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Richard V. Salas
Director, DCRM

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PLN23-003

Joelle Gore
Chief, Stewardship Division, NOAA OCM
1305 East-West Highway, SSMC4 N/OCM6
Silver Spring, MD 20910

RE: CNMI Coastal Management Program Change Submission, CNMI 2023-1

Dear Chief Gore,

The Commonwealth of the Northern Mariana Islands (CNMI) Division of Coastal Resources Management (DCRM), is submitting a Coastal Zone Management Act (CZMA) program change request to the National Oceanic and Atmospheric Administration, Office for Coastal Management (NOAA OCM) through the CZMA Program Change Portal. This request contains minor changes to previously approved regulations, as well as substantive changes which would incorporate a suite of enforceable policies for CZMA Section 307 federal consistency review. CNMI DCRM consulted with NOAA OCM per 15 CFR § 923.81(d) prior to submission to review the enforceable policies in context with the criteria set forth in 15 CFR § 923.84(b) and 15 CFR § 923.82(d)(2). The program approval areas that apply to this program change are Uses Subject to Management, Special Management Areas, and Authorities and Organization.

This submittal through the Program Change Portal contains the following:

- A brief description of program change request CNMI 2023-1 which follows;
- A table of the program change;
- A copy of public notice for the program change that will be published on 3/9/2023 and posted online at <https://dcrm.gov.mp/our-programs/permitting/federal-consistency>; and
- Text of the adopted laws and regulations included in the program change submission.

If you have any questions, please contact myself or Arthur Charfauros at fedcon@dcrm.gov.mp.

Sincerely,

RICHARD V. SALAS
Director
Division of Coastal Resources Management

CC: Kerry Kehoe, David Kaiser

DESCRIPTION OF PROGRAM CHANGE REQUEST CNMI 2023-1

New:

• Northern Mariana Islands Administrative Code (NMIAC) Chapter 15-20 Water Sports Regulations – Repealing previous Jet Ski Rules and Regulations at NMIAC §§ 15-20-101 to 15-20-405 and adopting new Water Sports Regulations at NMIAC §§ 15-20-001 to 15-20-705. Effective 08/07/2021. Enforceable Policies at § 15-20-015 Definitions; § 15-20-115 Maximum Number of Permits; Part 200 Commercial Water Sports Operations; Part 400 Designated Areas of Operation; Part 500 Personal, Recreational and Non-Commercial Uses.

These revisions seek to repeal the Jet Ski Rules and Regulations and adopt new Water Sports Regulations, which:

1. Adopt general provisions stating the short title, authority, purpose and scope, and definitions for the Water Sports Regulations, §§ 15-20-001 to 15-20-015;
2. Prohibit Commercial operation of Water Sports and Recreation Activities (including certain Motorized Activities, Non-Motorized Activities, Parasailing, Water-Jet Craft, and Towed Floatation) except as authorized by a Water Sports Permit issued by DCRM, § 15-20 101;
3. Restrict issuance of Water Sports Permits to one per person in various categories and limit the maximum number of permits for each category, §§ 15-20-105 & 15-20-115;
4. Establish procedures for permit issuance, including terms for permit expiration, renewal, fees, and property rights, §§ 15-20-110, 15-20-120 to 15-20-125, and 15-20-135;
5. Require registration of Commercial Vessels and Operators, § 15-20-130;
6. Establish regulations for Commercial Water Sports Operators, including provisions stating public policies and requiring safety measures, limiting hours of operation, and prohibiting certain operation/activities, §§ 15-20-201 to 15-20-205;
7. Prohibit transferability of Water Sports Permits, regulate change of ownership in permitted Business Entities and transfer of Vessels authorized for Commercial use relating to Water Sports and Recreation Activities, and require notification to DCRM for certain changes, §§ 15-20-301 to 15-20-310;
8. Establish designated areas for Water Sports and Recreational Activities for Rota, Tinian, Saipan, § 15-20-401;
9. Require personal, recreational, and non-Commercial Water-Jet Craft operations to be conducted in designated areas, § 15-20-501;
10. Identify grounds for enforcement action and establish procedures for enforcement, including issuance of warnings and enforcement hearing. conducting enforcement hearings, and issuing penalties and other sanctions including permit revocation and suspension, §§ 15-20-601 to 15-20-630;
11. Provide an exception to the regulations for emergencies. law enforcement or rescue craft, and Vessels operating under an event permit, § 15-20-635;
12. Adopt miscellaneous provisions for the interpretation and validity of the regulations, §§ 15-20-701 to 15-20-705; and
13. Provide enforceable mechanisms, Part 600.

- NMIAC Chapter 65-20 Division of Environmental Quality (DEQ) Drinking Water Regulations. Effective 7/30/2005. Enforceable Policies at § 65-20-010 Definitions; Part 100 CNMI Public Water System Regulations (all sections excluding enforceable mechanisms at § 65-20-142 Emergency Powers of the Director, § 65-20-144(a)(2) Prohibition against Tampering with Public Water Systems, § 65-20-148 Enforcement of Regulations, and § 65-20-150 Penalties for Violation of Regulations); Part 200 CNMI National Primary Drinking Water Regulations; Part 300 CNMI National Secondary Drinking Water Regulations (all sections excluding the appendices).

The provisions in this chapter seek to establish certain minimum standards and requirements necessary to protect public health and safety, for drinking water that is safe for human consumption, consistent with the Safe Drinking Water Act, through regulations which:

1. Provide definitions, § 65-20-010;
2. Establish standards for the CNMI Public Water System such as quality control and monitoring; design, construction, and operation, and certification of public water system operators, Part 100;
3. Establish requirements for bottle water companies, rainwater catchment systems, and the disinfection of water to meet drinking water standards; as well as incorporating the National Primary and Secondary Drinking Water Regulations, Part 200 and Part 300; and
4. Provide enforceable mechanisms, Part 100.

- NMIAC Chapter 65-20 DEQ Drinking Water Regulations – Regulating Certain Per- And Polyfluoroalkyl Substances (PFAS). Effective 4/7/2022. Enforceable Policies at § 65-20-202 Definitions; § 65-20-212 Maximum Contaminant Levels; § 65-20-218 Special Regulations, Including Monitoring Regulations and Prohibition on Lead Use.

These revisions seek to:

1. Provide a definition of “PFAS,” § 65-20-202;
2. Promulgate a maximum contaminant level (MCL) for PFAS chemicals, perfluorooctane sulfonic acid (PFOS), perfluorooctanoic acid (PFOA), and perfluorononanoic acid (PFNA) that is more protective than the MCL set in 2 CMC § 3902(a) for perfluorononanoic acid (PFNA) and otherwise equal to the MCL set in 2 CMC § 3902(a), and will adopt regulations necessary for the implementation and enforcement of the MCL, as required by 2 CMC § 3902, § 65-20-202, § 65-20-212; and
3. Establish and adopt regulations per 2 CMC § 3902(f), as necessary for the implementation and enforcement of the MCL for PFAS chemicals, including monitoring and analytical requirements, and to periodically review available information regarding PFAS and amend or promulgate regulations as needed for protection of human health, § 65-20-218.

- NMIAC Chapter 65-140 DEQ Well Drilling and Well Operations. Effective 12/27/2004. Enforceable Policies at § 65-140-010 Definitions; Part 300 Well Siting Criteria; Part 400 Well Construction Criteria; Part 500 Well Development and Disinfection; Part 600 Pump Testing and Water Quality Sampling Requirements; Part 700 Well Drilling Activity Reporting for Well Operations Permit Application; Part 800 Water Supply Capacity Guidelines; Part 1000 Well Operations Permit Obligations; Part 1100 Exemptions for Seawater Wells; Part 1200 Exemptions for Wells Predetermined to Undergo Reverse Osmosis Treatment; Part 1600 Test Wells; Part 1700 Monitoring Wells and Comprehensive Hydrogeologic Investigations; Part 1800

Discontinued Use of Wells; Part 1900 Requirements for Destruction of Abandoned Wells; Part 2000 Groundwater Management Zones; Part 2200 Groundwater Protection.

The provisions in this chapter seek to promote the long-term ability of the Commonwealth to provide reliable and potable water to the public by establishing a water well permitting system designed to monitor and regulate the use of the Commonwealth's groundwater resources, through regulations which:

1. Provide definitions, § 65-140-010;
2. Provide criteria for well siting, including setbacks from potential contamination, wellhead protection requirements, and monitoring, Part 300;
3. Provide criteria for the construction of wells, Part 400;
4. Provide standards for well development and disinfection, Part 500;
5. Require pump testing and water quality sampling for groundwater resources, Part 600;
6. Monitor and report well drilling activity, Part 700;
7. Establish guidelines for maintaining water supply capacity and well withdrawal requirements, Part 800;
8. Establish obligations for well operation permittees, Part 1000;
9. Provide exemptions for seawater well development, Part 1100;
10. Provide exemptions for development of wells pre-determined to undergo reverse osmosis water treatment, Part 1200;
11. Contains provisions for test wells, Part 1600;
12. Contains provisions for permanent groundwater monitoring wells and comprehensive hydrogeologic investigation of project areas, Part 1700;
13. Provide criteria for abandoned wells, Part 1800;
14. Require destruction of abandoned wells, Part 1900;
15. Establish groundwater management zones for the island of Saipan, Part 2000;
16. Provide measures for groundwater protection, Part 2200; and
17. Provide enforceable mechanisms, Part 1400.

• NMIAC Chapter 65-90 DEQ Underground Injection Control Regulations. Effective 1/25/1985. Enforceable Policies at § 65-90-010 Definitions; Part 100 Classification of Injection Wells; Part 200 Prohibited Activities; Part 300 Permitted Activities; Part 400 Access to Records.

The provisions in this chapter seek to establish requirements for underground injection of hazardous wastes and certain other materials with potential to contaminate ground water, through regulations which:

1. Provide definitions, § 65-90-010;
2. Classify injection wells, Part 100;
3. Identify prohibited and permitted activities according to these classes, Part 200 and Part 300;
4. Require access of the records of these injection wells to DEQ, Part 400; and
5. Provide enforceable mechanisms, Part 600.

• NMIAC Chapter 65-120 DEQ Wastewater Treatment and Disposal Rules and Regulations. Effective 7/2/2009. Enforceable Policies at § 65-120-010 Definitions; Part 100 Construction and Operation of an IWDS or OWTS; Part 200 Applicability of Regulations to Existing and New IWDS, OWTS, and Confined Animal Facilities; Part 300 IWDS and OWTS Permit Application Requirements; Part 400 IWDS General Design Parameters; Part 500 Identify Average Daily Wastewater Flow Rate; Part 600 Septic Tank Design and Construction; Part 700 Percolation

Testing Procedures; Part 800 Leaching Field Design and Construction; Part 900 Seepage Pit Design and Construction; Part 1000 IWDS and OWTS Siting Criteria; Part 1100 Holding Tanks; Part 1200 Inspection of Work in Progress; Part 1300 IWDS Certification for Use; Part 1400 IWDS Maintenance; Part 1500 Cleaning Wastewater Systems, Disposal of Wastewater Requirements and Procedures; Part 1600 OWTS Design and Construction, and Treated Wastewater Effluent Re-use; Part 1700 Animal Waste Management; Part 1800 Temporary Toilets Facilities; Part 2100 Right of Entry.

The provisions in this chapter seek to establish minimum standards for discharge of wastewater, and treatment of animal wastes, to protect groundwater, surface water, and the public health, through regulations which:

1. Provide definitions, § 65-120-010;
2. Establish conditions for construction and operation of Individual Wastewater Disposal System (IWDS) and Other Wastewater Treatment Systems (OWTS), Part 100;
3. Identify criteria for existing wastewater systems and confined animal facilities, Part 200;
4. Require information for wastewater system permit applications, Part 300;
5. Identify general design parameters for new IWDS, Part 400;
6. Identify average daily wastewater flow rates, Part 500;
7. Establish standards for septic tank design and construction, Part 600;
8. Require percolation testing for certain wastewater systems, Part 700;
9. Establish standards for leaching field design and construction, Part 800;
10. Establish standards for seepage pit design and construction, Part 900;
11. Identify criteria for wastewater systems, including setbacks, Part 1000;
12. Establish conditions for wastewater holding tanks, Part 1100;
13. Require inspection of projects to meet compliance, Part 1200;
14. Certify compliance of IWDS, Part 1300;
15. Require maintenance of IWDS, Part 1400;
16. Establish requirements for cleaning wastewater systems, and hauling and disposing of wastewater, Part 1500;
17. Establish standards for OWTS design and construction, and treated wastewater effluent reuse, Part 1600;
18. Establishing requirements for waste management of animal facilities, Part 1700;
19. Requiring Temporary Toilets Facilities for construction sites and certain types of events, Part 1800;
20. Requiring right of entry for inspection of facilities and records, Part 2100; and
21. Provide enforceable mechanisms, Part 2000.

• NMIAC Subchapter 155-10.2 Department of Public Works (DPW) Flood Damage Prevention Regulations. Effective 10/25/1993. Enforceable Policies at § 155-10.2-005 Definitions; § 155-10.2-010 Lands to Which These Regulations Apply; § 155-10.2-015 Basis for Establishing the Areas of Special Flood Hazards; § 155-10.2-025 Compliance; § 155-10.2-035 Interpretation; § 155-10.2-105 Building Permit Required; § 155-10.2-115 Interpretation of Firm Boundaries; § 155-10.2-120 Alteration of Watercourse; Part 200 Provision for Flood Hazard Reduction; Part 300 Variance and Appeal Procedures.

The provisions in this chapter seek to promote public health and safety, and to minimize public and private economic and physical losses due to flood conditions in specific areas through

regulations which:

1. Provide definitions, § 155-10.2-005;
2. Establish areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA), § 155-10.2-010, § 155-10.2-015;
3. Outline compliance and interpretation of these regulations, § 155-10.2-025, § 155-10.2-035;
4. Identify criteria for evaluating development in these areas, the boundaries of these areas, and criteria for alteration of watercourse, § 155-10.2-105, § 155-10.2-115, § 155-10.2-120;
5. Identify standards for construction, material storage, utilities, coastal high hazard areas, subdivisions, manufactured homes, and recreational vehicles, Part 200; and
6. Identify procedures, factors, and conditions for variance applications and decisions, Part 300.

• NMIAC Chapter 65-80 DEQ Solid Waste Management (SWM) Regulations. Effective 6/29/2001. Enforceable Policies at § 65-80-010 Definitions; § 65-80-102 Exemptions; § 65-80-725 Standard Conditions

These provisions in this chapter seek to establish the requirements and criteria for new and existing solid waste management activities and solid waste management facilities, through regulations which:

1. Provide definitions, § 65-80-010;
2. Identify exemptions for solid waste management activities, § 65-80-102;
3. Identify standard conditions for Commercial Waste Haulers, § 65-80-725; and
4. Provide enforceable mechanisms, Part 1000.

• NMIAC Chapter 65-80 DEQ Solid Waste Management (SWM) Regulations – Relating to Recycling, Composting, Salvage, and Construction and Demolition Waste. Effective 11/7/2021. Enforceable Policies at § 65-80-010 Definitions; § 65-80-108 Permit by Rule; § 65-80-601 Applicability; § 65-80-610 Application for Permit; § 65-80-615 Operating Conditions; § 65-80-620 Recordkeeping and Reporting Requirement; § 65-80-801 Applicability; § 65-80-810 Application for Permit - General Requirements; § 65-80-820 Operating Conditions; § 65-80-830 Recordkeeping and Reporting Requirement.

These revisions seek to:

1. Define "construction and demolition waste," "recoverable materials," "recycling," "recycling drop-off facility," "recycling processing or materials recovery facility," "solid waste," "solid waste disposal facility," and "white goods," and delete the definition for "refuse," § 65-80-010;
2. Update federal regulations incorporated by reference to current versions, § 65-80-010;
3. Establish a permit by rule authorizing certain recycling drop-off facilities, composting facilities, automobile salvage facilities, and white goods salvage facilities provided that certain conditions are met, § 65-80-108;
4. Adopt regulations governing the construction and operation of recycling processing or materials recovery facilities, including requiring a permit, identifying information required to be contained in the application, and establishing operating conditions and reporting requirements, § 65-80-601, § 65-80-610, § 65-80-615, § 65-80-620; and
5. Adopt regulations governing the construction and operation of miscellaneous solid waste management activities (composting facilities, construction and demolition solid waste landfills, and salvage facilities), including requiring a permit, identifying information required to be contained in the application, and establishing operating conditions and reporting requirements, § 65-80-801, § 65-80-810, § 65-80-820, § 65-80-830.

- 2 Commonwealth Code (CMC) § 3513, § 3517, § 3518, § 3519, Commonwealth Solid Waste Management Act of 1989; Public Law (PL) 6-30, as amended by PL 11-103. Effective 9/29/1999. Enforceable policies at 2 CMC § 3513 Definitions; 2 CMC § 3517 Recycling; 2 CMC § 3518 Prohibited Activities.

This statute contains public policy for Solid Waste Management (SWM) in the CNMI, which:

1. Provide definitions, 2 CMC § 3513;
2. Provide policy regarding recycling, which apply to further regulations, 2 CMC § 3517;
3. Provide policy regarding prohibited SWM activities, which apply to further regulations, 2 CMC § 3518; and
4. Provide enforceable mechanisms for this statute and relevant SWM regulations such as NMIAC Chapter 65-80 DEQ SWM Regulations, 2 CMC § 3519.

- 2 CMC § 3111, § 3112, § 3131, Commonwealth Environmental Protection Act; PL 3-23, as amended by PL 11-103. Effective 10/8/1982. Enforceable policies at 2 CMC § 3111 Policy and Purpose.

This statute contains public policy for environmental protection in the CNMI, which:

1. Provide definitions, 2 CMC § 3112;
2. Provide policy regarding environmental standards, which apply to further regulations, 2 CMC § 3111; and
3. Provide enforceable mechanisms for this statute and relevant environmental protection regulations, 2 CMC § 3131.

- 2 CMC § 3131(c), § 3131(h), § 3131(i), § 3513(m), § 3518(b), Commonwealth Environmental Amendments Act of 1999; PL 11-103. Effective 9/29/1999. Enforceable policies amended at 2 CMC § 3513(m) and 2 CMC § 3518(b).

This statute amends public policy for environmental protection in the CNMI, which:

1. Amends the definition of “debris staging areas” in 2 CMC § 3513(m);
2. Amends enforceable mechanisms for the Commonwealth Environmental Protection Act, 2 CMC § 3112(c), 2 CMC § 3112(h), 2 CMC § 3112(i); and
3. Amends policy regarding prohibited SWM activities, 2 CMC § 3518(b).

- 2 CMC § 3331, Commonwealth Groundwater Management and Protection Act of 1988; PL 6-12. No enforceable policies.

This statute provides enforceable mechanisms for this statute and relevant groundwater regulations such as NMIAC 65-140 DEQ Well Drilling and Well Operations, 2 CMC § 3331.

- 2 CMC § 7126 Building Safety Code; Public Law 6-45, § 1 (§ 7126). Effective 2/2/1990. No enforceable policies.

This statute provides enforceable mechanisms for this statute and relevant building safety code regulations such as NMIAC Subchapter 155-10.2 DPW Flood Damage Prevention Regulations, 2 CMC § 7126.

Revised:

• NMIAC § 15-10 Coastal Resources Management (CRM) Rules and Regulations – Creating Incentives for Building Redevelopment and Stormwater Management. Effective 4/7/2022. Enforceable Policies at § 15-10-020 Definitions; § 15-10-101 Types of CRM Permits and When Permits are Required; § 15-10-505 Specific Criteria for Major Sitings.

These revisions seek to:

1. Revise the definition of "LEED certifiable" to allow application of subsequent versions of accredited criteria and principles, § 15-10-020;
2. Clarify major siting permit fee reduction incentives for building redevelopment, including for installation of Energy-Star rated appliances and LED lighting, and add incentives for installation of renewable energy sources, § 15-10-205;
3. Add major siting permit fee reduction incentives for stormwater management, pervious surface area, and green infrastructure, § 15-10-205;
4. Add language clarifying that the fee reduction incentives for stormwater management require collection and treatment/containment of stormwater from off-site, § 15-10-205;
5. Revise the list of high priority watersheds with a designated conservation management plan in which green infrastructure elements must be considered for development projects, § 15-10-101;
6. Require evaluations of impacts to use data from best available science (such as DCRM adopted coastal flood scenarios) when available, § 15-10-505.

• NMIAC § 15-10 CRM Rules and Regulations – Specifying The Location of Public Hearings. Effective 4/7/2022. No enforceable policies.

These revisions seek to:

1. Establish and clarify that 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 Agiguan shall be conducted on Tinian; and hearings for proposed projects in the Northern Islands municipality shall be conducted in the Northern Islands municipality, unless the DCRM Director at his/her discretion determines, on the basis of economic and/or logistical feasibility, that the hearing shall be conducted on Saipan, § 15-10-220;
2. Clarify that appellate hearings shall be held on the same island as designated for permit hearings, § 15-10 235;
3. Clarify that public hearings regarding a new or modified Areas of Particular Concern (APC) or proposed boundary change for an APC shall be conducted on Saipan, § 15-10-405;
4. Clarify that all permit enforcement hearings shall be conducted on Saipan, § 15-10-825; and
5. Clarify that public hearings or meetings may be held at any location within the Commonwealth except as otherwise provided in Chapter 15-10, § 15-10-1001.

• NMIAC § 15-10 CRM Rules and Regulations – Allowing Remote Participation of CRM Agency Officials. Effective 9/7/2022. No enforceable policies.

These revisions seek to add language to the hearing and meeting provisions of DCRM's regulations to expressly allow CRM Agency Officials to appear in hearings or meetings via electronic means of communication, in the event that the CRM Agency Official is in the CNMI but unable to attend a hearing or meeting in person, §15-10-1001(c).