in § 26.2.5.1" to "in section 65-120-2225(a)" pursuant to 1 CMC § 3806(d).

§ 65-120-2230 Certificate Term and Renewal

- (a) A certificate and issued under the conditions of sections 65-120-2215 through 65-120-2220 of these regulations, examination, experience and education requirements, is valid for a three-year period beginning January 1 of the year of issuance.
- (b) A certificate issued under the conditions of section 65-120-2225 of these regulations, comity certification, is valid for the term of the original certificate or three years, whichever is less.
- (c) The Division will renew a certificate only if an operator has
- (1) Completed 10 contact hours of Division approved continuing education for every year that the certificate was valid (30 hours for a three year certificate);
 - (2) Has paid the required fee; and
 - (3) Is otherwise in compliance with these regulations.
- (d) A renewed certificate is valid for a three-year period beginning January 1 of the year of issuance.

History: Adopted 31 Com. Reg. 29634 (June 22, 2009); Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29443 (April 27, 2009). The Commission changed the phrase "§§ 26.2.3 – 26.2.4" in subsection (a) to "sections

65-120-2215 through 65-120-2220” and changed the phrase “§ 26.2.5” in subsection (b) to “section 65-120-2225” pursuant to 1 CMC § 3806(d). The Commission designated subsection (d) pursuant to 1 CMC § 3806(a).

§ 65-120-2235 Lapsed Certificates

(a) An operator who seeks renewal of a lapsed certificate shall submit a request for renewal within 180 days after the certificate lapses. Upon receipt of a valid request for renewal, including proof of compliance with section 65-120-2230(c) of these regulations and payment of the appropriate fee, the Division shall renew a certificate.

(b) The Division will require reexamination of an operator whose renewal application is received more than 180 days after the certificate lapses.

History: Adopted 31 Com. Reg. 29634 (June 22, 2009); Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29443 (April 27, 2009). The Commission changed the phrase “§26.2.6.3” to “section 65-120-2230(c)” pursuant to 1 CMC § 3806(d).

§ 65-120-2240 Revocation of Operator Certification

(a) After an investigation and review of the facts, and in accordance with all applicable Commonwealth laws and regulations, the Director may revoke the certification of an operator for any of the following reasons:

(1) The operator has practiced fraud or deception, has tampered with wastewater samples, falsified analytical data, or falsified other operating records. A person omitting such actions may be liable for civil or criminal penalties in accordance with 2 CMC §3131(d) or other applicable law;

(2) The operator does not use, in the judgment of the Director, reasonable care, judgment, or the application of knowledge in the performance of the operator’s duties. The Director’s reasons for such a determination shall be stated in detail and in writing at the time of revocation;

(3) The operator does not perform duties in a manner that meets wastewater treatment and disposal compliance requirements of Commonwealth laws and regulations. The Director’s reasons for such a determination shall be stated in detail and in writing at the time of revocation; or

(4) The certification of the operator has expired or is no longer valid in the original jurisdiction from which their certification was issued.

(b) An operator whose certificate is revoked may not apply for certification for 365 days after revocation. An application received under this subsection will be treated as an initial application.

History: Adopted 31 Com. Reg. 29634 (June 22, 2009); Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29443-29444 (April 27, 2009).

Subpart C - Classification of OWTS

§ 65-120-2250 Classification of OWTS

The treatment facility(ies) and the collection system(s) of an OWTS are classified separately as follows in this subpart.

Modified, 1 CMC § 3806(d).

History: Adopted 31 Com. Reg. 29634 (June 22, 2009); Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29443-29444 (April 27, 2009). The Commission created separate sections in this subpart by changing the colon to a period and adding “in this subpart.”

§ 65-120-2255 Wastewater Treatment Facilities

A wastewater treatment facility is classified as a Class 1, Class 2, Class 3, or Class 4 treatment facility in accordance with Table 2200-2 (Classification of Treatment Facilities).

Table 2200-2

Classification of Treatment Facilities

<u>Type of Treatment*</u>	<u>Class of Treatment Facility</u>
30 points and less	Class 1
31-55 points	Class 2
56-75 points	Class 3
76 points and greater	Class 4

*See Appendix A to Section 26 for the Wastewater Treatment Plant Point Rating System

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29443 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29444 (April 27, 2009). The Commission created the title of this section. The Commission re-designated this table as Table 2200-2.

§ 65-120-2260 Wastewater Collection Systems

A wastewater collection system is classified as a Class 1, Class 2, Class 3, or Class 4 collection system in accordance with Table 2200-3 (Classification of Collection Systems).

Table 2200-3

Classification of Collection Systems

<u>Population Served by Water System</u>	<u>Class of Collection System</u>
1,500 and less	Class 1
1,501 to 15,000	Class 2
15,001 to 50,000	Class 3

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50,001 and greater

Class 4

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29443 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29444-29445 (April 27, 2009). The Commission created the title of this section. The Commission re-designated this table as Table 2200-3.

Appendix A - Wastewater Treatment Plant Point Rating System

<u>Item</u>	<u>Points</u>
Size (2 point minimum to 20 point maximum)	
Maximum population equivalent (PE) or part served, peak day (1 point minimum to 10 point maximum)	1 pt per 10,000 or part
Design flow average day or peak month's part flow average day, whichever is larger (1 point minimum to 10 point maximum)	1 pt per MGD or part
Variation in raw waste (0 point minimum to 6 point maximum) ¹	
Variations do not exceed those normally or typically expected	0
Recurring deviations or excessive variations of 100 to 200% in strength and/or flow	2
Recurring deviations or excessive variations of more than 200% in strength and/or flow	4
Raw wastes subject to toxic waste discharges	6
Impact of septage or truck-hauled waste (0 point minimum to 4 point maximum)	
Preliminary Treatment	
Plant pumping of main flow	3
Screening, comminution	3
Grit removal	3
Equalization	1
Primary Treatment	
Clarifiers	5
Imhoff tanks or similar	5
Secondary Treatment	
Fixed-film reactor	10
Activated sludge	15
Stabilization ponds without aeration	5
Stabilization ponds with aeration	8
Tertiary Treatment	
Polishing ponds for advanced waste treatment	2
Chemical/physical advanced waste treatment w/o secondary	15
Chemical/physical advanced waste treatment following secondary	10
Biological or chemical/biological advanced waste treatment	12
Nitrification by designed extended aeration only	2

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Ion exchange for advanced waste treatment	10
Reverse osmosis, electrodialysis and other membrane filtration techniques	15
Advanced waste treatment chemical recovery, carbon regeneration	4
Media filtration	5
Additional Treatment Processes	
Chemical additions (2 points each for a maximum of 6 points)	6
Dissolved air flotation (for other than sludge thickening)	8
Intermittent sand filter	2
Recirculating intermittent sand filter	3
Microscreens	5
Generation of oxygen	5
Solids Handling	
Solids stabilization	5
Gravity thickening	2
Mechanical dewatering	8
Anaerobic digestion of solids	10
Utilization of digester gas for heating or cogeneration	5
Aerobic digestion of solids	6
Evaporative sludge drying	2
Solids reduction (including incineration, wet oxidation)	12
On-site landfill for solids	2
Solids composting	10
Land application of biosolids by contractor	2
Land application of biosolids under direction of facility operator in direct responsible charge	10
Disinfection (0 point minimum to 10 point maximum)	
Chlorination or ultraviolet irradiation	5
Ozonation	10
Effluent Discharge (0 point minimum to 10 point maximum)	
Mechanical post aeration	2
• Direct recycle and reuse	6
• Land treatment and disposal (surface or subsurface)	4
Instrumentation (0 point minimum to 6 point maximum)	
The use of SCADA or similar instrumentation systems to provide data with no process operation	0
The use of SCADA or similar instrumentation systems to provide data with limited process operation	2
The use of SCADA or similar instrumentation systems to provide data with moderate process operation	4
The use of SCADA or similar instrumentation systems to provide data with moderate process operation	6
Laboratory Control (0 point minimum to 15 point maximum) ²	
Bacteriological/biological (0 point minimum to 5 point maximum)	
Lab work done outside the plant	0

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Membrane filter procedures	3
Use of fermentation tubes or any dilution method; fecal coliform determination	5
Chemical/physical (0 point minimum to 10 point maximum)	
Lab work done outside the plant	0
Push-button or visual methods for simple tests such as pH, settleable solids	3
Additional procedures such as DO, COD, BOD, gas analysis, titrations, solids, volatile content	5
More advanced determination such as specific constituents: nutrients, total oils, phenols	7
Highly sophisticated instrumentation such as atomic absorption, gas chromatography	10

¹ The key concept is frequency and/or intensity of deviation or excessive variation from normal or typical fluctuations; such deviations can be in terms of strength, toxicity, shock loads, l/l, with points from 1 to 6.

² The key concept is to credit laboratory analyses done on-site by plant personnel under the direction of the operator in direct responsible charge with points from 0 to 15.

History: Adopted 31 Com. Reg. 29634 (June 22, 2009); Proposed 31 Com. Reg. 29424 (Apr. 27, 2009).

Commission Comment: This is a new section under the 2009 amendments. See 31 Com. Reg. at 29445-29446 (April 27, 2009).

Part 2300 -Certification of Waste Water System Operators

§ 65-120-2301 Severability

If any rule, section, sentence, clause, or phrase of the regulations in this chapter or its application to any person or circumstances or property is held to be unconstitutional or invalid, the remaining portions of these regulations or the application of these regulations to other persons or circumstances or property shall not be affected.

Modified, 1 CMC § 3806(c), (d).

History: Amdts Adopted 31 Com. Reg. 29634 (June 22, 2009); Amdts Proposed 31 Com. Reg. 29424 (Apr. 27, 2009); Amdts Adopted 24 Com. Reg. 19771 (Nov. 27, 2002); Amdts Proposed 24 Com. Reg. 19421 (Aug. 21, 2002); Amdts Adopted 14 Com. Reg. 10316 (Dec. 15, 1992); Amdts Proposed 14 Com. Reg. 9823 (Oct. 15, 1992); Adopted 8 Com. Reg. 4348 (June 3, 1986); Proposed 8 Com. Reg. 4261 (Apr. 18, 1986).

Commission Comment: The 1986 Individual Wastewater Disposal System Rules and Regulations contained section XXVI, entitled “Effective Date,” and section XXVII, entitled “Conflict with Sewer Use Regulations.” See 8 Com. Reg. at 4390-91 (June 3, 1986). The 1992 amendments deleted these provisions. The 2009 amendments renumbered this section.

TITLE 155: DEPARTMENT OF PUBLIC WORKS

SUBCHAPTER 155-10.2 FLOOD DAMAGE PREVENTION REGULATIONS

Part 001	General Provisions	§ 155-10.2-125	Delegation of
§ 155-10.2-001	Statement of Purpose	Responsibilities	
§ 155-10.2-005	Definitions		
§ 155-10.2-010	Lands to Which	Part 200	Provision for Flood Hazard
These Regulations Apply		Reduction	
§ 155-10.2-015	Basis for Establishing	§ 155-10.2-201	Standards of
the Areas of Special Flood Hazards		Construction	
§ 155-10.2-020	Flood Hazards	§ 155-10.2-205	Standards for Storage
Mitigation Plan		of Materials and Equipment	
§ 155-10.2-025	Compliance	§ 155-10.2-210	Standards for Utilities
§ 155-10.2-030	Abrogation and	§ 155-10.2-215	Coastal High Hazard
Greater Restrictions		Areas	
§ 155-10.2-035	Interpretation	§ 155-10.2-220	Standards for
§ 155-10.2-040	Warning and	Subdivisions	
Disclaimer of Liability		§ 155-10.2-225	Standards for
§ 155-10.2-045	Severability	Manufactured Homes	
		§ 155-10.2-230	Standards for
		Recreational Vehicles	
Part 100	Administration		
§ 155-10.2-101	Designation of the	Part 300	Variance and Appeal
Building Safety Official		Procedures	
§ 155-10.2-105	Building Permit	§ 155-10.2-301	Variance Procedures
Required		§ 155-10.2-305	Variance Factors
§ 155-10.2-110	Duties and	§ 155-10.2-310	Variance Conditions
Responsibilities		§ 155-10.2-315	Variance Decisions
§ 155-10.2-115	Interpretation of Firm		
Boundaries		Part 400	Miscellaneous Provisions
§ 155-10.2-120	Alteration of	§ 155-10.2-401	Records
Watercourse			

Subchapter Authority: 1 CMC § 2404; 2 CMC § 7148.

Subchapter History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: PL 1-8, tit. 1, ch. 15, codified as amended at 1 CMC §§ 2401-2405, creates the Department of Public Works (DPW) within the Commonwealth government. See 1 CMC § 2401. 1 CMC § 2404 directs the Department to adopt rules and regulations regarding those matters over which it has jurisdiction.

Title 2, division 7, chapter 1 of the Commonwealth Code sets forth the building safety code for the Commonwealth. See 2 CMC §§ 7101-7181. 2 CMC § 7121 creates a Building Safety Division within the Department of Public Works, headed by the building safety official. The building safety official is charged with enforcing the provisions of the building safety code. 2 CMC § 7122. 2 CMC § 7153 directs the building safety official to issue building safety regulations.

2 CMC § 7148 requires buildings and structures in the Commonwealth located in special flood hazard areas to conform to the National Flood Insurance Act and its implementing federal and Commonwealth regulations. The Director of DPW is authorized to promulgate regulations necessary to bring the CNMI into compliance with the

National Flood Insurance Act of 1968. See 2 CMC § 7148(b).

Part 001 - General Provisions

§ 155-10.2-001 Statement of Purpose

It is the purpose of the regulations in this subchapter to promote the public health, safety, and general welfare of the residents of the Commonwealth of the Northern Mariana Islands, and to minimize public and private economic and physical losses due to flood conditions in specific areas by provisions designed to:

- (a) Protect human life and health;
- (b) Minimize expenditure of public money for costly flood projects;
- (c) Minimize damage to public facilities and utilities;
- (d) Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- (e) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

Modified, 1 CMC § 3806(d), (f), (g).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: In subsection (e), the Commission changed “Insure” to “Ensure” to correct a manifest error.

§ 155-10.2-005 Definitions

- (a) “Appeal” means a request for a review of an official interpretation of any provision of the regulations in this subchapter or a request for a variance.
- (b) “Appurtenant structure” means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.
- (c) “Area of shallow flooding” means a designated zone with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- (d) “Area of special flood hazard” is the land in the flood plain within the Commonwealth of the Northern Mariana Islands subject to a one percent or greater chance of flooding in any given year.

- (e) “Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year also known as the “100 year flood.”
- (f) “Basement” means any area of a building having its floor subgrade (below ground level) on all sides.
- (g) “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. It is an area subject to high velocity waters, including coastal and tidal inundation or tsunamis.
- (h) “Critical feature” means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the system would be compromised.
- (i) “Curvilinear line” means the border on either a flood hazard area or consists of a curved or contour line that follow the topography.
- (j) “Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment and materials.
- (k) “Encroachment” means the advancement or infringement of uses, plant growth, fill excavation, buildings; permanent structures or development into a flood plain which may impede or alter the flow capacity of a flood plain.
- (l) “Erosion” means the process of the gradual wearing away of land masses. This is not covered under the National Flood Insurance program (“NFIP”).
- (m) “Existing manufactured home park or subdivision” means a manufacture home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
- (n) “Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).
- (o) “Fill” is the placement of fill material at a specified location to bring the ground surface up to a desired elevation.
- (p) “Fill material” can be natural sand, dirt, soil, or rock. For the purposes of flood plain management, fill materials may include concrete, cement, brick, or similar material on a case by case basis.

(q) “Flood, flooding, or floodwater” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters;
- (2) The unusual or rapid accumulation or runoff of surface waters from any source; or
- (3) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or current of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or an abnormal tidal surge, or by similarly unusual and unforeseeable event which results in flooding as defined in subsection (q)(1) of this definition.

(r) “Flood elevation determination” means a determination by the building safety official (“Administrator”) of the Department of Public Works that the flood level has a one percent or greater chance of occurrence in any given year.

(s) “Flood Insurance Rate Map” (FIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the Commonwealth of the Northern Mariana Islands.

(t) “Flood plain management” means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and flood plain management regulations.

(u) “Flood protection system” means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of an area of special flood hazard.

(v) “Flood proofing” means any combination of structural and non-structural additions, changes, or adjustments which reduce or eliminate flood damage to real estate or improved real property; water and sanitary facilities; or any structures and their contents.

(w) “Flood related erosion” means a condition that exists in conjunction with a flooding event that alters the shoreline or bank of a watercourse, or one that increases the possibility of loss of the land adjacent to the shoreline or watercourse through erosion.

(x) “Functionally dependent use” means a use which cannot be performed unless it is located or carried out in close proximity to the water. The term includes only docking facilities, port facilities necessary for the loading or unloading of cargo or passengers, ship building and ship repair facilities.

(y) “Hazard mitigation plan” means a plan that incorporates a process whereby the potential of future loss due to flooding can be minimized by planning and implementing alternatives for flood plain management throughout the Commonwealth of the Northern Mariana Islands.

(z) “Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

(aa) “Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of applicable non-elevation design requirements.

(bb) “Mangrove stand” means an assemblage of mangrove trees which are mostly low trees noted for a copious development adventitious roots above the ground and which contain one or more of the following species: black mangrove (*Avicennia nitida*); red mangrove (*Rhizophora mangle*); white mangrove (*Languncularia racemosa*); and buttonwood (*Conocarpus erecta*).

(cc) “Map” means the Flood Insurance Rate Map (FIRM) of the Commonwealth of the Northern Mariana Islands.

(dd) “Mean sea level” means for purposes of the NFIP the National Geodetic Vertical Datum (NGVD) or other datum to which base flood elevations shown on the Commonwealth’s FIRM are referenced.

(ee) “New construction” means for flood plain management purposes structures for which the start of construction commenced on or after the effective date of a flood plain management regulation adopted by the Commonwealth.

(ff) “Parcel” means any contiguous quantity of land in the possession of, owned by, or recorded as the property of the same claimant, person, or company.

(gg) “Person” includes any individual or group of individuals, corporation, partnership, association, or any other entity including the Commonwealth of the Northern Mariana Islands government.

(hh) “Recreational vehicle” means a vehicle which is

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(ii) “Regulatory floodway” means the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a desired height.

(jj) “Special flood hazard area” means an area having special flood and/or flood related erosion hazards as shown on the FIRM.

(kk) “Standard flood insurance policy” means the flood insurance policy issued by the federal Administrator, or an insurer pursuant to an arrangement with the federal Administrator, pursuant

to federal statutes* and regulations.

* So in original.

(ll) “Start of construction” includes substantial improvement and means the date the building permit was issued provided the actual start of construction, repair reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of the slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation. Permanent construction does not include:

- (1) Land preparation, such as clearing, grading and filling;
- (2) The excavation of basements, footings, piers, or foundations;
- (3) The erection of temporary forms; or,
- (4) The installation of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

(mm) “Structure” means for flood plain management purpose, a walled or roofed building, including a gas or liquid storage tank, that is principally above ground land affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, unless such materials are within an enclosed building on the premises.

(nn)(1) “Substantial improvement” means any repair, reconstruction, or improvement of structure, the cost of which equals or exceeds 50 percent of the market value or replacement value, whichever is lower of the structure either

- (i) Before the improvement or repair is started or
 - (ii) If the structure has been damaged and is being restored, before the damage occurred.
- (2) For the purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not include any project for improvement of a structure to comply with existing federal, local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure listed on the National Register of Historic Places or Commonwealth inventory of historic places.

(oo) “Variance” means a grant of relief from the requirements of the regulations in this subchapter which permit construction in a manner that would otherwise be prohibited by these regulations.

(pp) “Watercourse” means a channel cut by running water, through which at least periodically.*

*So in original.

(qq) “Water surface elevation” means the height in relation to the (NGVD) of 1929*, of floods

of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

* See Commission Comment.

Modified, 1 CMC § 3806(d), (f), (g).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: The original paragraphs of subsection (nn) were not designated. The Commission designated subsections (nn)(1) and (nn)(2).

In subsection (e), the Commission corrected the spelling of “equaled” and moved the period after “flood” inside of the closing quotation mark. In subsection (hh), the Commission changed “build” to “built” to correct a manifest error. In subsection (hh)(3), the Commission changed the final comma to a semi-colon to ensure consistent punctuation. In subsection (qq), the Commission corrected the spelling of “coastal.” The Commission inserted commas after the words “unpredictable” in subsection (c), “brick” in subsection (p), “works” in subsection (t), “appropriated” in subsection (u), “changes” in subsection (v), “person” in subsection (ff), “association” in subsection (gg), “placement” in subsection (ll), and “alteration” in subsection (mm) pursuant to 1 CMC § 3806(g).

The NGVD of 1929, referenced in subsection (qq), does not contain information for the CNMI, as it was not a part of the United States at the time. The National Oceanic and Atmospheric Administration superseded previous vertical datum for the CNMI with the Northern Marianas Vertical Datum of 2003. 74 Fed. Reg. 3990 (Jan. 22, 2009).

§ 155-10.2-010 Lands to Which These Regulations Apply

The regulations in this subchapter shall apply to all areas of special flood hazard within the Commonwealth of the Northern Mariana Islands.

Modified, 1 CMC § 3806(d).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

§ 155-10.2-015 Basis for Establishing the Areas of Special Flood Hazards

The areas of special flood hazard identified by the Federal Insurance Administration (“FIA”), through the Federal Emergency Management Agency (“FEMA”) in a scientific and engineering report entitled “The Flood Insurance Study for the Commonwealth of the Northern Mariana Islands,” dated April 30, 1990, with the accompanying FIRM and any amendment thereto is hereby adopted as reference and declared to be a part of the regulations in this subchapter. The flood insurance study and FIRM are on file at the Building Safety Official Office, Department of Public Works (“DPW”).

Modified, 1 CMC § 3806(d), (g).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: The Commission moved the comma after “Islands” inside of the closing quotation mark.

§ 155-10.2-020 Flood Hazards Mitigation Plan

The building safety official (“Administrator”) of the Department of Public Works shall create a

flood hazards mitigation plan for prevention of flood damage within the Commonwealth. The plan shall be completed and submitted to the Governor for approval within a reasonable time not to exceed six months from the promulgation of the regulations in this subchapter. The building safety official shall use all appropriate federal, state, local, and other information to provide for orderly building and development within special hazard areas while also preventing flood damage. The plan shall not be inconsistent with federal or Commonwealth law or regulations.

Modified, 1 CMC § 3806(d), (e), (f).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

§ 155-10.2-025 Compliance

No structure or land shall be constructed, located, extended converted*, or altered without full compliance of the regulations in this subchapter. Violators shall be subject to penalties as outlined in 2 CMC § 7126.

* So in original.

Modified, 1 CMC § 3806(d).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

§ 155-10.2-030 Abrogation and Greater Restrictions

The regulations in this subchapter are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where there exists another rule, easement, or deed restriction which imposes a more stringent application of these regulations, it shall apply.

Modified, 1 CMC § 3806(d).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: The Commission inserted commas after the words “abrogate,” “covenants,” and “easement” pursuant to 1 CMC § 3806(g).

§ 155-10.2-035 Interpretation

In the interpretation and application of the regulations in this subchapter, all provisions shall be:

- (a) Considered as minimum requirements.
- (b) Liberally construed in favor of the governing body.
- (c) Deemed neither to limit nor repeal any other powers granted under Commonwealth or federal law.

Modified, 1 CMC § 3806(d).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

§ 155-10.2-040 Warning and Disclaimer of Liability

The degree of flood protection required by the regulations in this subchapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural uses. These regulations do not imply that land outside such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of the Commonwealth of the Northern Mariana Islands government, any officials thereof or the Federal Insurance Administration for any flood damage that results from reliance on these regulations or any administrative decision lawfully made under these regulations.

Modified, 1 CMC § 3806(d).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

§ 155-10.2-045 Severability

The regulations in this subchapter and the various parts thereof are hereby declared to be severable. Should any section be declared by the courts to be invalid, such decision shall not affect the validity of the regulations as a whole, or any portion thereof other than that section so declared invalid.

Modified, 1 CMC § 3806(d).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Part 100 - Administration

§ 155-10.2-101 Designation of the Building Safety Official

The building safety official is hereby designated to administer and implement the regulations in this subchapter by granting or denying building or development permits in accordance with the provisions herein.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

§ 155-10.2-105 Building Permit Required

A building permit shall be obtained before construction, subdivision, or development begins within any area of special flood hazard. Application for a building or development permit shall be made to the building safety official and will follow DPW's Building Safety Code guidelines for application. The application will specifically include:

- (a) Proposed elevation in relation to mean sea level, of the lowest floor (including basement)

of all structures; the elevation of the highest adjacent grade and proposed elevation of the lowest floor of all structures.

(b) Proposed elevation in relation to mean sea level to which any structure will be flood proofed.

(c) Certification by a CNMI licensed professional land surveyor, engineer or architect that the flood proofing methods for any non-residential structure meets the flood proofing criteria in § 155-10.2-201, including the elevation to which the structure is flood proofed.

(d) Description of the extent to which any watercourse shall be altered or relocated as a result of the proposed development.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

§ 155-10.2-110 Duties and Responsibilities

The duties and responsibilities of the building safety official shall include but are not limited to:

(a) Permit Review. The building safety official shall:

(1) Review all building, subdivision, and other development permit applications to determine that the requirements of the regulations in this subchapter have been satisfied, and all other Commonwealth and federal permits have been obtained.

(2) Review all permit applications to determine if the building sites are reasonably safe from flooding, and that the proposed development is consistent with the need to minimize or eliminate flood damage.

(3) Review all building, subdivision, and other development permit applications to determine if the proposed development will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be:

(i) Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(ii) Constructed with materials resistant to flood damage;

(iii) Constructed by methods and practices that minimize flood damages; and,

(iv) Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(4) Review all subdivision and development permit applications to determine that adequate drainage is provided to reduce exposure to flood hazards.

(b) Use of other Flood Data. The building safety official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from federal or other sources as criteria for requiring that new construction, substantial improvements or other development meet the requirements of the regulations in this subchapter.

(c) Information to Be Obtained and Maintained. The building safety official shall promulgate, periodically up date, and make available as needed, flood insurance policies and procedures covering the following:

- (1) The certified elevation required in § 155-10.2-201 (residential);
- (2) The certification required in § 155-10.2-201 (shallow flooding);
- (3) The flood proofing certification required in § 155-10.2-201 (non-residential);
- (4) The flood proofing certification required in § 155-10.2-201 (subdivision); and
- (5) The coastal high hazard certification required in part 200. (coastal).

(d) When an area of special flood hazard has been designated, the building safety official shall prohibit encroachments, including fill, new construction, substantial improvement, and other development which would cause an increase in flood elevations of more than one foot during the occurrence of a base flood.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: The Commission inserted a colon at the end of subsection (a)(3) and inserted a comma after the word “review” in subsection (b) pursuant to 1 CMC § 3806(g).

§ 155-10.2-115 Interpretation of Firm Boundaries

The building safety official shall make interpretations as to the exact location of the boundaries of the areas of special flood hazard. A person contesting the location of a boundary shall be given a reasonable opportunity to appeal the interpretation.

Modified, 1 CMC § 3806(f).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

§ 155-10.2-120 Alteration of Watercourse

Prior to the issuance of a permit for the alteration or relocation of a watercourse within a special hazard area the person seeking the alteration or relocation shall:

- (a) Have the written permission of the building safety official and submit copies of that permission to FEMA, FIA.
- (b) Ensure that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained and not lessened.

Modified, 1 CMC § 3806(f).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

§ 155-10.2-125 Delegation of Responsibilities

The Director of the Department of Public Works is hereby empowered to delegate authority granted herein, including the authority to promulgate rules and any regulations as hereinafter set forth in § 1(b), PL 8-7. Any duty prescribed herein to be performed by the Director is hereby assigned and charged to the Building Safety Code Division and the building safety official (Administrator) may designate one member of his staff as floodplain administrator or create a new position of floodplain administrator.

Modified, 1 CMC § 3806(f).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Part 200 - Provision for Flood Hazard Reduction

§ 155-10.2-201 Standards of Construction

In all areas of special flood hazard, the following standards are required that all structures shall conform to all portions of Commonwealth Public Law 6-45.

(a) Anchoring

All new construction, including manufactured homes, and new improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic or hydrostatic loads, including the effects of buoyancy.

(b) Construction Materials and Methods

(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new construction and substantial improvements shall use methods and practices that minimize flood damage.

(3) All electrical, heating, ventilation, plumbing, airconditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding, provided that none of the service facilities shall be located below the base flood elevation or depth number specified on the FIRM.

(c) Elevation and Flood Proofing

(1) New construction and substantial improvement of any structure shall have the lowest floor, including the basement, elevated to or above the base flood elevation. Non-residential structures may meet the standards of this section. Upon completion of the structure, the elevation of the lowest floor including basement shall be certified by a CNMI licensed professional land surveyor, engineer or architect and verified by the local building inspector that elevation requirements have been met. Notification of compliance shall be in writing to the building safety official.

(2) New construction and substantial improvement of new structure in zone AO shall have the lowest floor, including basement, elevated to or above the depth specified on the FIRM's highest adjacent grade. If there is no depth number on the FIRM then the lowest floor including the basement shall be elevated to a depth of at least two feet above the highest adjacent grade. Non-residential structures may meet standards in subsection (c)(3). Upon completion, the

structures compliance shall be certified by a CNMI licensed professional land surveyor, engineer or architect and verified by the local building inspector. Notification shall be in writing to the building safety official.

(3) Non-residential construction shall either be elevated in conformance with subsection (c)(1) or together with attendant utility and sanitary facilities shall be flood proofed so that below the base flood level the structure shall

- (i) Be watertight with walls substantially impermeable to the passage of water,
- (ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy and
- (iii) Be certified by a licensed professional engineer or architect that the design and methods of construction of the structure are in accordance with accepted standards of practice for meeting the requirements of this subsection.

(d) Construction Methods

(1) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a CNMI licensed professional engineer or meet or exceed the following minimum criteria:

(i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding, the bottom of all openings may be equipped with screens, louvers, or other coverings provided that they permit the automatic entry and exit of floodwaters.

(2) All new construction and substantial improvements in the coastal high hazard area (if base flood elevation data available on the FIRM) shall be elevated on pilings and columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level, and the pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall have a one percent chance of being equaled or exceeded in any given year (100 year mean recurrence interval). A CNMI licensed professional engineer shall develop or review the structural design, specifications, and plans for construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection. Pilings used as structural support shall be designed and anchored so as to withstand all impact forces and buoyancy factors of a base flood. There shall be no fill used for structural support of buildings.

(3) If breakaway walls are used, such enclosed space or storage shall not be used for human habitation.

(4) Prior to construction, plans of any structure with breakaway walls must be approved by the building safety official.

(5) Compliance with this section shall be certified by a CNMI licensed professional land surveyor, engineer or architect and that certification shall be forwarded to the building safety official of the Department of Public Works.

(e) Drainage. All new construction and substantial improvements shall have adequate drainage paths around structures on slopes, to guide flood water around, from, and away from

proposed structures.

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

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission comment: In subsection (c)(2), the Commission corrected the spelling of “depth” and “equaled.” The Commission inserted commas after the words “collapse” in subsection (a), “plumbing” and “equipment” in subsection (b)(3), “louvers” in subsection (d)(1)i), and “collapse” and “specifications” in subsection (d)(2) pursuant to 1 CMC § 3806(g).

§ 155-10.2-205 Standards for Storage of Materials and Equipment

The storage or processing of materials that are in times of flooding buoyant, flammable, explosive, or could be injurious to persons or the environment is prohibited. Storage of other materials or equipment may be allowed if not subject to damage by flooding and firmly anchored or readily removable from the sea within the time available after flood warning.

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: The Commission inserted a comma after the word “explosive” pursuant to 1 CMC § 3806(g).

§ 155-10.2-210 Standards for Utilities

All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into flood waters. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

§ 155-10.2-215 Coastal High Hazard Areas

Coastal high hazard areas are located within the areas of special flood hazard established in § 155-10.2-015. These areas have special flood hazards associates with high velocity waters from coastal and/or tidal inundation, and tsunamis and the following provisions shall apply therein:

- (a) Location of structures
 - (1) All building or structures shall be located landward and out of reach of mean high tide.
 - (2) Man-made alterations of sand dunes or mangrove stands which would increase flood damage are prohibited.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: In subsection (a)(2), the Commission changed “is” to “are” and corrected the spelling of “sand dunes” to correct manifest errors.

§ 155-10.2-220 Standards for Subdivisions

- (a) All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.
- (b) All subdivision plans will provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood elevation, the final first floor and pad elevations shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.
- (c) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (d) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (e) All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: The Commission inserted commas after the words “gas” and “electrical” in subsection (d) pursuant to 1 CMC § 3806(g).

§ 155-10.2-225 Standards for Manufactured Homes

- (a) All manufactured homes that are placed or substantially improved, within zones A1-30, AH, and AE on the community’s Flood Insurance Rate Map, on sites located
 - (1) Outside of a manufactured home park or subdivision,
 - (2) In a new manufactured home park or subdivision,
 - (3) In an expansion to an existing manufactured home park or subdivision, or
 - (4) In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred “substantial damage” as the result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation (the CNMI Building Safety Code recommends at least one foot above the base flood elevation) and be securely anchored to an adequately anchored foundation system to resist flotation collapse and lateral movement.
- (b) All manufactured homes that are placed or substantially improved on sites located within zones V1-30, V, and VE on the community’s Flood Insurance Rate Map will meet the requirements of § 155-10.2-215 and subsection (a) of this section.
- (c) All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within zones A1-30, AH, AE, V1-30, V, and VE on the community’s Flood Insurance Rate Map that are not subject to the provisions of § 155-10.2-315(a) will be elevated so that either the
 - (1) Lowest floor of the manufactured home is at or above the base flood elevation (CNMI Building Safety Code recommends at least one foot above the base flood elevation), or

(2) Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

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

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: In subsection (c), the Commission changed “place” to “placed.” In subsection (c)(2), the Commission changed “support” to “supported” and “reinforce” to “reinforced” to correct manifest errors. The Commission corrected the spelling of the word “chassis” in subsection (c)(2) pursuant to 1 CMC § 3806(g).

§ 155-10.2-230 Standards for Recreational Vehicles

(a) All recreational vehicles placed on sites within zones A1-30, AH, and AE on the community’s Flood Insurance Rate Map will either:

- (1) Be on the site for fewer than 180 consecutive days,
- (2) Be fully licensed and ready for highway use – a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions, or
- (3) Meet the permit requirements of part 100 of this subchapter and the elevation and anchoring requirements for manufactured homes in § 155-10.2-215.

(b) Recreation vehicles placed on sites within zones V1-30, V and VE on the community’s Flood Insurance Rate Map will meet the requirements of subsection (a) of this section and § 155-10.2-215.

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

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: In subsection (a)(2), the Commission corrected the spelling of “by.”

Part 300 - Variance and Appeal Procedures

§ 155-10.2-301 Variance Procedures

No variance shall be granted by the building safety official unless he finds that:

(a) A showing of good and sufficient cause such as a renovation, rehabilitation or reconstruction, a determination that a failure to grant the variance would result in exceptional hardship to the applicant, a determination that the granting of a variance shall not result in increased flood heights, additional threats to public safety, extraordinary public expense, nuisances, fraud or a conflict with existing federal or Commonwealth laws or regulations.

(b) Reasons of economic considerations, aesthetics, or because variances have been issued in the past are not good or sufficient cause.

Modified, 1 CMC § 3806(f).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: The Commission inserted a comma after the word “variance” in subsection (b) pursuant to 1 CMC § 3806(g).

§ 155-10.2-305 Variance Factors

In deciding upon variance applications the building safety official shall consider all technical evaluations and all relevant factors and standards specified in other sections of the regulations in this subchapter, including but not limited to:

- (a) The danger that materials may be swept into floodwaters and cause injury to others;
- (b) The danger to life and property due to flooding or erosion damage;
- (c) The importance of the services provided by the proposed facility to the community;
- (d) The availability of alternative locations;
- (e) The compatibility of the proposed use with existing and anticipated development;
- (f) The safe access of ordinary and emergency vehicles in times of floods; and
- (g) The cost of providing governmental services during and after flood conditions, including repair and maintenance of public utilities, streets, and bridges.

Modified, 1 CMC § 3806(d), (f), (g).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: In subsection (b), the Commission deleted the word “due” after “danger” to correct a manifest error. The Commission inserted a comma after the word “streets” in subsection (g) pursuant to 1 CMC § 3806(g).

§ 155-10.2-310 Variance Conditions

- (a) Upon consideration of the factors above and the purpose of the regulations in this subchapter the Director may attach such additional conditions to the granting of variances as he deems necessary to further the purposes of these regulations.
- (b) Variances shall not be issued within any designated floodway if any increase in flood levels during a base flood discharge would result.
- (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard to afford relief.

(d) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed in the National Register of Historic Places or a Commonwealth listing of historic places without regard to the procedures set forth in the remainder of this part.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Commission Comment: The Commission inserted a comma after the word “rehabilitation” in subsection (d) pursuant to 1 CMC § 3806(g).

§ 155-10.2-315 Variance Decisions

(a) Upon granting or denying an application for a variance, the building safety official shall provide all parties concerned the written decision which shall include the reason for said decision. No granted variance shall be operative until such written decision has been provided.

(b) When a variance application has been granted, the building safety official shall notify in writing that

(1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and

(2) Such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required by § 155-10.2-401.

Modified, 1 CMC § 3806(c), (f).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

Part 400 - Miscellaneous Provisions

§ 155-10.2-401 Records

The building safety official shall maintain the records of all variance applications. The decisions rendered thereon shall also be maintained and shall be provided to FEMA and to any Commonwealth agencies that so request, as well as to the general public at a nominal cost for copying. All CNMI flood control records shall be considered public documents open to the public for inspection during regular working hours.

Modified, 1 CMC § 3806(f).

History: Adopted 15 Com. Reg. 11070 (Oct. 15, 1993); Proposed 15 Com. Reg. 10603 (May 15, 1993).

CHAPTER 65-80

SOLID WASTE MANAGEMENT REGULATIONS

Part 001 General Provisions

- § 65-80-001 Applicability
- § 65-80-005 Purpose & Prohibitions
- § 65-80-010 Definitions

Part 100 General Permit Requirements - Solid Waste Management Activities/Facilities

- § 65-80-101 Applicability
- § 65-80-102 Exemptions
- § 65-80-104 Application for Permit
- § 65-80-106 Fees
- § 65-80-108 Permit by Rule
- § 65-80-110 Regulatory Agency Review
- § 65-80-112 Public Notice, Public Comment Period, and Public Hearing
- § 65-80-114 Public Notification of Permit Determination
- § 65-80-116 Effect of the Permit
- § 65-80-118 Modification of Existing Permits
- § 65-80-120 Suspension of Permit
- § 65-80-122 Revocation of Permit
- § 65-80-124 Permit Renewal
- § 65-80-126 Transfer of Permit
- § 65-80-128 Reporting Termination
- § 65-80-130 Posting of a Permit
- § 65-80-132 Falsifying or Altering a Permit
- § 65-80-134 Annual Reporting
- § 65-80-136 Conformance with Other CNMI and Federal Regulations
- § 65-80-138 Inspection
- § 65-80-140 Variances
- § 65-80-142 Existing Facilities

Part 200 Municipal Solid Waste Landfill Criteria

- § 65-80-201 Municipal Solid Waste Landfill Criteria

Part 300 Classification of Solid Waste Disposal Facilities and Standards for Non-municipal Non-hazardous Waste

Disposal Facilities That Receive CESQG Waste

- § 65-80-301 Adoption of Federal Standards
- § 65-80-305 Applicability in the CNMI

Part 400 Transfer Stations [Reserved]

Part 500 Convenience Centers [Reserved]

Part 600 Recycling [Reserved]

Part 700 Collection: Requirements for Commercial Waste Haulers

- § 65-80-701 Registration Required
- § 65-80-705 Information Required for Registration
- § 65-80-710 Applicant Responsible for Operation
- § 65-80-715 Approval of Registration
- § 65-80-720 Modification, Suspension, Revocation or Transfer
- § 65-80-725 Standard Conditions

Part 800 Miscellaneous Facilities/Activities [Reserved]

Part 900 Financial Assurance for Non-MSWLF Facilities/Operations/Activities [Reserved]

Part 1000 Enforcement Authority and Procedures

- § 65-80-1001 Remedies for Violations
- § 65-80-1005 Right to Intervene
- § 65-80-1010 Suspension, Revocation, Modification of Permits
- § 65-80-1015 Knowing and Willful Violations
- § 65-80-1020 Procedures for Administrative Orders
- § 65-80-1025 Director's Responsibility
- § 65-80-1030 Civil Actions

TITLE 65: DIVISION OF ENVIRONMENTAL QUALITY

§ 65-80-1035	Search	Orders	or	Part 1100	Miscellaneous Provisions
Warrants				§ 65-80-1101	Severability
§ 65-80-1040	Searches	Without		Appendix I	40 CFR 258 (1999)
Warrants				Appendix II	40 CFR 257 (1999)

Chapter Authority: 1 CMC §§ 2646-2649; 1 CMC § 2650; 2 CMC §§ 3101-3135; 2 CMC §§ 3511-3521.

Chapter History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Commission Comment: For a complete history of the authority of the Division of Environmental Quality (DEQ), see the commission comment to NMIAC chapter 65-10.

PL 6-30 (effective May 23, 1989), the “Commonwealth Solid Waste Management Act of 1989,” codified as amended at 2 CMC §§ 3511-3521, specifically addresses the collection, disposal and management of solid waste in the Commonwealth. 2 CMC § 3515 empowers DEQ to issue permits for the collection and disposal of solid waste and to establish rules and regulations to enforce DEQ’s powers under the act.

Executive Order No. 2013-24, promulgated at 35 Com. Reg. 34596 (Nov. 28, 2013), established a new Bureau of Environmental and Coastal Quality. This Order reorganized the Division of Environmental Quality as a division of the Bureau of Environmental and Coastal Quality, and provided that “all rules, orders, contracts, and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Executive Order shall continue to be effective until revised, amended, repealed or terminated.”

Part 001 - General Provisions

§ 65-80-001 Applicability

(a) The regulations in this chapter have been promulgated by the Division of Environmental Quality under the authority of Commonwealth Solid Waste Management Act, 1989, 2 CMC §§ 3511 to 3521; the Commonwealth Environmental Protection Act (CEPA), 1982, 2 CMC §§ 3101 to 3134, and the Commonwealth Environmental Amendments Act (CEAA), 1999, PL 11-103. The regulations in this chapter shall have the force and effect of law and shall be binding on all persons and other legal entities subject to the jurisdiction of the Commonwealth of the Northern Mariana Islands.

(b) The regulations in this chapter are applicable to all persons involved in the management of solid waste.

Modified, 1 CMC § 3806(d).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-005 Purpose & Prohibitions

(a) The purpose of the regulations in this chapter is to establish the requirements and criteria for new and existing solid waste management activities and solid waste management facilities (SWMFs) including, but not limited to, municipal solid waste landfills and other landfilling operations, incineration, solid waste collection and transfer,

materials processing, recycling, composting, and salvage. These requirements and criteria ensure the protection of human health and the environment.

(b) All new and existing solid waste management activities and SWMFs failing to comply with the regulations and criteria in this chapter are prohibited. Facilities for the disposal of solid waste that fail to satisfy the requirements of this chapter are considered open dumps, and the use of open dumps is prohibited.

Modified, 1 CMC § 3806(d).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-010 Definitions

(a) Definitions from federal regulations incorporated by reference are included in the appendices to this chapter.

(b) The following are additional definitions included for clarity as they pertain to the CNMI Solid Waste Management Regulations, codified in this chapter:

(1) “Acts” mean the CEPA, SWMA, and the CEAA unless otherwise stated.

(2) “Bioconversion” means the processing of the organic fraction of the waste stream through biological or chemical means to perform composting or to generate products, including, but not limited to, fertilizers, feeds, methane, alcohols, tars, and other products. This term includes, but is not limited to, biogasification, acid hydrolysis, pyrolysis, and fermentation. This term does not include any form of incineration or methane gas extraction from a MSWLF.

(3) “CEAA” means Commonwealth Environmental Amendments Act, 1999, PL 11-103.

(4) “CEPA” means Commonwealth Environmental Protection Act, 1982, 2 CMC §§ 3101 to 3134.

(5) “CESQG wastes” means hazardous wastes from a conditionally exempt small quantity generator as defined in 40 CFR 261.5 (1999).

(6) “CFR” means the United States Code of Federal Regulations, 1999.

(7) “Closure” means those actions taken by the owner or operator of a solid waste management facility to cease disposal operations and to ensure that closure is in conformance with applicable requirements as described in part 200.

(8) “CNMI” or “Commonwealth” means the Commonwealth of the Northern Mariana Islands.

(9) “Collection” means the removal of solid waste from a generation or transfer point and the subsequent transport of the solid waste to a site/facility for further processing, additional transfer, or disposal.

(10) “Composting” means a process in which organic solid wastes, such as biosolids (sewage sludge), vegetative waste materials, manures, and non-treated wood chips and shavings, are biologically decomposed and stabilized under controlled conditions to produce a stable humus-like mulch or soil amendment. This term includes the processing of organic and non-treated wood waste materials for the generation of wood chips or

other materials that can be used as soil amendment, planting mixes, mulches for horticultural and agricultural applications, landfill cover, and land reclamation.

(11) “Convenience center” means waste handling facilities performing limited transfer station operations and receiving less than five tons per day of exclusively household/residential waste.

(12) “Cover material” means soil or other suitable material that has been approved by the Director of DEQ for use as cover material for solid waste at a MSWLF.

(13) “DEQ” means the CNMI Division of Environmental Quality.

(14) “Director” means the Director of the CNMI Division of Environmental Quality or person designated to act by the Director unless otherwise specified.

(15) “DPW” means the CNMI Department of Public Works unless otherwise specified.

(16) “Hazardous waste” means any waste defined as hazardous under 40 CFR part 261 (1999).

(17) “Incineration” means the destruction of solid waste by combustion in a furnace designed for such purposes where solid waste essentially is reduced to ash, carbon dioxide and water vapor.

(18) “Nuisance” means an act or an omission of an act which annoys, injures, or endangers the comfort, health, or safety of others, offends decency, or unlawfully interferes with, or obstructs or tends to obstruct, any public park, square, street, or highway, or in any way renders other persons insecure in life, or in the use of property.

(19) “Permit” means any authorization, license, or equivalent control document issued under the authority of DEQ that regulates the management of solid waste including location, design, construction, operation, groundwater monitoring, corrective action, closure, post-closure care, and financial assurance elements applicable to solid waste management activities and SWMFs.

(20) “Permit by rule” means an abbreviated procedure by which those solid waste management facilities considered by the Director of DEQ to have limited impact to the community and the environment may begin operations in accordance with § 65-80-108 of this chapter.

(21) “Person” means an individual, firm association, co-partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

(22) “Post-closure” means the requirements placed upon landfill disposal sites after closure to enable their environmental safety for a thirty-year period.

(23) “Premises” means tract or parcel of land with or without buildings.

(24) “Processing” means an operation to convert solid waste or recyclable materials into a useful product or prepare such materials for disposal.

(25) “Pyrolysis” means the process in which solid waste is heated in an enclosed device in the absence of oxygen to vaporize the waste, producing a hydrocarbon-rich gas capable of being burned for recovery or energy.

(26) “RCRA” means the federal Resource Conservation and Recovery Act, 1976, as amended to 1999, 42 USC §§ 6901 to 6992.

(27) “Refuse” means anything putrescible or non- putrescible that is discarded or rejected as waste.

(28) “Reserved” means a section having no requirements and which is set aside for future possible rulemaking as a note to the regulated community.

- (29) “Salvage” means the incidental removal of solid waste for reuse under the control of the facility owner or operator.
- (30) “Solid waste management activity” means any activity that provides for the systematic administration of the collection, source separation, storage, transportation, transfer, transformation, processing, treatment, and disposal of solid waste.
- (31) “Solid waste management facility” (SWMF) means any site at which solid wastes are aggregated for storage, transfer, transformation, processing, or disposal, including but not limited to municipal solid waste landfills (MSWLFs), (as defined under 40 CFR part 258 (1999) adopted by reference under part 200 of this chapter), non-municipal, non-hazardous waste disposal units that receive conditionally exempt small quantity generator (CESQG) waste (as defined under 40 CFR part 257 (1999) adopted by reference under part 300 of this chapter), transfer stations, recycling operations, or incinerators, but not including sites where a single person has collected his/her own solid wastes for a brief period prior to removal to a solid waste management facility, unless such person has created thereby a public nuisance or health hazard.
- (32) “Solid waste management permit” means a permit issued by DEQ to a public or private entity that is involved in the collection and disposal of solid waste.
- (33) “Source separation” means separation of solid waste into some or all of its component parts at the point of generation of the solid waste.
- (34) “Storage” means the holding of solid waste materials for any temporary period.
- (35) “Stream” means the point at which any confined freshwater body of surface water reaches a mean annual flow rate of twenty feet per cubic second.
- (36) “Surface water” means all lakes, rivers, ponds, streams, inland waters, salt waters and water courses within the jurisdiction of the CNMI.
- (37) “SWMA” means Solid Waste Management Act, 1986, 2 CMC §§ 3511 to 3521.
- (38) “Transfer station” means a site to which solid wastes are brought from their point of generation or previous transfer and where such wastes are temporarily stored prior to transfer to a site of additional transfer or separation, recycling, storage, processing, or disposal.
- (39) “Treatment” means the physical, chemical or biological processing of solid waste to make such solid waste safer for storage or disposal, amenable for energy or material source recovery, or reduced in volume.
- (40) “Used oil transporter” means a person licensed or certified under local, state, or federal requirements to transport used oil.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Part 100 - General Permit Requirements - Solid Waste Management Activities/Facilities

§ 65-80-101 Applicability

- (a) It shall be unlawful for any person to perform solid waste management activities or own or operate a SWMF except in accordance with a permit issued under this chapter. All permit applications shall be submitted to DEQ, and all permits will be issued by

DEQ. DEQ shall have the authority to impose requirements on all solid waste management activities and SWMFs to ensure compliance with these and all applicable regulations.

(b) Permits issued by DEQ shall be valid for five years following the date of issuance.

Modified, 1 CMC § 3806(d), (e).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-102 Exemptions

The following are exempted from requirements of this part. These exemptions do not apply to facilities regulated under 40 CFR parts 257 and 258 (1999).

(a) A single family or multiple residence composting only green or vegetative solid wastes generated on its premises.

(b) Minor facilities/activities not involving the disposal of municipal solid waste, as determined in writing by DEQ.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-104 Application for Permit

An application for a permit shall be completed on forms furnished by DEQ and shall include, but not be limited to the following:

(a) Name, address, and telephone number of the applicant;

(b) Type of application (new, revision, or renewal);

(c) A description of how the proposed solid waste management facility/activities complies with applicable regulations; certification of compliance with local ordinances and zoning requirements;

(d) A written description of the proposed solid waste management facility/activities, including information such as general plan of operation of the solid waste management facility/activities (e.g., collection, segregation, disposal, etc.); proposed method and length of operation; area/population to be served; characteristics, quantity, and source material to be managed; the use and distribution of processed materials; method of processed residue disposal; type of equipment to be used; number of solid waste management personnel and the responsibilities of personnel; source and type of cover material (if applicable); emergency operating procedures; frequency and proposed routes of transportation to be used for the solid waste management facility/activities;

- (e) Detailed description of plans and specifications for the solid waste management facility/activities and a detailed map showing the location of the solid waste management facility/activities. Final design specifications shall comply with all applicable regulations and criteria including those found in parts 200 and 300 of this chapter and be submitted to DEQ for approval prior to commencement of operations/activities;
- (f) For MSWLF and non-municipal non-hazardous waste disposal units receiving CESQG wastes, a description of the plans for ground-water monitoring and corrective action as required in parts 200 and 300 of this chapter;
- (g) For MSWLF, description of the plans for the closure and post-closure as required in part 200 of this chapter;
- (h) For MSWLF, description of the how the facility will meet the financial assurance requirements as required in part 200 of this chapter;
- (i) Other specific requirements as stated for each facility/activity.

Modified, 1 CMC § 3806(c), (d), (f).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-106 Fees

[Reserved.]

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-108 Permit by Rule

[Reserved.]

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-110 Regulatory Agency Review

- (a) DEQ may require any additional information necessary to issue permits that are adequate to ensure compliance with the local and federal regulations and to ensure protection of public health and the environment of the CNMI.
- (b) DEQ shall within a reasonable amount of time from the date the application is received and the payment of the application fee, notify the applicant in writing if any additional information or items are required. Within 180 days of the receipt of a complete application DEQ will notify the applicant of approval or disapproval.
- (c) The 180 days time period will be tolled for any requests for additional information and for the public comment period.

(d) Within one hundred eighty days of receiving a complete application, and after consideration of public comments in accordance with § 65-80-112, DEQ shall:

(1) Approve an application for a permit if the application and the supporting information clearly show that the issuance thereof does not pose a threat to the environment, public health, or welfare, and that the solid waste management activity or SWMF is designed, built, and equipped to operate without causing a violation of applicable rules and regulations;

(2) Deny an application for a permit if the application and supporting information clearly show that the issuance, thereof, poses a threat to the environment, public health, or welfare, or that solid waste management activity or SWMF is not designed, built, and equipped to operate in compliance with applicable rules and regulations.

(3) With the exception of all federally-approved and delegated programs, if no determination on a permit application has been made one hundred eighty days after receipt of a complete application, the application shall be considered approved provided that the applicant acts consistently with the application and all plans, specifications, and other information contained therein. The permittee shall be subject to all applicable or relevant and appropriate federal and CNMI laws and regulations.

Modified, 1 CMC § 3806(c), (e), (g).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Commission Comment: In subsection (d)(3), the Commission corrected the spelling of “permittee.”

§ 65-80-112 Public Notice, Public Comment Period, and Public Hearing

(a) Before issuing a permit for a MSWLF, and before issuing any other permits covered by this chapter which DEQ determines warrant public participation, representatives of DEQ shall conduct a public hearing pursuant to 2 CMC § 3122(d) regarding DEQ’s intention to issue such a permit and give public notice providing for a forty-five day public review and comment period on the permit application documents and on the proposed action. The contents of the public notice shall include at least the following:

(1) Name, address, and phone number of DEQ and applicant;

(2) Brief description of each applicant’s activities or operations;

(3) A short description of the location of the MSWLF, or other solid waste management activity or SWMF indicating whether such MSWLF, or solid waste management activity or SWMF is new or existing;

(4) Address and phone numbers of premises at which interested persons may obtain further information and inspect a copy of the application and supporting documents.

(b) A public hearing shall be held no less than twenty-one days from the start of the public comment period. DEQ shall address public comments at the hearing. Comments received at the public hearing and during the public comment period shall be considered in making a decision and DEQ shall prepare written responses to all significant comments. The response to comments shall be made available to the public upon request.

Modified, 1 CMC § 3806(d), (e).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-114 Public Notification of Permit Determination

Pursuant to CEPA, DEQ shall make known to the public through public notice its determinations regarding any MSWLF permit, or other any other solid waste management activity or SWMF permit which DEQ has determined warrants public participation under § 65-80-112, within thirty days of such a determination.

Modified, 1 CMC § 3806(c), (e).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-116 Effect of the Permit

(a) Written acceptance of any and all permit conditions by the applicant shall be necessary prior to any commencement of facility construction/operation or prior to commencement of any activities for which the permit is required;

(b) The owner or operator must notify DEQ that construction, operations, or activities have been completed in accordance with the approved plans and specifications;

(c) Prior to commencement of the permitted facility, operation, or activity, an inspection will be conducted by DEQ to confirm that the facility, operations, or activities are ready to commence in compliance with applicable requirements.

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-118 Modification of Existing Permits

(a) DEQ may, on its own motion or the application of any person, modify a permit if, after affording the applicant an opportunity for a hearing, the Director determines that:

(1) Any condition of the permit has been violated or due to change in any condition requiring either a temporary or permanent reduction or elimination of the permitted activity or facility.

(2) There is a change in the applicable laws or regulations governing solid waste management.

(3) Such an action is in the public interest.

(b) DEQ shall develop a schedule to revisit and reissue all existing permits affected by the change in the law or regulations at the time of the change. Modification of the permit shall become final ten days after service of notice of the final decision to modify the permit.

Modified, 1 CMC § 3806(e).

TITLE 65: DIVISION OF ENVIRONMENTAL QUALITY

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-120 Suspension of Permit

(a) DEQ may, on its own motion or based on the application of any person, suspend a permit if, after affording the applicant an opportunity for a hearing, DEQ determines that:

- (1) Any condition of the permit has been violated;
- (2) Any statute or regulation of the local or federal government has been violated; or
- (3) Or such an action is in the public interest.

(b) The permit shall be suspended until all conditions of the permit are met or all violations have been properly corrected. Suspension of a permit shall become final ten days after service of notice of the final decision to suspend on the holder of the permit.

Modified, 1 CMC § 3806(e), (f).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-122 Revocation of Permit

(a) DEQ may on his own motion or the application of any person, revoke any permit if, after affording the applicant an opportunity for a hearing, DEQ determines that:

- (1) There is a violation of any condition of the permit;
- (2) The permit was obtained by misrepresentation, or failure to disclose fully all relevant facts;
- (3) There is change in any condition that requires either a temporary or permanent reduction or elimination of the permitted disposal; or
- (4) Such an action is in the public interest.

(b) Revocation of a permit shall become final ten days after service of notice of the final decision to revoke on the holder of the permit.

Modified, 1 CMC § 3806(e).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-124 Permit Renewal

The permittee must apply for renewal of the permit sixty days before the permit expires. At the time of renewal of a solid waste management permit, the facility is reevaluated and the permit conditions updated to reflect changes to the current operational procedures. The criteria for permit renewal determination is the same as for the initial application and shall be in accordance with §§ 65-80-104 through 65-80-116 of this chapter.

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

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Commission Comment: The Commission corrected the spelling of “permittee.”

§ 65-80-126 Transfer of Permit

A permit shall not be transferable, whether by operation of law or otherwise, either from one location to another, from one SWMF to another or from one person to another, without the written approval of DEQ. A transfer shall not be approved by the Director unless he determines that all applicable laws and regulations have been and will continue to be complied with after the transfer and only if the transferee provides a written assurance that it will so comply.

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-128 Reporting Termination

Sixty days prior to closure any person issued a permit shall report the permanent termination of the solid waste management activity or SWMF for which the permit has been issued to DEQ and within the thirty days after the closure shall surrender the permit to DEQ. DEQ may approve immediate closure of any SWMF if the facility poses a major threat to human health and the environment.

Modified, 1 CMC § 3806(e).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-130 Posting of a Permit

Upon granting an approval for a permit, DEQ shall issue to the applicant a permit that shall be posted in a conspicuous place at or near the operation site for which the permit was issued.

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-132 Falsifying or Altering a Permit

No person shall knowingly deface, alter, forge, counterfeit, or falsify a permit. If the permit holder, his agents or employees, are found responsible for any such activity it shall bring about immediate revocation of the permit.

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-134 Annual Reporting

The permittee shall submit an annual report to DEQ with information including the total volume and types of solid waste collected and the average number of individual residences or households and businesses serviced by the permittee on a weekly basis. The annual reports also shall be submitted with the application for a MSWLF permit renewal.

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-136 Conformance with Other CNMI and Federal Regulations

The owner or operator of a solid waste management activity or a SWMF must comply with any other applicable Commonwealth or federal rules, laws, regulations, or other requirements. Compliance with the regulations in this chapter does not exempt the owner or operator of a solid waste management activity or a SWMF from complying with such applicable Commonwealth or federal requirements.

Modified, 1 CMC § 3806(f).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-138 Inspection

(a) Representatives of DEQ, in accordance with the law, may enter and inspect a facility for the purpose of conducting inspections adequate to determine compliance with the solid waste management regulations including the terms of a permit. The inspections may be made with or without advance notice, with good purpose, and at the discretion of the Director of DEQ. The authority to inspect shall include the ability:

(1) To obtain any and all information, including records and reports, from an owner/operator of a solid waste management activity or SWMF necessary to determine whether the owner/operator is in compliance with the solid waste management regulations.

(2) To inspect any equipment.

(3) To collect samples of waste, and conduct monitoring or testing to ensure that the owner/operator is in compliance with the solid waste management regulations in this chapter.

(4) To observe operations involving the use or disposal of waste.

(b) Rights to Entry

In accordance with 2 CMC § 3132(a), for purposes of enforcing the provisions of the Commonwealth of the Northern Mariana Islands Solid Waste Management Regulations, codified in this chapter, the Director of DEQ or his authorized representative is authorized:

(1) To enter, at reasonable times, any establishment, site, premise subject or other place subject to the permit program or where solid waste is disposed, stored for transfer, or processed; including where records relevant to the operation of regulated facilities or activities are kept.

(2) To enter any premises at any time if there is substantial reason to believe that any waste disposed or stored, or otherwise present on such premises is, through accident, carelessness, or other circumstance, producing adverse effects on human health or the environment, for the purpose of taking such action as may be necessary to prevent or mitigate further adverse effects.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-140 Variances

[Reserved.]

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-142 Existing Facilities

All owners or operators of existing solid waste management activities or SWMF shall file immediately an application for a permit to continue to operate. Permit applications for existing facilities will be reviewed according to part 100 of this chapter.

Modified, 1 CMC § 3806(c).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Part 200 - Municipal Solid Waste Landfill Criteria

§ 65-80-201 Municipal Solid Waste Landfill Criteria

40 CFR part 258 (1999) is hereby adopted by reference in its entirety and is attached as appendix I to this chapter. All municipal solid waste landfills shall comply with the provisions of 40 CFR part 258 (1999).

Modified, 1 CMC § 3806(d), (f).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Part 300 - Classification of Solid Waste Disposal Facilities and Standards for Non-municipal Non-hazardous Waste Disposal Facilities That Receive CESQG Waste

§ 65-80-301 Adoption of Federal Standards

40 CFR part 257 (1999) is hereby adopted by reference in its entirety and is attached as appendix II to this chapter.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Commission Comment: The Commission created the section titles in part 300.

§ 65-80-305 Applicability in the CNMI

All non-municipal, non-hazardous waste disposal facilities that receive CESQG waste shall comply with the provisions of 40 CFR part 257, subpart B (1999).

Modified, 1 CMC § 3806(f).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Part 400 - Transfer Stations

[Reserved.]

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Part 500 - Convenience Centers

[Reserved.]

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Part 600 - Recycling

[Reserved.]

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Part 700 - Collection: Requirements for Commercial Waste Haulers

§ 65-80-701 Registration Required

It shall be unlawful for any person to initiate or continue the commercial collection of municipal solid waste without first registering with the DEQ. The annual registration fee shall be \$25 initially, and may be revised, in writing, by the Director of DEQ.

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Commission Comment: With the exception of § 65-80-725, the Commission created the section titles in part 700.

§ 65-80-705 Information Required for Registration

All applicants shall complete and submit their registration on forms furnished by the DEQ and provide the following information for approval determination:

- (a) A copy of their current business license.
- (b) A list of all trucks and other equipment involved in the operation.
- (c) The location of any vehicle or equipment storage facility.
- (d) A copy of the insurance card for each vehicle.

- (e) A copy of the CNMI Department of Public Safety (DPS) vehicle registration.

Modified, 1 CMC § 3806(f).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-710 Applicant Responsible for Operation

Each registration form shall contain the original signature of the owner and applicant and shall constitute acknowledgment that the applicant will assume responsibility for operation of the collection business in accordance with the rules and regulations in this chapter and any conditions made a part of registration.

Modified, 1 CMC § 3806(d).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-715 Approval of Registration

Registration applications containing all required information shall be considered approved 30 days following submittal, unless specific action is taken by DEQ. Commercial waste hauler registrations shall be renewed annually. The annual fee shall be \$25 initially, and may be revised in writing, by the Director of DEQ.

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-720 Modification, Suspension, Revocation or Transfer

The registration may not be modified or transferred (including change of business address) without approval from the Director of DEQ. The Director, as specified under §§ 65-80-118, 65-80-120, or 65-80-122 of this chapter, may modify, suspend or revoke any commercial waste hauler's registration, if the Director determines any of the standard conditions or any of the provisions of 2 CMC §§ 3511 to 3521 or 2 CMC §§ 3101 to 3135 have been violated, or that such modification, suspension, or revocation is in the public interest. Modifications, suspensions, or revocations shall become final 10 days after service of the notice of final decision on the holder of the registration.

Modified, 1 CMC § 3806(c), (d).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-725 Standard Conditions

- (a) All employees shall have received proper safety training as required by OSHA.
- (b) All loads shall be covered or otherwise managed to prevent windblown debris.

(c) The company name, vehicle identification number, and volumetric capacity shall be printed on both the left and right doors of all vehicles.

(d) The operator shall have in place management standards to minimize public nuisances such as odors and vectors (i.e. flies and rodents) or leaking loads.

(e) All refuse shall be managed in such a manner as to prevent any impact on public health and safety.

(f) All employees shall be made aware of any DEQ or DSWM disposal restrictions.

(g) All employees shall strictly follow any instructions given by DSWM personnel at the solid waste management facility.

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Part 800 - Miscellaneous Facilities/Activities

[Reserved.]

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Part 900 - Financial Assurance for Non-MSWLF Facilities/Operations/Activities

[Reserved.]

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Part 1000 - Enforcement Authority and Procedures

§ 65-80-1001 Remedies for Violations

The Director of DEQ is authorized to impose the following remedies for violation of the CNMI Solid Waste Management Regulations, codified in this chapter.

(a) Pursuant to 2 CMC § 3131(a) and (c), and 2 CMC § 3519(a) and in accordance with § 65-80-1020, the Director may issue any order necessary to enforce the Acts, the regulations in this chapter, and any term of any permit issued under these regulations including but not limited to:

(1) An order to cease and desist, immediately or within a stated period of time, any violation of the Acts, the regulations in this chapter or any term of any permit issued under these regulations.

(2) An order to cease and desist immediately any activity which may endanger or cause damage to human health or the environment.

(3) An order to take such mitigating measures as may be necessary to reverse or reduce any significant adverse effects of a violation of the Acts, the regulations in this chapter, or any term of any permit issued under these regulations.

(4) An order to pay any civil penalties authorized by law for violations of the regulations in this chapter, any order issued under these regulations and any term of a permit granted pursuant to these regulations.

(5) An order to pay a penalty for any amount expended by DEQ in taking necessary action to reverse or reduce any significant adverse effect of a violation of the regulations in this chapter, any order issued under these regulations, any term of a permit granted pursuant to these regulations.

(b) Pursuant to 2 CMC § 3131(b), the Director, through the CNMI Attorney General, may institute a civil action in the Commonwealth Superior Court to take any action authorized by law, including but not limited to the following:

(1) Enjoin any threatened or continuing activity that violates the Acts, the regulations in this chapter, any order issued under these regulations and any term of a permit granted pursuant to these regulations.

(2) Recover civil penalties for violations of the Acts, the regulations in this chapter, any order issued under these regulations and any term of a permit granted pursuant to these regulations.

Modified, 1 CMC § 3806(c), (d).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Commission Comment: With the exception of § 65-80-1020, the Commission created the section titles in part 1000.

§ 65-80-1005 Right to Intervene

In accordance with 2 CMC § 3131(i), any citizen having an interest that is or may be adversely affected, shall be allowed to intervene as a right in any civil action to obtain the remedies specified in § 65-80-1001.

Modified, 1 CMC § 3806(c).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-1010 Suspension, Revocation, Modification of Permits

If appropriate, and consistent with §§ 65-80-118, 65-80-120, and 65-80-122 and 65-80-1025 of this chapter, the Director may suspend, revoke, or modify any permit, license, or certification issued by DEQ for violation of the Acts, the regulations in this chapter and any permit or license issued pursuant to these regulations.

Modified, 1 CMC § 3806(c), (d).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-1015 Knowing and Willful Violations

Any person who knowingly and willfully commits any criminal act in violation of the Acts, the regulations in this chapter, and any permit, or order issued under this chapter, and who is found guilty by a court of competent jurisdiction may be punished by a fine and/or imprisonment in accordance with the law. Any other penalties or remedies provided by this chapter, the law and/or ordered by the Director shall also remain in effect.

Modified, 1 CMC § 3806(d).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-1020 Procedures for Administrative Orders

(a) Any person who is subject to civil penalties, revocation, or suspension may be served with a notice of violation and administrative order and may, upon written request, seek a hearing before the Director or designee. Request for a hearing may be served upon the Division within seven calendar days from receipt of the administrative order. Failure to request an appeal within seven calendar days shall result in the person's waiving the right to any appeal or hearing.

(b) The written request for a hearing shall serve as the answer to the complaint. The request for hearing or "answer" shall clearly and directly admit, deny, or explain each of the factual allegations contained in the complaint with regard to which the alleged violator (respondent) has any knowledge. Where respondent has no knowledge of a particular factual allegation and so states, the allegation is deemed denied. The answer shall also state

- (1) The circumstances or arguments which are alleged to constitute the grounds of defense,
- (2) The facts which respondent intends to place at issue, and
- (3) Whether a hearing is requested.
- (4) Failure to admit, deny, or explain any material factual allegation contained in the complaint constitutes an admission of the allegations. An oral answer may also be given at the time of hearing should a hearing be requested.

(c) The respondent may also request an informal settlement conference. An informal settlement conference shall not affect the respondents obligation to file a timely request for hearing. If a settlement is reached the parties shall forward a proposed consent order for the approval by the Director.

(d) If a hearing is conducted the Director or his designee will preside over the hearing. The Director shall control the taking of testimony and evidence and shall cause to be made an audio, audio-video, or stenographic record of the hearing. The type of record made shall be at the discretion of the Director. Evidence presented at such a hearing need not conform with the prescribed rules of evidence, but may be limited by the Director in any manner the Director reasonably determines to be just and efficient and promote the ends of justice. The Director shall issue a final written decision within 15 working days of the close of the enforcement hearing. The decision shall include written findings of

fact and conclusions of law. The standard of proof for such a hearing and decisions shall be the preponderance of the evidence.

(e) An appeal from the final enforcement decision shall be to the Commonwealth Superior Court within thirty calendar days following service of the final agency decision.

(f) For filing deadline purposes counting of the days shall start on the day after issuance or receipt (whichever is specified). If any filing date falls on a Saturday, Sunday, or Commonwealth holiday, the filing date shall be extended to the next working day.

Modified, 1 CMC § 3806(e), (f).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Commission Comment: The final paragraph of subsection (b) was not designated. The Commission designated it subsection (b)(4).

§ 65-80-1025 Director's Responsibility

The Director shall have the responsibility to prepare, issue, modify, revoke and enforce orders for compliance with any of the provisions of this chapter or of any rules and regulations issued pursuant thereto and requiring the taking of such remedial measures as may be necessary or appropriate to implement or effectuate the provisions and purposes of this chapter.

Modified, 1 CMC § 3806(d).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-1030 Civil Actions

The Director may initiate civil actions through the Commonwealth courts which shall be transmitted through and with the approval of the Office of the Governor and the Attorney General as necessary to enforce the regulations in this chapter. The Attorney General will institute legal actions to enjoin a violation, continuing, violation, or threatened violation of this chapter.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-1035 Search Orders or Warrants

If the Director has probable cause to believe there has been a violation of the regulations in this chapter, upon receipt of an order or warrant from the Commonwealth Trial Court or the District Court, DEQ may enter upon and search any property, take necessary samples or readings therefrom, seize evidence found therein and examine or impound any book or record found therein or specified in such order or warrant.

Modified, 1 CMC § 3806(d).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Commission Comment: The “Commonwealth Judicial Reorganization Act,” PL 6-25 (effective May 2, 1989), renamed the Commonwealth Trial Court and directed that references to the Commonwealth Trial Court in the Commonwealth Code be interpreted to refer to the new Commonwealth Superior Court. See 1 CMC § 3201 and the commission comment thereto.

§ 65-80-1040 Searches Without Warrants

The Director or his authorized representative may enter property for purposes specified in § 65-80-138 without a warrant if: a violation has occurred or is imminent; the violation poses a serious, substantial, and immediate threat to public health or welfare; or the process of obtaining a warrant or order would prolong or increase the threat, impair discovery of evidence of a violation, or impair mitigation of the threat.

Modified, 1 CMC § 3806(c), (g).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

Commission Comment: The Commission changed “treat” to “threat” to correct a manifest error. The Commission inserted commas after the words “substantial” and “violation” pursuant to 1 CMC § 3806(g).

Part 1100 - Miscellaneous Provisions

§ 65-80-1101 Severability

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

Modified, 1 CMC § 3806(d).

History: Adopted 23 Com. Reg. 18088 (June 19, 2001); Proposed 22 Com. Reg. 17329 (July 20, 2000).

§ 65-80-010 Definitions

(a) Definitions from federal regulations incorporated by reference are included in the appendices to this chapter.

(b) The following are additional definitions included for clarity as they pertain to the CNMI Solid Waste Management Regulations, codified in this chapter:

(1) "Acts" mean the CEPA, SWMA, and the CEAA unless otherwise stated.

(2) "Bioconversion" means the processing of the organic fraction of the waste stream through biological or chemical means to perform composting or to generate products, including, but not limited to, fertilizers, feeds, methane, alcohols, tars, and other products. This term includes, but is not limited to, biogasification, acid hydrolysis, pyrolysis, and fermentation. This term does not include any form of incineration or methane gas extraction from a MSWLF.

(3) "CEAA" means Commonwealth Environmental Amendments Act, 1999, PL 11-103.

(4) "CEPA" means Commonwealth Environmental Protection Act, 1982, 2 CMC §§ 3101 to 3134.

(5) "CESQG wastes" means hazardous wastes from a conditionally exempt small quantity generator as defined in 40 CFR 261.5 (~~1999~~2021).

(6) "CFR" means the United States Code of Federal Regulations, ~~1999~~2021.

(7) "Closure" means those actions taken by the owner or operator of a solid waste management facility to cease disposal operations and to ensure that closure is in conformance with applicable requirements as described in part 200.

(8) "CNMI" or "Commonwealth" means the Commonwealth of the Northern Mariana Islands.

(9) "Collection" means the removal of solid waste from a generation or transfer point and the subsequent transport of the solid waste to a site/facility for further processing, additional transfer, or disposal.

(10) "Composting" means a process in which organic solid wastes, such as biosolids (sewage sludge), vegetative waste materials, manures, and non-treated wood chips and shavings, are biologically decomposed and stabilized under controlled conditions to produce a stable humus-like mulch or soil amendment. This term includes the processing of organic and non-treated wood waste materials for the generation of wood chips or other materials that can be used as soil amendment, planting mixes, mulches for horticultural and agricultural applications, landfill cover, and land reclamation.

(11) "Construction and demolition waste" means concrete, rock, brick, bituminous concrete, and masonry resulting from the demolition or razing of buildings or other structures. Construction and demolition waste does not include wood, composition roofing and roofing paper, steel, plaster, copper and other metals, friable asbestos, hazardous substances, or materials contaminated with waste paints, solvents, sealers, adhesives, or similar materials.

~~(11)~~ ~~(12)~~ "Convenience center" means waste handling facilities performing limited transfer station operations and receiving less than five tons per day of exclusively household/residential waste.

~~(12)~~ ~~(13)~~ "Cover material" means soil or other suitable material that has been approved by the Director of DEQ for use as cover material for solid waste at a MSWLF.

~~(13)~~ ~~(14)~~ "DEQ" means the CNMI Division of Environmental Quality.

~~(14)~~—(15) “Director” means the Director of the CNMI Division of Environmental Quality or person designated to act by the Director unless otherwise specified.

~~(15)~~—(16) “DPW” means the CNMI Department of Public Works unless otherwise specified.

~~(16)~~—(17) “Hazardous waste” means any waste defined as “hazardous waste” under 40 CFR ~~part 261.3~~ (1999/2021).

~~(17)~~—(18) “Incineration” means the destruction of solid waste by combustion in a furnace designed for such purposes where solid waste essentially is reduced to ash, carbon dioxide and water vapor.

~~(18)~~—(19) “Nuisance” means an act or an omission of an act which annoys, injures, or endangers the comfort, health, or safety of others, offends decency, or unlawfully interferes with, or obstructs or tends to obstruct, any public park, square, street, or highway, or in any way renders other persons insecure in life, or in the use of property.

~~(19)~~—(20) “Permit” means any authorization, license, or equivalent control document issued under the authority of DEQ that regulates the management of solid waste including location, design, construction, operation, groundwater monitoring, corrective action, closure, post-closure care, and financial assurance elements applicable to solid waste management activities and SWMFs.

~~(20)~~—(21) “Permit by rule” means an abbreviated procedure by which those solid waste management facilities considered by the Director of DEQ to have limited impact to the community and the environment may begin operations in accordance with § 65-80-108 of this chapter.

~~(21)~~—(22) “Person” means an individual, firm association, co-partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

~~(22)~~—(23) “Post-closure” means the requirements placed upon landfill disposal sites after closure to enable their environmental safety for a thirty-year period.

~~(23)~~—(24) “Premises” means tract or parcel of land with or without buildings.

~~(24)~~—(25) “Processing” means an operation to convert solid waste or recyclable materials into a useful product or prepare such materials for disposal.

~~(25)~~—(26) “Pyrolysis” means the process in which solid waste is heated in an enclosed device in the absence of oxygen to vaporize the waste, producing a hydrocarbon-rich gas capable of being burned for recovery or energy.

~~(26)~~—(27) “RCRA” means the federal Resource Conservation and Recovery Act, 1976, as amended to 1999/2021, 42 USC §§ 6901 to 6992.

(28) “Recoverable materials” means materials that can be diverted from disposal for recycling or bioconversion. This term does not include batteries, pesticides, mercury-containing equipment, lamps, and aerosol cans subject to regulation as “universal waste” under 40 CFR Part 273 (2021).

(29) “Recycling” means the collection, separation, processing, recovery, and sale or reuse of recoverable materials that would otherwise be disposed of as solid waste, including but not limited to cardboard, newspaper, office paper, glass, aluminum containers, plastics, tires, and metal scraps, and is an integral part of a manufacturing process aimed at producing a marketable product made of postconsumer material.

(30) “Recycling drop-off facility” means a manned or unmanned structure or site for collection, manual segregation, and temporary storage of recoverable materials.

(31) “Recycling processing or materials recovery facility” means a structure or site that performs any or all of the activities required to process or recover recoverable materials for recycling, including collection, manual segregation, separation, sorting, baling, shredding, crushing, melting, temporary storage, and/or transportation of recoverable materials.

~~(27) “Refuse” means anything putrescible or non-putrescible that is discarded or rejected as waste.~~

~~(28)~~ (32) “Reserved” means a section having no requirements and which is set aside for future possible rulemaking as a note to the regulated community.

~~(29)~~ (33) “Salvage” means the incidental removal of solid waste for reuse under the control of the facility owner or operator.

(34) “Solid waste” means any waste defined as “solid waste” under 40 CFR 261.2 (2021).

(35) “Solid waste disposal facility” means any facility which receives solid waste for ultimate disposal through landfilling or incineration. This term does not include recycling drop-off facilities, recycling processing or materials recovery facilities, or bioconversion facilities.

~~(30)~~ (36) “Solid waste management activity” means any activity that provides for the systematic administration of the collection, source separation, storage, transportation, transfer, transformation, processing, treatment, and disposal of solid waste.

~~(31)~~ (37) “Solid waste management facility” (SWMF) means any site at which solid wastes are aggregated for storage, transfer, transformation, processing, or disposal, including but not limited to municipal solid waste landfills (MSWLFs), (as defined under 40 CFR part 258 ~~(1999)~~ 2021) adopted by reference under part 200 of this chapter), non-municipal, nonhazardous waste disposal units that receive conditionally exempt small quantity generator (CESQG) waste (as defined under 40 CFR part 257 ~~(1999)~~ 2021) adopted by reference under part 300 of this chapter), transfer stations, recycling operations, or incinerators, but not including sites where a single person has collected his/her own solid wastes for a brief period prior to removal to a solid waste management facility, unless such person has created thereby a public nuisance or health hazard.

~~(32)~~ (38) “Solid waste management permit” means a permit issued by DEQ to a public or private entity that is involved in the collection and disposal of solid waste.

~~(33)~~ (39) “Source separation” means separation of solid waste into some or all of its component parts at the point of generation of the solid waste.

~~(34)~~ (40) “Storage” means the holding of solid waste materials for any temporary period.

~~(35)~~ (41) “Stream” means the point at which any confined freshwater body of surface water reaches a mean annual flow rate of twenty feet per cubic second.

~~(36)~~ (42) “Surface water” means all lakes, rivers, ponds, streams, inland waters, salt waters and water courses within the jurisdiction of the CNMI.

~~(37)~~ (43) “SWMA” means Solid Waste Management Act, 1986, 2 CMC §§ 3511 to 3521.

~~(38)~~ (44) “Transfer station” means a site to which solid wastes are brought from their point of generation or previous transfer and where such wastes are temporarily stored prior to transfer to a site of additional transfer or separation, recycling, storage, processing, or disposal.

~~(39)~~ (45) "Treatment" means the physical, chemical or biological processing of solid waste to make such solid waste safer for storage or disposal, amenable for energy or material source recovery, or reduced in volume.

~~(40)~~ (46) "Used oil transporter" means a person licensed or certified under local, state, or federal requirements to transport used oil.

(47) "White goods" means electrical and mechanical appliances made primarily of metal parts such as refrigerators, clothes washers and dryers, microwaves, and televisions.

§ 65-80-106 Fees

~~(Reserved)~~ (a) Every applicant for a permit shall pay a permit application fee in accordance with the following fee schedule:

Recycling Drop-Off Facility — \$250

Automotive, Scrap Metal, and White Goods Salvage Facilities — \$250

Recycling Processing or Recovery Facility — \$500

Transfer Station — \$500

Bioconversion Facility — \$500

Construction and Demolition Waste Landfill — \$1000

Solid Waste Disposal Facility — \$1000

(b) Permit application fees shall be paid by check made payable to the CNMI Treasury.

(c) Government agencies applying for a permit are exempt from the requirement to pay an application fee.

(d) Payment of the permit application fee is due upon submission of an initial application and for each renewal application.

§ 65-80-108 Permit by Rule

~~(Reserved)~~ (a) Notwithstanding any other provision of these rules, the following types of facilities shall be deemed to have a permit if all applicable conditions are met:

(1) Recycling drop-off facilities that store less than one ton of recoverable materials at any one time.

(2) Composting facilities that store less than one ton of organic solid wastes at any one time.

(3) Automobile salvage facilities that store fewer than 10 automobiles at any one time.

(4) White goods salvage facilities that store fewer than 10 white goods at any one time.

(b) General Conditions.

(1) At least thirty (30) days prior to commencing the activities covered under a permit by rule, written notification of such activity must be made to DEQ. The notification shall be accompanied by a \$50 administrative fee. Persons failing to notify DEQ of such activities shall be deemed to be operating without a permit.

(2) No regulated hazardous waste in accordance with 40 C.F.R. Part 261 may be collected, transported, or disposed at any of the facilities.

(3) Suitable means shall be employed to prevent solid wastes from scattering and to control litter, odors, and vectors such as rodents and insects.

(4) Suitable means shall be employed to prevent and control fires, including an emergency response plan when appropriate.

(5) It is the responsibility of the facility owner and/or operator to comply with all the local rules, regulations, and ordinances, and DEQ may add additional conditions deemed appropriate.

(6) Each facility shall be supervised, secured, and have a permanent sign identifying the facility, hours and days of operation, materials accepted or not accepted, the name and contact information for the facility owner and/or operator, and other pertinent information.

(c) Conditions for Recycling Drop-Off Facilities.

(1) Scavenging at the facility by the general public is prohibited.

(2) An annual report shall be prepared and submitted to DEQ reporting the weights and types of recoverable materials received and distributed (including all materials sold, disposed, or otherwise shipped offsite) between July 1-June 30. The report is due on July 31 of each year.

(d) Conditions for Composting Facilities.

(1) The finished compost must be sufficiently stable that it can be stored or applied on land without producing a nuisance.

(2) An annual report shall be prepared and submitted to DEQ reporting the tonnage between July 1-June 30 of solid waste accepted, composted tonnage produced, and disposed (including all waste removed from the facility for disposal). The report is due on July 31 of each year.

(3) No used cooking oil, treated lumber, stained or painted wood, or biosolids (sewage sludge) may be accepted or processed for composting.

Part 600 - Recycling and Materials Recovery Facilities

~~Reserved~~ § 65-80-601 Applicability

(a) This Part regulates the construction and operation of recycling processing or materials recovery facilities.

(b) The following facilities are exempt from regulation under this Part:

(1) Recycling drop-off facilities permitted by rule; and

(2) Transfer stations and solid waste disposal facilities already permitted by DEQ, provided that the recycling processing or materials recovery operations are addressed by the facility's permit.

§ 65-80-605 Permit Required

(a) A permit is required to construct and operate a recycling processing or materials recovery facility.

(b) Recycling processing or materials recovery facilities that are in operation as of the effective date of this regulation shall submit a complete application for a permit within one year after the effective date of this regulation.

§ 65-80-610 Application for Permit

The permit application shall be completed on forms furnished by DEQ and shall include, but not be limited to, the following:

(a) Land rights. Proof of valid legal interest in the real property such as a land title or lease agreement shall be submitted.

(b) Site analysis. A site analysis shall be submitted and shall include at least a site plan, a process flow diagram, and a description of siting of equipment, machinery, public access, and turnaround areas. The site analysis shall identify any flood hazards, wetland areas, potable water supply wells, and fault areas. The site analysis shall include surrounding land uses and, where determined necessary by DEQ, describe mitigating measures taken to reduce the impact of the facility upon neighboring properties.

(c) Design requirements.

(1) Drainage. Each recycling processing or materials recovery facility shall be designed provide adequate drainage to prevent standing water and to control "run-on" and "run-off" of rainwater.

(2) Nuisance, health, and safety control. Each recycling processing or materials recovery facility shall be designed to include methods to control litter, insects, odors, and vectors.

(3) Leachate. Waste or material storage areas and the active processing areas must be located on surfaces capable of minimizing leachate release into the groundwater under the site and the surrounding land surface.

(d) Operations plan. An operations plan shall be submitted to DEQ detailing the following:

(1) A description of the recoverable material proposed to be processed or recovered at the facility including the current management of the recoverable materials;

(2) A means of weighing or measuring all materials accepted at the facility as well as all residue, waste, and recovered materials;

(3) A plan for disposal of all residues and wastes, including intended disposal measures and capacities for temporary storage of residue and waste generated during processing or recovery; and

(4) A plan to prevent and minimize fire hazards.

(e) Closure plan. A closure plan shall be submitted to DEQ detailing what steps the facility will take upon facility closure to ensure no adverse environmental impacts.

§ 65-80-615 Operating Conditions

The recycling processing or materials recovery facility must be operated in accordance with the approved operating plan.

§ 65-80-620 Recordkeeping and Reporting Requirement

(a) The facility shall maintain daily operating records including:

(1) The type and quantity, by weight or volume of recoverable material received by the facility;

- (2) The quantity, by weight or volume, of recyclable materials recovered, and of residue or waste disposed (including all waste removed from the facility for disposal); and
- (3) A summary of all monitoring performed at the facility.
- (4) Any major deviations from the operating plan.
- (b) An annual report shall be prepared and submitted to DEQ summarizing for the period from July 1-June 30 the information reflected in the daily operating records. The report is due on July 31 of each year.

§ 65-80-701 Registration Required

It shall be unlawful for any person to initiate or continue the commercial collection of municipal solid waste without first registering the waste hauling vehicle with the DEQ. The annual registration fee for each vehicle shall be ~~\$25 initially~~ \$50, and may be revised, in writing, by the Director of DEQ.

Part 800 - Miscellaneous Facilities/Activities

~~[Reserved.]~~ **§65-80-801 Applicability**

- (a) This Part regulates the construction and operation of the following types of facilities:
 - (1) Facilities that perform any or all of the activities required for composting, including chipping, chopping, mixing, blending, spraying, spreading, curing and/or other processing;
 - (2) Construction and demolition waste landfills; and
 - (3) Salvage facilities, including but not limited to automotive salvage facilities (including automobile dismantlers and junkyards), scrap metal salvage facilities, and white goods salvage facilities.
- (b) The following facilities are exempt from regulation under this Part:
 - (1) Facilities permitted by rule; and
 - (2) Transfer stations and solid waste disposal facilities already permitted by DEQ, provided that the composting, construction and demolition waste landfill, and salvage operations are addressed by the facility's permit.

§65-80-805 Permit Required

- (a) A permit is required to construct and operate a facility subject to §65-80-801.
- (b) Such facilities that are in operation as of the effective date of this regulation shall submit a complete application for a permit within one year after the effective date of this regulation.

§ 65-80-810 Application for Permit – General Requirements

The permit application shall be completed on forms furnished by DEQ and shall include, but not be limited to, the following:

- (a) Land rights. Proof of valid legal interest in the real property such as land title or lease agreement shall be submitted.

(iii) The enclosed vessel composting method, in which the mixture must be placed in an enclosed vessel and maintained at a temperature of not less than fifty-five degrees Celsius or greater throughout the mixture for at least three consecutive days; and

(iv) Other methods approved by DEQ on a case-by-case basis;

(3) A monitoring plan, including the location of monitoring points and frequency of monitoring, to ensure that the composting facility has sufficient temperature monitoring to ensure that the pathogen reduction criteria are met. For a windrow and aerated static pile process, this may include monitoring six to eight inches below the pile surface; for an aerated static pile process, this may include monitoring six to eight inches from the outlet of the aeration pipe; and for an enclosed vessel system, this may include monitoring six to eight inches inside the vessel wall and six to eight inches from the aeration piping (when operating in the positive aeration mode). Temperature monitoring must occur, at a minimum, on a daily basis; and

(4) A plan to ensure that the finished compost from composting operations shall be nonpathogenic, free of offensive odors, biologically and chemically stable, free of injurious components or particles, and able to sustain plant growth, together with a description of the ultimate use for the finished compost and the method of removal from the site.

(b) Construction and demolition solid waste landfills

(1) A waste exclusion plan to ensure that the landfill will not accept hazardous waste: electrical transformers with oil or polychlorinated biphenyls (PCB) or when generated from other than demolition projects; pesticide containers, unless they meet applicable requirements for household waste; liquids; or friable asbestos containing material, unless it complies with 40 C.F.R. Part 61, National Emission Standards for Hazardous Air Pollutants;

(2) A groundwater monitoring plan including

(i) The location of monitoring wells (with a minimum of one upgradient and one downgradient monitoring wells, plus any additional wells required by DEQ) and a detailed description of the monitoring well construction;

(ii) A sampling plan including tests to be performed, methods to be used, and frequency of sampling (including sampling and testing of the monitoring wells prior to starting operations to establish baseline data), for the following chemicals: arsenic, barium, cadmium, chromium, lead, mercury, selenium, silver, chemical oxygen demand, total organic carbon, total petroleum hydrocarbon, and cyanide; and

(iii) Corrective action requirements should the results of testing show exceedances of water quality standards and/or elevated concentrations above baseline.

(c) No additional application requirements apply for salvage facilities.

§ 65-80-820 Operating Conditions

(a) Each facility subject to this Part 800 must be operated in accordance with the approved operating plan.

(b) The owner and/or operator of each facility subject to this Part 800 must notify any potential purchaser of the property that the property has been used for regulated solid waste management activity.

§ 65-80-830 Recordkeeping and Reporting Requirement

- (a) The facility shall maintain daily operating records including:
- (1) The type and quantity, by weight or volume of waste received by the facility;
 - (2) The quantity, by weight or volume, of compost produced and/or material salvaged, as applicable, and of residue or waste disposed (including all waste removed from the facility for disposal);
 - (3) A summary of all monitoring performed at the facility; and
 - (4) Any major deviations from the operating plan.
- (b) An annual report shall be prepared and submitted to DEQ summarizing for the period from July 1-June 30 the information reflected in the daily operating records. The report is due on July 31 of each year.

TITLE 2: NATURAL RESOURCES
DIVISION 3: THE ENVIRONMENT

§ 3513. Definitions.

(a) “Chief” shall mean the Chief of the Division of Environmental Quality, Department of Public Health and Environmental Services.

(b) “Collection” shall mean the act of removing solid waste from a storage container at the source of generation or at a transfer station and the subsequent transport of the solid waste to the site of disposal.

(c) “Director” shall mean the Director of the Department of Public Works.

(d) “Disposal” shall mean and include the siting, design, construction or operation of any solid waste management facility, including but not limited to sanitary landfills, transfer stations, recycling operations, or incinerators.

(e) “Hazardous waste” shall mean any material which because of its quantity, concentration, physical, chemical, radiological, toxic, or infectious characteristics, may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment when improperly managed.

(f) “Open burning” means burning of solid waste in the open, such as in an open dump.

(g) “Open dump” shall mean a land site at which solid wastes are disposed of in a manner that does not protect the environment, are susceptible to open burning, or are exposed to the elements, vectors, or scavengers.

(h) “Person” shall mean any individual, partnership, corporation, association, or government entity, corporation, or agency.

(i) “Sanitary landfill” shall mean a solid waste management facility employing an engineered method of disposing of solid wastes on land in a manner that minimized environmental hazards by spreading the solid wastes in thin layers, compacting the solid wastes to the smallest practical volume, and applying and compacting cover material at the end of each operating day.

(j) “Solid waste,” shall mean and include any garbage, refuse, sludge from a water supply or waste treatment plant, or other discarded material whether solid, liquid, semisolid, or contained gaseous material, excluding domestic sewage or discharge of dredged material subject to the U.S. Clean Water Act, as amended [33 U.S.C. § 1251 et seq.].

(k) “Solid waste management facility” means any site at which solid wastes are aggregated for storage, transfer, transformation, processing, or disposal, including but not limited to sanitary landfills, transfer stations, recycling operations, or incinerators, but not including sites where a single person has collected its own solid wastes for a brief period prior to removal to a solid waste management facility, unless such person has created thereby a public nuisance or health hazard.

(l) “Transfer station” means a site to which solid wastes are brought from their point of generation and where such wastes are temporarily stored prior to transfer to a site of permanent storage, processing, or other method of disposal.

TITLE 2: NATURAL RESOURCES
DIVISION 3: THE ENVIRONMENT

(m) “Debris staging areas” means storage of rubble, wreckage and vegetation remains from typhoons, storms or other destructive events of an emergency nature as determined by the director.

Source: PL 6-30, § 3; new subsection (m) added by PL 11-103, § 6.

Commission Comment: With respect to the references to the “Chief of the Division of Environmental Quality” and the “Director of the Department of Public Works,” see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.

PL 11-103 took effect on September 29, 1999. PL 11-103 contained short title, findings, severability, and savings clause provisions as follows:

Section 1. Short Title. This act may be cited as the “Commonwealth Environmental Amendments Act of 1999”.

Section 2. Findings. The Legislature finds and declares that as a policy, the Commonwealth should update its environmental laws to be consistent and compatible with applicable federal EPA requirements. Towards that end, the amendments made in this Act will make our present environmental laws consistent with applicable federal laws and regulations.

. . .

Section 10. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 11. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on the date this Act becomes effective.

TITLE 2: NATURAL RESOURCES
DIVISION 3: THE ENVIRONMENT

§ 3517. Recycling.

(a) At any collection point or disposal site the permittee, or in the case of transfer stations or other solid waste management facilities operated by the Department of Public Works, the director shall provide for the segregation from other solid wastes and from each other those components which can be recycled profitably either within the Commonwealth or by shipment to recycling operations outside the Commonwealth.

(b) Fees for collection and disposal of solid wastes shall be structured so as to encourage such segregation by the public and be consistent with the economic value of the components.

Source: PL 6-30, § 7.

Commission Comment: With respect to the reference to the “director” of the Department of Public Works and to the department itself, see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.

TITLE 2: NATURAL RESOURCES
DIVISION 3: THE ENVIRONMENT

§ 3518. Prohibited Activities.

It is unlawful for any person to:

- (a) Violate any provision of this chapter or any rule or regulation established by authority of this chapter;
- (b) Own, operate, or use debris staging areas for disposal of solid waste without an emergency permit issued pursuant to this chapter. The use of open dumps for disposal of solid waste is strictly prohibited;
- (c) Place, or allow to be placed, any solid waste on the roads or on any public or private property contrary to the provisions of law;
- (d) Own or manage a solid waste management facility without a disposal permit issued pursuant to this chapter;
- (e) Operate a business the purpose of which is to collect or transport solid waste without a collection permit issued pursuant to this chapter;
- (f) Collect, transport, process, or dispose of solid waste or hazardous waste in such a manner as to degrade the environment, create a public nuisance, create a health or safety hazard, or in a manner otherwise contrary to this chapter;
- (g) Transport solid waste on any road unless adequate precautions are taken to contain and prevent the solid waste from falling off the vehicle;
- (h) Destroy, or attempt to destroy, by burning, except in an incinerator approved by the chief, any solid waste that will give off offensive odors or that is within one mile of any village or other residential or urban area. Burning of trees, bush, grass, or other organic detritus of land clearing or landscaping is permissible as permitted by law; or
- (i) Dispose of any hazardous waste without a hazardous waste management permit issued pursuant to 2 CMC § 3122(c)(2).

Source: PL 6-30, § 8; subsection (b) amended by PL 11-103, § 8.

Commission Comment: PL 11-103 took effect on September 29, 1999. PL 11-103 contained short title, findings, severability, and savings clause provisions as follows:

Section 1. Short Title. This act may be cited as the “Commonwealth Environmental Amendments Act of 1999”.

Section 2. Findings. The Legislature finds and declares that as a policy, the Commonwealth should update its environmental laws to be consistent and compatible with applicable federal EPA requirements. Towards that end, the amendments made in this Act will make our present environmental laws consistent with applicable federal laws and regulations.

...

Section 10. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 11. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on the date this Act becomes effective.

TITLE 2: NATURAL RESOURCES
DIVISION 3: THE ENVIRONMENT

§ 3519. Penalties.

(a) The chief may issue any order to enforce the provisions of this chapter. The order may require the person to do any of the following:

- (1) To cease and desist from the violation;
- (2) To take mitigating measures to correct the violation;
- (3) To pay a civil fine of not more than \$1,000 for each violation.

(b) The chief may institute a civil action to seek any lawful remedy, including exemplary damages and contempt for failing to abide by an order, to enforce the provisions of this chapter.

(c) The chief may modify, suspend, summarily suspend, or revoke any permit issued by Division of Environmental Quality for violation of provisions of this chapter, subject to the provisions of the Administrative Procedure Act (1 CMC § 9101 et seq.).

(d) Any person who violates any hazardous waste management provision of this chapter or any regulation issued under the authority of this chapter, or who refuses or neglects to comply with an order issued by the chief shall pay to the Division of Environmental Quality a civil penalty of not less than \$10,000 per day for each violation.

(e) Any person subject to civil penalties is entitled to prior written notice and to a hearing upon written request to the chief.

(f) In addition to the other penalties provided for in this chapter, a person is guilty of criminal offense if the person knowingly and willingly commits any act prohibited by this chapter. Any violation of this chapter shall be punishable by a fine of not more than \$50,000, or by imprisonment for not more than one year, or both.

(g) Each day of continued violation is a separate offense.

Source: PL 6-30, § 9.

Commission Comment: With respect to the references to the “chief” of the Division of Environmental Quality and to the division itself, see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.

TITLE 2: NATURAL RESOURCES
DIVISION 3: THE ENVIRONMENT

§ 3111. Policy and Purpose.

(a) The legislature declares that it is the policy of the Commonwealth:

(1) To affirmatively protect the right of each person to a clean and healthful public environment, as guaranteed by N.M.I. Const. art. I, § 9;

(2) To establish and enforce environmental standards to protect and preserve the marine resources of the Commonwealth, in implementation of N.M.I. Const. art. XIV, § 1;

(3) To protect vigorously the environment of uninhabited islands of the Commonwealth, thus furthering the purposes of N.M.I. Const. art. XIV, § 2, which requires that they be maintained as uninhabited places and used for cultural and recreational purposes, and for preservation of bird, fish, wildlife, and plant species;

(4) To afford special consideration to the environmental quality of places and things of cultural and historical significance to contribute to the protection and preservation thereof, in implementation of N.M.I. Const. art. XIV, § 3;

(5) To maintain optimal levels of air, land, and water quality in order to protect and preserve the public health and general welfare;

(6) To assure that necessary or desirable economic and social development proceeds in an environmentally responsible manner in order to promote the highest attainable quality of life for present and future generations;

(7) To preserve, protect, and improve the aesthetic quality of the land, water, and natural resources of the Commonwealth in order to promote the beauty of the Commonwealth for the enjoyment of its residents and visitors; and

(8) To protect the people of the Commonwealth from physical, mental, and emotional harm that may be caused by excessive levels of noise.

(b) It is the purpose of this chapter to implement the policies set forth in subsection (a) of this section through the clarification of responsibility within the Commonwealth government for environmental protection and through the establishment of a sound legal basis for the development and implementation of environmental plans and programs, and for the issuance and enforcement of rules, regulations, orders, standards, and permits relating to the preservation, protection, maintenance, and enhancement of the quality of the environment of the Commonwealth.

Source: PL 3-23, § 2.

TITLE 2: NATURAL RESOURCES
DIVISION 3: THE ENVIRONMENT

§ 3112. Definitions.

As used in this chapter, the term:

- (a) “Department” means the Department of Public Health and Environmental Services;
- (b) “Director” means the Director of Public Health and Environmental Services;
- (c) “Board” means the Board of Health and Environmental Quality;
- (d) “Division” means the Division of Environmental Quality established by 1 CMC § 2646 et seq.;
- (e) “Chief” means the chief of the division; and
- (f) “Person” means any individual, corporation, association, partnership, or governmental entity.

Source: PL 3-23, § 4.

Commission Comment: With respect to the references to the “Director of Public Health and Environmental Services,” the “Department of Public Health and Environmental Services,” and the “chief” of the Division of Environmental Quality, see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.

TITLE 2: NATURAL RESOURCES
DIVISION 3: THE ENVIRONMENT

§ 3131. Enforcement, Remedies, and Penalties.

(a) The chief, pursuant to regulations issued by the director, shall have the power to issue any necessary order to enforce the provisions of this chapter, any regulation issued under this chapter, and any term of a permit granted pursuant to this chapter. The order may require that any person violating the provision or term cease and desist from such violation immediately or within a stated period of time, and may require that the person take such mitigating measures as may be necessary to reverse or reduce any significant adverse effect of such violation. The order may apply to any person in addition to the violator when necessary to protect the public health or welfare.

(b) At the request of the chief, transmitted through and with the approval of the director, the Attorney General shall institute a civil action in the Commonwealth Trial Court for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this chapter, any regulation or order issued under this chapter, or any term of a permit granted pursuant to this chapter.

(c) If any person fails to comply with any provision of this chapter, or any regulation or order issued under this chapter, or any term of a permit granted pursuant to this chapter, after notice of failure and the expiration of any reasonable period allowed for corrective action, the person is liable for a civil penalty of not more than \$25,000 for each day of the continuance of the violation. A person is liable for an additional penalty for any amount expended by any agency of the Commonwealth in taking any necessary action to reverse or reduce any significant adverse effect of the violation when the person is unwilling or unable to do so. If appropriate, any permit granted to a person pursuant to this chapter may be revoked, suspended, or modified. The director may assess, collect, and compromise any penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing before the director or a person designated by the director for that purpose; provided, in emergencies the director may summarily suspend a permit pending proceedings under this subsection.

(d) Any person who knowingly and willfully:

(1) Violates any provision of this chapter, or any regulation or order issued under this chapter, or any term of a permit granted pursuant to this chapter;

(2) Makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this chapter; or

(3) Falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this chapter, shall, upon conviction, be punished by a fine of not more than \$50,000, or by imprisonment for not more than one year, or both.

Each day that a violation under subsection (d)(1) of this section continues, or each day that any device or method of record remains inaccurate or inoperative because of any activity described in subsection (d)(3) of this section, shall constitute a separate violation.

TITLE 2: NATURAL RESOURCES
DIVISION 3: THE ENVIRONMENT

(e) Whenever a corporation or other entity is subject to prosecution under subsection (d) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under that subsection.

(f) The remedies and penalties prescribed in this section shall be concurrent and cumulative, and the exercise of one shall not preclude the exercise of the others, and these remedies and penalties are in addition to any other remedy or penalty afforded by any other law or regulation.

(g) Appeals from and judicial review of any adverse administrative action or decision under this chapter shall be conducted as otherwise provided by law.

(h) Any penalty or fine collected pursuant to this section and any permit fee collected pursuant to regulations issued under the authority of 2 CMC § 3121 shall be deposited in the special Division of Environmental Quality fund account established by the Secretary of Finance.

(i) After exhausting administrative appeals procedures, a person shall be allowed under this chapter, as a matter of right, to file a civil action within the limits prescribed by law.

Source: PL 3-23, § 9, modified; new subsection (i) added and subsections (c) and (h) amended by PL 11-103, § 3.

Commission Comment: Section 4 of PL 6-25, the “Commonwealth Judicial Reorganization Act of 1989,” provides that “[w]herever the term ‘Commonwealth Trial Court’ appears in the Commonwealth Code, it is henceforth to be interpreted and understood to refer to the Commonwealth Superior Court.”

With respect to the references to the “chief” of the Division of Environmental Quality and the “director” of the Department of Public Health and Environmental Services, see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.

PL 11-103 took effect on September 29, 1999. PL 11-103 contained short title, findings, severability, and savings clause provisions as follows:

Section 1. Short Title. This act may be cited as the “Commonwealth Environmental Amendments Act of 1999”.

Section 2. Findings. The Legislature finds and declares that as a policy, the Commonwealth should update its environmental laws to be consistent and compatible with applicable federal EPA requirements. Towards that end, the amendments made in this Act will make our present environmental laws consistent with applicable federal laws and regulations.

...

Section 10. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or

TITLE 2: NATURAL RESOURCES
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the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 11. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on the date this Act becomes effective.

ELEVENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

PUBLIC LAW NO. 11-103

H. B. NO. 11-358

THIRD REGULAR SESSION, 1999

AN ACT

To amend 2 CMC, Division 3, Chapter 1, Article 3, §3131 by adding a new subsection (i) and amending §3131(c) and (h); Amend 2 CMC, Division 3, Chapter 1, Article 3, §3132(a); Amend 2 CMC, Division 3, Chapter 1, Article 3 by adding a new §3135; Amend 2 CMC, Division 3, Chapter 5, §3513 by adding a new subsection (m); Amend 2 CMC, Division 3, Chapter 5, §3515(b) and §3518(b); Amend 2 CMC, Division 3, Chapter 5, §3520; and for other purposes.

**BE IT ENACTED BY THE ELEVENTH NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

Section 1. Short Title. This act may be cited as the “Commonwealth Environmental Amendments Act of 1999”.

Section 2. Findings. The Legislature finds and declares that as a policy, the Commonwealth should update its environmental laws to be consistent and compatible with applicable federal EPA requirements. Towards that end, the amendments made in this Act will make our present environmental laws consistent with applicable federal laws and regulations.

Section 3. Amendments. 2 CMC, Division 3, Chapter 1, Article 3, §3131 is hereby amended by adding a new subsection (i) and amending §3131(c) and (h) to read as follows:

“(i) After exhausting administrative appeals procedures, a person shall be allowed under this Chapter, as a matter of right, to file a civil action within the limits prescribed by law.

§3131(c). If any person fails to comply with any provision of this chapter, or any regulation or order issued under this chapter, or any term of a permit granted pursuant to this chapter, after notice of failure and the expiration of any reasonable period allowed for corrective action, the person is liable for a civil penalty of not more than \$25,000 for each day of the continuance of the violation. A person is liable for an additional penalty for any amount expended by any agency of the Commonwealth in taking any necessary action to reverse or reduce any

significant adverse effect of the violation when the person is unwilling or unable to do so. If appropriate, any permit granted to a person pursuant to this chapter may be revoked, suspended, or modified. The director may assess, collect, and compromise any penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing before the Director or a person designated by the Director for that purpose; provided, in emergencies the Director may summarily suspend a permit pending proceedings under this subsection.

§3131(h). Any penalty or fine collected pursuant to this section and any permit fee collected pursuant to regulations issued under the authority of 2 CMC § 3121 shall be deposited in the special Division of Environmental Quality fund account established by the Secretary of Finance.”

Section 4. Amendment. 2 CMC, Division 3, Chapter 1, Article 3, Section 3132(a) is hereby amended to read as follows:

“(a) The Director or his authorized representative shall have access to any facility or records, subject to the regulations under this Act, for the purpose of inspecting the premises and appropriate documents to determine compliance with applicable regulations and/or the terms of any permit. The inspection may be made with or without advance notice to any organization if done for a good purpose, at the discretion of the Director, but shall be made at reasonable times unless an emergency dictates otherwise.”

Section 5. Amendments. 2 CMC, Division 3, Chapter 1, Article 3 is hereby amended by adding a new §3135 to read as follows:

“§3135. Division of Environmental Quality Special Fund Account. The Secretary of Finance shall establish a special fund account called the Division of Environmental Quality Special Fund Account. All penalties and fines collected pursuant to this section and any permit fee collected pursuant to regulations issued under the authority of 2 CMC §3121 shall be deposited in this account. Such funds shall not be subject to fiscal year limitation. The Director, or his or her designee, shall be the expenditure authority for the funds deposited and shall be expended solely for the administration of the Division of Environmental Quality.”

Section 6. Amendments. 2 CMC, Division 3, Chapter 5, §3513 is hereby amended by adding a new subsection (m) to read as follows:

“(m) “debris staging areas” means storage of rubble, wreckage and vegetation remains from typhoons, storms or other destructive events of an emergency nature as determined by the Director.”

Section 7. Amendments. 2 CMC, Division 3, Chapter 5, §3515(b) is hereby amended to read as follows:

“(b) The Director of the Division of Environmental Quality is authorized to issue emergency permits for debris staging areas.

(1) Emergency permits must be countersigned by the Governor of the Commonwealth.

(2) Notice of an emergency permit must be advertised through at least two forms of public media one week prior to becoming effective.”

Section 8. Amendments. 2 CMC, Division 3, Chapter 5, §3518(b) is hereby amended to read as follows:

“(b) Own, operate, or use debris staging areas for disposal of solid waste without an emergency permit issued pursuant to this chapter. The use of open dumps for disposal of solid waste is strictly prohibited.”

Section 9. Amendments. 2 CMC, Division 3, Chapter 5, §3520 is hereby amended to read as follows:

“§3520. Deposits. All monies, including fees and civil fines, collected by the Director of the Division of Environmental Quality under the provisions of this chapter shall be deposited to the Division of Environmental Quality Special Fund Account.”

Section 10. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 11. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on the date this Act becomes effective.

Section 12. Effective Date. This Act shall take effect as upon its approval by the Governor or upon its becoming law without such approval.

CERTIFIED BY:

/s/ Jesus T. Attao
JESUS T. ATTAO
Acting Speaker
House of Representatives

ATTESTED BY:

/s/ Evelyn C. Fleming
EVELYN C. FLEMING
House Clerk

Approved this 29th day of September, 1999

/s/ Pedro P. Tenorio
PEDRO P. TENORIO
Governor
Commonwealth of the Northern Mariana Islands

TITLE 2: NATURAL RESOURCES
DIVISION 3: THE ENVIRONMENT

§ 3331. Penalties.

(a) The chief may issue any order to enforce provisions of this chapter. The order may require the person to do any of the following:

- (1) To cease and desist from the violation;
- (2) To take mitigating measures to correct the violation; or
- (3) To pay a civil fine of not more than \$1,000 for each violation.

(b) The chief may institute a civil action to seek any lawful remedy, including exemplary damages and contempt for failing to abide by an order, to enforce the provisions of this chapter.

(c) The chief may modify, suspend, summarily suspend, or revoke any permit issued by the Division of Environmental Quality for violation of provisions of this chapter.

(d) Any person subject to civil penalties is entitled to notice and a hearing upon written request to the chief. The chief may compromise any penalty.

(e) A person is guilty of a criminal offense if found by a court of competent jurisdiction to have knowingly and willingly committed any act prohibited by this chapter. In addition to the other penalties provided for in this chapter, a criminal violation shall be punishable by a fine of not more than \$50,000 or by imprisonment for not more than one year or both.

(f) Each day of continued violation is a separate offense.

Source: PL 6-12, § 14.

Commission Comment: With respect to the references to the “chief” of the Division of Environmental Quality, see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.

TITLE 2: NATURAL RESOURCES
DIVISION 7: BUILDING AND ZONING CODES

§ 7126. Violations of the Code.

(a) It shall be unlawful for any person, firm or corporation to construct, enlarge, move, equip, use, occupy or maintain any building or structure, or cause to permit the same to be done, in violation of any provisions of this building safety code. If a violation of the building safety code has occurred, the building safety official shall require the completion of corrective measures that result in compliance with the building safety code before occupancy of the building is permitted.

(b) *Civil Penalty.* In addition to the powers of the building safety official under 2 CMC § 7122(d) and (e), the building safety official shall establish by regulation a system of civil penalties, gradated by severity and type of violation, and not to exceed \$10,000 or one percent of the total value of the project, whichever is greater, per day for code violations, and may obtain injunctive relief from sale, delivery, use, occupancy, construction, or removal of any building covered by this building safety code, upon an affidavit of the building safety official specifying the manner in which the building does not conform to the building safety code.

(c) *Criminal Penalty.* In addition to all other remedies or penalties hereunder, any person who knowingly and willfully commits an offense under subsection (a) of this section shall upon conviction be imprisoned for not more than six months or fined not more than \$50,000 or both.

(d) *Private Action.* Notwithstanding any other remedies available, any person damaged economically, injured, or otherwise aggrieved as a result of a violation of the building safety code has a cause of action against the person who committed the violation. Violation of the building safety code shall constitute a per se public nuisance. An award shall include damages and the costs of litigation including reasonable attorney's fees.

Source: PL 6-45, § 1 (§ 7126).