

TITLE 15
BUREAU OF ENVIRONMENTAL AND COASTAL
QUALITY
DIVISION OF COASTAL RESOURCES
MANAGEMENT

Chapter 15-10 **Coastal Resources Management Rules and Regulations**
Chapter 15-20 **Jet Ski Rules and Regulations**

CHAPTER 15-10
COASTAL RESOURCES MANAGEMENT RULES AND REGULATIONS

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Chapter Authority: 2 CMC § 1531(d).

Chapter History: Certification and Adoption of Rule 38 Com. Reg. 37489 (Jan. 28, 2016); Amdts Adopted 37 Com. Reg. 36617 (June 28, 2015); Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 24 Com. Reg. 19947 (Dec. 27,

2002); Amdts Proposed 24 Com. Reg. 19519 (Sept. 27, 2002); Amdts Adopted 18 Com. Reg. 14038 (Mar. 15, 1996); Amdts Proposed 18 Com. Reg. 13987 (Feb. 15, 1996); Amdts Adopted 16 Com. Reg. 12327 (Aug. 15, 1994); Amdts Proposed 16 Com. Reg. 12220 (July 15, 1994); Amdts Adopted 16 Com. Reg. 12097 (Jun. 15, 1994); Amdts Proposed 16 Com. Reg. 11820 (Apr. 15, 1994); Amdts Adopted 14 Com. Reg. 10165 (Nov. 15, 1992); Amdts Emergency and Proposed 14 Com. Reg. 9584 (Sept. 15, 1992) (effective for 120 days from Aug. 27, 1992); Amdts Emergency and Proposed 14 Com. Reg. 9173 (Apr. 15, 1992) (effective for 120 days from Mar. 16, 1992); Amdts Adopted 12 Com. Reg. 7183 (July 15, 1990); Amdts Proposed 12 Com. Reg. 6998 (May 15, 1990); Amdts Adopted 9 Com. Reg. 4989 (July 20, 1987); Amdts Proposed 9 Com. Reg. 4967 (May 15, 1987); Amdts Adopted 8 Com. Reg. 4698 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4580 (Sept. 15, 1986); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Commission Comment: Prior to 1983, the coastal resources management program existed under Executive Order 15 (effective Feb. 1, 1980), reprinted at 2 Com. Reg. 522 (Feb. 16, 1980), and its implementing regulations. See 2 Com. Reg. 848 (Aug. 26, 1980) (adopted); 2 Com. Reg. 495 (Feb. 16, 1980) (proposed).

In 1983, the Commonwealth Legislature passed the Coastal Resources Management Act of 1983, PL 3-47 (effective Feb. 11, 1983), codified as amended at 1 CMC §§ 2081 and 2082, and 2 CMC §§ 1501-1543. PL 3-47 § 14 vacated Executive Order 15.

PL 3-47 designated coastal resources management agencies with the power to promulgate regulations to implement the policies of the act, and created the Coastal Resources Management Office within the Office of the Governor to implement the policies and regulations. See 1 CMC § 2081; 2 CMC §§ 1512 and 1531. Section 8 stated that the 1980 regulations, applicable on February 11, 1983, “shall remain in force and effect until and unless modified by the coastal resources management agencies.” See 2 CMC § 1531(b) and the commission comment thereto.

Executive Order 94-3 (effective August 23, 1994), reprinted in the commission comment to 1 CMC § 2001, reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. Executive Order 94-3 § 206(a) transferred the Coastal Resources Management Office to the Department of Lands and Natural Resources. PL 11-109 (effective December 21, 1999) vacated § 206 in its entirety and reenacted and reinstated all provisions of PL 3-47 and PL 7-3 in effect immediately prior to the effective date of Executive Order 94-3. PL 11-109 § 2(a); PL 11-109 § 3; see also the commission comment to 1 CMC § 2081.

In May 2007, the CNMI Attorney General’s Office issued Opinion 07-01 regarding the CNMI’s rights over its submerged lands. 29 Com. Reg. 26517 (May 16, 2007). Opinion 07-01 provides:

The CNMI has unimpeded jurisdiction over its internal waters and underlying submerged lands. The CNMI maintains traditional police powers in the three-mile wide territorial sea. The CNMI is entitled to additional rights in its territorial sea and exclusive economic zone, though the specific extent of those rights must be clarified by, and vested through, an act of Congress.

For the full text of Attorney General Opinion 07-01, see 29 Com. Reg. 26517 (May 16, 2007).

Pub. L. No. 113-34 (2013), codified at 48 U.S.C. §§ 1705 and 1706, clarified and vested the CNMI’s rights in its territorial seas.

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 Coastal Resources Management Office as the Division of Coastal Resources Management 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.”

The Bureau of Environmental Quality initially published a Notice of Adoption for the September 2014 proposed amendments in December 2014, noting that the amendments would go into effect upon approval by the U.S. NOAA. 37 Com. Reg. 36004 (Jan. 28, 2015). The Bureau published an Amended Notice of Adoption in January 2015 with

the requirement for NOAA approval removed. 37 Com. Reg. 36004 (Jan. 28, 2015). The Commission cites to the January 2015 Amended Notice of Adoption in the history section of this chapter.

The 2014 proposed amendments removed section symbols from this chapter. The January 2015 Amended Notice of Adoption provided, “All citations are to have a § symbol if appropriate.”

A Notice of Certification and Adoption of Rule was published by the Bureau of Environmental and Coastal Quality, Division of Coastal Resources Management. 38 Com. Reg. 37489 (Jan. 28, 2016). That notice adopted the “Rapid Assessment Method User’s Manual.” This rule is discussed in the Commission Comment to § 15-10-330.

Part 001 - General Provisions

§ 15-10-001 Short Title

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

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Commission Comment: The 1985 and 2003 regulations readopted and republished all of the then existing Coastal Resources Management Rules and Regulations. The Commission, therefore, cites the 1985 and 2003 regulations in the history sections throughout this chapter.

The May 2004 amendments readopted and republished the Coastal Resources Management Rules and Regulations in their entirety. The Commission cites the 2004 regulations in the history sections throughout this chapter.

§ 15-10-005 Authority

Pursuant to the authority of CNMI Public Law 3-47, §§ 8(d) and 9(c) (2 CMC §§ 1531(d) and 1532(c)), and 1 CMC § 9115, the following rules and regulations are hereby established. They shall apply to all areas designated by CNMI PL 3-47, § 7 (2 CMC § 1513), as subject to the jurisdiction of the Coastal Resources Management (CRM) program.

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

§ 15-10-010 Purpose

This chapter governs practice and procedure within the federally approved CRM program and sets standards for the CRM program in implementing its responsibilities, as approved by the Office of Coastal Resources Management, U.S. Department of Commerce. Provisions of this chapter are not intended to negate or otherwise limit the authority of any agency of the Commonwealth government with respect to coastal resources, provided that actions by agencies shall be consistent

with provisions contained herein. This chapter shall be consistent with the Federal Coastal Zone Management Act (CZMA) and applicable rules and regulations. The DCRM shall act as the administrator of the permitting process, and the Director shall act as the chairperson in the leading CRM board meetings.

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

§ 15-10-015 Construction

This chapter shall be construed to secure the just and efficient administration of the CRM program and the just and efficient determination of the CRM permit process. In any conflict between a general rule or provision and a particular rule or provision, the particular shall control over the general. The interpretation of this chapter shall be consistent with the Federal Coastal Zone Management Act (CZMA) (16 U.S.C. §§ 1451-1466) and applicable rules and regulations (15 CFR §§ 923.1-923.135).

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

§ 15-10-020 Definitions

- (a) “Adjacent property” means real property within 300 feet of the lot or site on which a proposed project will be located, regardless of whether there is a shared boundary or not.
- (b) “Adjacent property owner” means a person, business, corporation, or entity who currently holds valid ownership or lease of an adjacent property.
- (c) “Adverse impacts” includes, but is not limited to any of the following:
 - (1) Alteration of chemical or physical properties of coastal or marine waters that would prevent the existence of the natural biological habitats and communities;
 - (2) Accumulation of toxins, carcinogens, or pathogens which could potentially threaten the health or safety of humans or aquatic organisms;
 - (3) Disruption of ecological balance in coastal and marine waters that support natural biological communities;
 - (4) Addition of man-made substances foreign to the coastal and marine environment for which organisms have had no opportunity for adaptation and whose impacts are largely known;
 - (5) Disruption or burial of bottom communities; or
 - (6) Interference with traditional fishing activities.

- (d) “Affected person” means any person who can demonstrate to the Director the actual or potential bias or conflict of interest of a CRM agency official.
- (e) “Agency officials” means any official of the Coastal Resources Management Office or any designated CRM agency as set forth in 2 CMC § 1531(a).
- (f) “Aggrieved person” means, with respect to a particular project, the following:
- (1) An applicant or person who has been adversely affected by the decision of the coastal resources management regulatory agencies or by the decision of the DCRM; or
 - (2) A person who has been negatively affected by a decision of the CRM regulatory agencies or by a decision of the DCRM and can demonstrate that she/he participated in the DCRM hearing process either by submitting written comments or making oral statements during any hearing held on the project and that these comments were not adequately addressed by the final permit decision, and that the failure to adequately address the comments or statements had a material effect on the final permit decision.
- (g) “Appeals Board” means the appeals board for the CRM as described in 2 CMC § 1541.
- (h) “Area of Particular Concern” or “APC” means a delineated geographic area included within CRM jurisdiction that is subject to special management because of its unique and important environmental properties, and is subject to specific criteria permit evaluations under part 300 of these regulations.
- (i) “APC permit” means a permit for any minor development or for any development greater in scope and effect on the environment than a minor development that is within an APC or affects an APC and which is not a major siting.
- (j) “Aquaculture” or “mariculture facility” means a facility, either land or water based, for the propagation and rearing of aquatic organisms (both marine and freshwater) in controlled or selected aquatic environments for any commercial, recreational, scientific, or public purpose.
- (k) “Beach” means an accumulation of unconsolidated deposits along the shore with their seaward boundary being at the low tide or reef flat platform level and extending in a landward direction to the strand vegetation or first change in physiographic relief to topographic shoreline.
- (l) “Best Management Practices” or “BMP” means a measure, facility, activity, practice, structural or non-structural device, or combination of practices that are determined to be the most effective and practicable (including technological, economic, and institutional considerations) means of controlling point and nonpoint pollutants at levels compatible with environmental quality goals to achieve storm water management control objectives.
- (m) “Coastal Advisory Council” means the council described in 2 CMC § 1521.
- (n) “Coastal land” means all lands and the resources thereon, therein, and thereunder located within the territorial jurisdiction of the CRM program, as specified by section 7 of PL 3-47 (2 CMC § 1513).

- (o) “Coastal resources” means all coastal lands and waters and the resources therein located within the territorial jurisdiction of the CRM program, as specified by section 7 of PL 3-47 (2 CMC § 1513).
- (p) “Coastal Resources Management Agencies” or “CRM” means the entity described in 2 CMC § 1531.
- (q) “Coastal Resources Management program” or “CRM program” means the Coastal Resources Management Program established by CNMI PL 3-47 (2 CMC § 1501, et seq.).
- (r) “Coastal resources management program boundaries” means the edge of the area subject to CRM program territorial jurisdiction, as specified in section 7 of PL 3-47 (2 CMC § 1513).
- (s) “Coastal waters” means all waters and the submerged lands under the marine resources subject to the territorial jurisdiction boundaries of the coastal resources management program as specified in section 7 of PL 3-47 (2 CMC § 1513).
- (t) “Coastal zone” means all of the lands of the CNMI and territorial waters.
- (u) “Conclusion of law” means a legal decision of a government agency regarding a legal question or controversy made by applying relevant statutes, regulations, rules, or other legal principles to the facts of the case.
- (v) “Degradation” means a diminution or reduction of strength, efficacy, value, or magnitude.
- (w) “Development” means any of the following:
- (1) The placement or erection of any solid material or structure;
 - (2) Discharge or disposal of any dredge materials or of any gaseous, liquid, solid, or thermal waste;
 - (3) The grading, removing, dredging, mining, or extraction of any materials;
 - (4) A change in the density or intensity of use of land including, but not limited to, subdivision of land and any other division of land including lot parceling;
 - (5) A change in the intensity of use of water, the ecology related thereto, or the access thereto;
 - (6) A construction or reconstruction, demolition, or alteration of any structure, including any facility of any private or public utility; or
 - (7) The removal of a significant amount of vegetation, whether native or non-native.
- (x) “Direct and significant impact” means the impact which is casually related to or derives as a consequence of a proposed project, use, development, activity, or structure which contributes to a material change or alteration in the natural or social characteristics of any coastal resource.
- (y) “Director” means the Director of DCRM appointed pursuant to EO 2013-24.
- (z) “Division of Coastal Resources Management” or “DCRM” means the entity described in 2 CMC § 1512.

(aa) “Endangered or threatened wildlife” means species of plants or animals that are designated as endangered or threatened by the U.S. Department of the Interior’s Fish and Wildlife Service or by the Commonwealth Division of Fish and Wildlife.

(bb) “Federally excluded lands” means those federally owned lands excluded from the territorial jurisdiction of the CRM program as specified by 2 CMC § 1513.

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

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

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

(ff) “Impact” means any modification in an element of the environment, including modification as to quality, quantity, aesthetics, or human or natural use thereof.

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

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

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

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

(1) Energy related facilities, wastewater treatment facility pipelines, transportation facilities, surface water control project, and harbor structures;

(2) Sanitary landfills, disposal of dredged materials, mining activities, quarries, basalt extraction, incinerator projects;

(3) Dredging and filling in marine or fresh waters, point source discharge of water or air pollutants, shoreline modification, ocean dumping, artificial reef construction;

(4) Proposed projects with potential for significant adverse effects on submerged lands, groundwater recharge areas, cultural areas, historic or archeological sites and properties, designated conservation and pristine areas, or uninhabited islands, sparsely populated islands, mangroves, reefs, wetlands, beaches and lakes, areas of scientific interest, recreational areas,

limestone, volcanic and coconino forest, and endangered or threatened species or marine mammal habitats;

- (5) Major recreational developments and major urban or government developments;
- (6) Construction and major repair of highways and infrastructure development;
- (7) Aquaculture or mariculture facilities, and silviculture or timbering operations;
- (8) Any project with the potential for affecting coastal resources which requires a federal license, permit, or other authorization from any regulatory agency of the U.S. government;
- (9) Any project, or proposed project, that may cause underground injection of hazardous wastes, of fluids used for extraction of minerals, oil and energy, and of certain other fluids with potential to contaminate ground water. Any such project, or proposed project, shall be primarily governed by the CNMI Underground Injection Control Regulations [NMIAC, title 65, chapter 90] and supplemented by this chapter;
- (10) Any proposed project having a daily demand of 3,500 gallons of water, and/or a peak demand of 500 kilowatts, as established by CUC demand rates for particular types of projects;
- (11) Any proposed project that modifies areas that are particularly susceptible to erosion and sediment loss;
- (12) Proposed projects that would modify areas that provide important water quality benefits and/or are necessary to maintain riparian and aquatic biota and/or necessary to maintain the natural integrity of water bodies and natural drainage systems;
- (13) Any proposed project or plan that would result in the clearing of more than 10 acres of vegetation; and
- (14) Any other proposed project that has the potential for causing a direct and significant impact on coastal resources as determined by a consensus of CRM agency officials.

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

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

(mm) "Minor development" means any of the following developments or projects within an APC:

- (1) Normal maintenance and repair activities for existing structures or developments which cause only minimal adverse environmental impact;
- (2) Normal maintenance and repair of the following: existing rights of way; underground utility lines, including water, sewer, power, and telephone; minor appurtenant structures to such; pad mounted transformers and sewer pump stations, provided that normal maintenance and repair shall not include the extension or expansion of existing lines, structures or right of way;
- (3) Construction of temporary structures, not to exist for more than six months, for fund raising, carnival or cultural activities;
- (4) Construction of pala-palas, picnic tables and/or barbecue pits;
- (5) Construction of non-concrete volleyball or tennis courts;
- (6) Temporary structures and constructions for photographic activities (such as advertising sets) which are demonstrated by the applicant to have an insignificant impact on coastal resources;

- (7) Public landscaping and beautification projects;
- (8) Memorial and monument projects covering ten square meters or less;
- (9) Security fencing which does not impede public access;
- (10) Placement of swimming, navigation or temporary or small boat mooring buoys, if such placement does not require a license, permit, or other authorization from any U.S. federal regulatory agency;
- (11) Single family residential construction or expansion including sewer connections within shoreline APC;
- (12) Archeological and related scientific research approved by the Historical Preservation Office (HPO), evaluated on a case-by-case basis, and found by DCRM to cause no significant adverse environmental impacts;
- (13) Agricultural activities;
- (14) Debris incineration, if only vegetative matter is to be incinerated;
- (15) Repair of existing drainage channels and storm drains;
- (16) Strip clearing for survey sighting activities, except in wetland APC;
- (17) Construction of bus stop shelters;
- (18) Construction of an accessory building incidental to an existing acceptable activity in the port and industrial APC; or
- (19) Temporary storage of hazardous or nuisance materials including but not limited to construction chemicals, used oil, automotive fluids, batteries, paints, solvents, unregistered or unlicensed vehicles, accumulation of trash, garbage, or other refuse.

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

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

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

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

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

(ss) “Person” means the government of the United States of America or any agency or department thereof; or the government of the Commonwealth or any agency or department or any municipality thereof; any sovereign state or nation; a public or private institution; a public or private corporation, association, partnership, or joint venture, or lessee or other occupant of property, or individual, acting singly or as a group.

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

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

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

(ww) “Riparian” means pertaining to the banks and other adjacent, terrestrial (as opposed to aquatic) environs of freshwater bodies, watercourses, and surface-emergent aquifers (e.g., springs, seeps), whose imported waters provide soil moisture significantly in excess of that otherwise available through local precipitation.

(xx) “Underground injection” means a “well injection.”

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

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

(Signature)

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

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

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

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

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

(eee) “Water sports permit” means the permit required for any entity to engage in a commercial business related to water sports.

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

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

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 24 Com. Reg. 19947 (Dec. 27, 2002); Amdts Proposed 24 Com. Reg. 19519 (Sept. 27, 2002); Amdts Adopted 12 Com. Reg. 7183 (July 15, 1990); Amdts Proposed 12 Com. Reg. 6998 (May 15, 1990); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Commission Comment: The Commission corrected the capitalization of the words “officials” in subsection (e) and “sports” in subsection (eee) pursuant to 1 CMC § 3806(f). The Commission corrected a comma at the end of subsection (f)(1) to a semicolon, inserted commas after the words “value” in subsection (v), “activity” in subsection (x), “systems” and “transportation” in subsection (gg), “waves” in subsection (ii), “permit” in subsection (jj)(8), and “development” in subsection (uu), inserted a period at the end of subsection (y), corrected the reference to the U.S. Department of the Interior in subsection (aa), and corrected a period at the end of subsection (jj)(12) to a semicolon pursuant to 1 CMC § 3806(g).

The subsections did not appear in alphabetical order in the September 2014 proposed regulations. The December 2014 Notice of Adoption indicated that the subsections should be moved into alphabetical order. The Commission reorganized the subsections pursuant to the Notice of Adoption.

§ 15-10-025 Conflicts with Regulations of Other CNMI Government Agencies

(a) Conflicts with zoning requirements. Where, in regards to any project or proposed project, zoning standards, having the force of law pursuant to the Zoning Code of the Commonwealth of the Northern Mariana Islands, 2 CMC §§ 7201-7255, overlap and conflict with CRM regulations, the CRM regulations shall supersede the zoning requirements for any project or proposed project from the median high tide line to 150 feet inland from the median high tide line. For projects and proposed projects more than 150 feet from the median high tide line, the zoning standards shall supersede the CRM regulations where the requirements overlap and conflict with one another. In the event that a project or proposed project straddles the 150 foot boundary, the portion of the project or proposed project within 150 feet of the median high tide line must conform to CRM regulations, and the portion of the project outside the 150 foot limit must conform to applicable zoning requirements, unless the Zoning agency and the CRM agencies agree otherwise.

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

History: Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Proposed 36 Com. Reg. 35505 (Sept. 28, 2014).

Part 100 - CRM Permit Requirement

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

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

(b) When permits are required. Prior to the commencement of a proposed project wholly or partially within an APC, or which constitutes a major siting under § 15-10-501 herein, or which has a significant adverse impact on an APC, the party responsible for initiating the proposed project shall obtain the appropriate CRM permit.

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Commission Comment: The Commission corrected citation formats pursuant to 1 CMC § 3806(g).

The Division of Coastal Resources Management issued the following Notice in the May 28, 2014 Commonwealth Register:

Notice of Temporary Suspension for New Watersports Permits

This is to notify the general public that the Division of Coastal Resources Management (DCRM) under the Bureau of Environmental and Coastal Quality (BECQ) has temporarily suspended the issuance of new commercial watersports permits including jetski, parasailing, banana boat, seawalker, water ski, wakboarding and other mechanized watersports permits for Saipan, Tinian and Rota. Permits for scuba diving or dive operations are not included in this temporary suspension.

The purpose of this temporary suspension is to further develop new and/or improve current regulations for the watersports industry. Consideration for new watersports permits will resume upon approved BECQ-DCRM regulations. Renewals of existing permits will not be affected by the temporary suspension.

Frances A. Castro
Director, DCRM

35 Com. Reg. 34955 (May 28, 2014). The Bureau purported to adopt this Notice as a rule. 35 Com. Reg. 34953 (May 28, 2014). However, the Bureau did not give at least 30 days' notice of its intent to adopt the Notice pursuant to 1 CMC § 9104. As the Notice is temporary in nature and the Bureau did not comply with the Administrative Procedure Act, the Commission did not codify the Notice.

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

- (a) Applications for APC permits for minor developments shall be expeditiously processed so as to enable their promptest feasible disposition.
- (b) Applications for APC permits on Saipan will be received at the DCRM Office and the DCRM Director will review and make a determination on the application based on PL 3-47 (2 CMC §§ 1501, et seq.) and this chapter.
- (c) Applications for APC permits on Tinian or Rota will be received by the Tinian or Rota Coastal Coordinators, respectively, who will review and make a determination on the application based on PL 3-47 (2 CMC §§ 1501, et seq.) and this chapter.
- (d) The office that receives the application for an APC permit, whether the CRM Office, the Tinian Coastal Coordinator, or the Rota Coastal Coordinator, shall determine that the project that is the subject of the APC permit is not a major siting if it is clear that it is such based on the definitions in § 15-10-020. However, if there is any question regarding whether the project constitutes a major siting, the relevant DCRM office shall forward the application to the CRM agencies with a recommendation on whether the project should be considered a major siting. If no agency disagrees with the office's recommendation, then the permit process shall move forward as recommended by the relevant DCRM Office. If an agency does disagree with the recommendation, then the CRM agencies shall decide on how to proceed based on consensus, or majority, decision.
- (e) Failure to approve or deny an application for a minor development as defined in § 15-10-020 within ten working days from receipt of a complete application by the appropriate office shall be treated as approval of the application, provided that the DCRM Director may extend the deadline by not more than an additional ten days where deemed necessary. The relevant DCRM office shall process APC permits other than those for minor developments within 21 days of receiving a complete application
- (f) CRM APC permit applications will involve a full evaluation of individual and cumulative impacts and include an application review, site inspection, and the issuance of a standard permit (with appropriate conditions). The conditions to be attached to the APC permit will be based on a case-by-case evaluation of each particular project.
- (g) Except when specifically made applicable to APC permits, all other permit regulations pertaining to permit applications and the permitting process are not applicable to APC permits. Additional information required for APC development permits are listed at § 15-10-205(h)(24).

Modified, 1 CMC § 3806(d), (f), (g).

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Commission Comment: The Commission removed an extra comma from subsection (d), inserted a comma after the word “inspection” in subsection (f), and inserted a period at the end of subsection (g) pursuant to 1 CMC § 3806(g).

§ 15-10-110 Temporary Permits for Emergency Repairs

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

(a) The DCRM Director may issue a temporary permit for emergency repairs only if he or she finds that the proposed repair or cleanup is necessary to prevent immediate damage or injury to people, structures, vessels, or the environment.

(b) The holder of a temporary permit shall file a CRM permit application within twenty days of the issuance of the temporary permit. The temporary permit shall be valid for up to six months, or until another appropriate CRM permit is issued or denied, whichever occurs first.

(c) A repair permitted under this section shall be limited to the replacement or repair of existing structures.

(d) Except when specifically made applicable to temporary permits for emergency repairs, all other permit regulations pertaining to permit applications and the permitting process are not applicable to temporary permits for emergency repairs.

(e) Application process for temporary permit for emergency repairs: The provisions of § 15-10-205 shall apply to the process for applying for a temporary permit for emergency repairs, except for those procedures exempted for such a permit. Additional information required for temporary permits for emergency repairs can be found at § 15-10-205(h)(23).

* So in original.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 12 Com. Reg. 7183 (July 15, 1990); Amdts Proposed 12 Com. Reg. 6998 (May 15, 1990); Amdts Adopted 8 Com. Reg. 4698 (Oct. 22, 1986); Amdts Proposed 8 Com. Reg. 4580 (Sept. 15, 1986); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Commission Comment: The Commission inserted a period at the end of subsection (e) pursuant to 1 CMC § 3806(g).

Prior to the 2014 amendments, this section was titled “Exceptions to CRM Permit Requirements.”

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

All developments as defined in § 15-10-020 within an APC, or which have a significant adverse impact on an APC, must be permitted by CRM. If a proposed project is to be located in more than

one APC, CRM permit standards and policies for each applicable APC shall be evaluated in a single CRM permit decision. Where a project constitutes a major siting as defined in § 15-10-020, the applicant must obtain a CRM major siting permit, regardless of whether the project is located within an APC.

History: Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Proposed 36 Com. Reg. 35505 (Sept. 28, 2014).

§ 15-10-120 Exceptions to CRM Permit Requirements

(a) Excluded Federal Land. Notwithstanding the language of § 15-10-101 and § 15-10-115, a CRM permit shall not be required for proposed projects on federally excluded lands.

(b) Exceptions from CRM Permit Requirements

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

(i) A proposed project situated completely outside of any APC that does not have a significant adverse impact on an APC and which does not require a major siting permit;

(ii) Agricultural activities on lands which have been historically used for such activities;

(iii) Cutting of trees and branches by hand tools, not driven by power or gas;

(iv) Hunting, fishing, and trapping; or

(v) The preservation of scenic, historic, and scientific areas including wildlife preserves which do not require any development.

(2) The DCRM Director may not authorize a permit exemption if he or she determines that a proposed project or expansion, that is otherwise eligible for exemption, may have a direct and significant negative impact on coastal resources.

(3) Should it be found that a particular proposed project exempted by subsection (b)(1) above may have a direct and significant impact on coastal resources, the CRM Office or its designee may conduct such investigation(s) as may be appropriate to ascertain the facts and may require the person(s) applying for such proposed project(s) to provide all of the necessary information regarding the project in order that a determination may be made as to whether the proposed project requires a coastal permit.

Modified, 1 CMC § 3806(g).

History: Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Proposed 36 Com. Reg. 35505 (Sept. 28, 2014).

Commission Comment: The Commission inserted commas after the words "fishing" in subsection (b)(1)(iv) and "historic" in subsection (b)(1)(v) pursuant to 1 CMC § 3806(g).

Part 200 - CRM Permit Process

§ 15-10-201 Introduction

All persons proposing any project or development requiring any CRM permit, or proposing to conduct any activity requiring any CRM permit, must apply for the necessary permit and for major siting permits, and may request a pre-application conference. A pre-application conference shall be conducted with applicant by a CRM staff person at a designated time. At the request of the applicant, a pre-application conference also may be held with CRM agency officials. The pre-application conference shall be held to discuss the proposed activity to provide the applicant with information pertaining to the CRM program goals, policies, and requirements and to answer questions the applicant may have regarding the CRM program and its requirements. The following permit process shall govern all coastal permit applications except as provided in § 15-10-105 for APC permits, unless stated otherwise.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted Amendments 12 Com. Reg. 7183 (July 15, 1990); Proposed Amendments 12 Com. Reg. 6998 (May 15, 1990); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

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

§ 15-10-205 Application

CRM permit application forms, including APC permits and temporary permits for emergency repairs, shall be maintained at the CRM Office on Saipan. Copies of the application form shall also be maintained at CRM Branch Offices on Rota and Tinian. CRM permit applicants shall complete and file an application for each proposed APC permit, temporary permit for emergency repair, or major siting permit. The following conditions shall apply to all CRM permit applications:

- (a) Copies. The applicant shall file an original CRM permit application with exhibits and attachments and eight copies thereof.
- (b) Filing location. CRM permit applications shall be filed at the CRM Office in Saipan, though filing may be at the CRM Branch Office on Rota or Tinian, if the proposed project is to be on either of those islands.
- (c) Certification. CRM permit applications shall be certified by the applicant that the information supplied in the application and its exhibits and attachments are true. The certification shall be by affidavit or declaration under the penalty of perjury.
- (d) Attachments.
 - (1) CRM permit applications shall, to the extent necessary, contain attachments and necessary supporting materials including statements, drawings, maps, etc., which are relevant to the CRM permit application.
 - (2) Except for APC permit applications, CRM shall require the applicant to submit evidence establishing that the project will not have any significant adverse impacts on the coastal environment or its resources. Adverse impacts are defined at § 15-10-020.

(e) Management measures. CRM major siting permit applications shall include a description and design of proposed management measures which will avoid, or minimize nonpoint source pollution contributed by the proposed project.

(f) Fees. CRM permit applications shall be accompanied by a non-refundable CRM permit application fee in accordance with the following fee schedule, by check made payable to CNMI Treasurer.

- (1) No fee for government agencies engaging in government projects.
- (2) \$25.00 fee for emergency permits.
- (3) \$200.00 fee for APC development permits.
- (4) \$1,000.00 initial fee and \$750.00 renewal fee for jet ski and water sports or marine sports operating permits.
- (5) All other fees for projects shall be based upon appraisal of construction costs for structures affixed to the ground.

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

(g) Performance bond requirements. A performance bond or equivalent surety may be required by the CRM program if failure to comply with terms of the application or permit will result in environmental damage. In the event that the project cannot be completed as permitted, the applicant shall forfeit the bond or surety equivalent or portion thereof needed to mitigate any damage caused by such failure of performance. Any monies obtained from the bond on surety may be used to complete the site preparation and infrastructure requirements, restore the natural appearance and biological character of the project site and its impacts on adjacent properties, or correct any significant adverse impacts to the environment.

(h) Information. CRM permit applications shall include all of the following for review by the CRM Office:

- (1) Applicant's name. Applicant must be the legal entity that owns or is otherwise responsible for the project.
- (2) Applicant's representative (if any).
- (3) Owner of any real property at the project site.
- (4) Lessee of any real property at the project site.
- (5) Project name.
- (6) The following construction plans:
 - (i) Master site plan including: architectural features in conceptual form, major infrastructure and major amenities (in schematic or single line form);
 - (ii) Typical floor plans in conceptual format for all structures and major infrastructure;
 - (iii) View corridor plan;
 - (iv) Site coverage plan B displaying lot density including buildings; infrastructure, amenities, parking area, road networking, and open space;

- (v) Existing conditions map.
- (7) The application shall include the names of the persons responsible for the creation of the plans listed above at subsection (6), as well as the professional certification or licensure of those persons, if they have any. If they have no such professional certification or licensure, that information shall be provided as well.
- (8) The following conceptual erosion control and drainage plans:
 - (i) Slope and elevation map;
 - (ii) Watershed and drainage map;
 - (iii) Preliminary drainage and erosion control map; and
 - (iv) Preliminary storm water nonpoint source management plan.
- (9) A map showing the distance of all proposed structures from all nearby APCs, verified by on-ground delineation, if applicable.
- (10) Estimated costs for all improvements affixed to the property.
- (11) Copies of CNMI and federal permits or permit including business license, submerged lands lease, and other necessary permits.
- (12) Names of adjacent property owners, as defined at § 15-10-020, and copies of letters sent to them notifying them of the proposed project. The application may request an exemption of this requirement where notification of every adjacent property owner would not be practical or would create an undue burden. This exemption is intended to be limited to projects such as infrastructure corridors, where the path of the corridor or project may be adjacent to a large number of properties. If the exemption is granted by CRM Agency Officials, the applicant must complete an alternative notification. The applicant would be required to publish public notice of the proposed project in a newspaper of general circulation in the CNMI at least four times prior to the public hearing on the proposed project. The public notice shall include the permit number, name of project, name of applicant, map of the proposed project area as approved by DCRM, date, time and place of the public hearing, DCRM contact numbers, and description of the proposed project. The applicant is responsible for all public notice fees and printing.
- (13) Adjacent property description.
- (14) Estimates of daily peak demand for utilities including water and electricity and projected usage of utilities and other infrastructure.
- (15) Map of the vicinity.
- (16) Topographic survey map with ten foot contour.
- (17) Elevation plans of the project including a side profile of the project.
- (18) Title documents to all real property and submerged lands including leases or lease applications from appropriate parties.
- (19) Affidavit or declaration made under penalty of perjury that the application is a statement of truth by the principal or authorized agent.
- (20) If the project meets the definition of a major siting at § 15-10-020, as found by the Director, the applicant shall provide an environmental assessment, which shall include all of the following:
 - (i) Project summary, justification, and size;
 - (ii) Description of existing environment of site including vegetation, wildlife, land uses, and historic and cultural resources, soil, geology, topography, weather, air quality;
 - (iii) Description of socio-economic characteristics of the project including income and employment, education, infrastructures, law enforcement, fire protection, hospital, and medical facilities;

- (iv) Discussion of alternatives to the proposed project size/design and how the preferred alternative was selected;
 - (v) Description of the direct, indirect and cumulative environmental and socio-economic effects, both positive and negative, which may result from the project, i.e., air and water quality, noise and dust levels, sedimentation and erosion, plant and wildlife habitat and populations, infrastructure capacity (short and long term), traffic assessment;
 - (vi) Description of how impacts have been avoided or minimized and how any unavoidable impacts will be mitigated;
 - (vii) Evaluation of alternative management measures to control nonpoint source pollution and a description of management measures selected for incorporation in the proposed project; and
 - (viii) Evaluation of the proposed project based on the Specific Criteria for Major Sitings provision of § 15-10-505, and a description of how those specific criteria will be affected by the project.
- (21) If the project meets the definition of a major siting at §15-10-020, as found by the CRM agencies, or if the CRM Director deems applicable to APC permits, the applicant shall provide the following plans. The time frames for the submission of the plans shall be specified within their respective conditions of the CRM permit. Additional types, numbers, and/or quality of plans may also be required prior to permit issuance or as a condition of the permit at the discretion of the DCRM Director or the CRM agency officials.
- (i) Copies of the construction plans and specifications must be signed and sealed by a CNMI licensed architect and engineer in their respective discipline. Final plans shall include excavation, earthmoving, and storm water control.
 - (ii) Final master site plan.
- (22) For all permit applications, including temporary permits for emergency repairs and APC permits, all dimensions shall be stated in English units (i.e., inches and feet).
- (23) Only subsections (1) through (6) and (22) above are required for applications for temporary permits for emergency repairs. However, if the Director requests information regarding any other of the application materials mentioned above, applicant must provide such information as well.
- (24) Only subsections (1) through (7), (10), (11), (15), (18), (19), and (22) above are required for applications for permits for APC developments. However, if the Director requests information regarding any other of the application materials mentioned, applicant must provide such information as well.

Modified, 1 CMC § 3806(c), (d), (g).

History: Amdts Adopted 37 Com. Reg. 36617 (June 28, 2015); Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 24 Com. Reg. 19947 (Dec. 27, 2002); Amdts Proposed 24 Com. Reg. 19519 (Sept. 27, 2002); Amdts Adopted 16 Com. Reg. 12097 (Jun. 15, 1994); Amdts Proposed 16 Com. Reg. 11820 (Apr. 15, 1994); Amdts Adopted 14 Com. Reg. 10165 (Nov. 15, 1992); Amdts Emergency and Proposed 14 Com. Reg. 9584 (Sept. 15, 1992) (effective for 120 days from Aug. 27, 1992); Amdts Emergency and Proposed 14 Com. Reg. 9173 (Apr. 15, 1992) (effective for 120 days from Mar. 16, 1992); Amdts Adopted 12 Com. Reg. 7183 (July 15, 1990); Amdts Proposed 12 Com. Reg. 6998 (May 15, 1990); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Commission Comment: The Commission changed reference numbers pursuant to 1 CMC § 3806(c). The Commission substituted section numbers pursuant to 1 CMC § 3806(d). The Commission inserted commas after the words “networking” in subsection (h)(6)(iv), “justification” in subsection (h)(20)(i), “numbers” in subsection (h)(21), and “earthmoving” in subsection (h)(21)(i) pursuant to 1 CMC § 3806(g).

The Bureau of Environmental and Coastal Quality purported to amend subsection (f) at 37 Com. Reg. 36617 (June 28, 2015), referencing a rule attached to the Notice of Certification and Adoption of Rule in the Commonwealth Register. Because no such rule was attached to that Notice, the Commission was unable to amend subsection (f) of this rule as contemplated by the Bureau of Environmental and Coastal Quality.

§ 15-10-207 Certification of Completion of Application

Within thirty days of the date on which an application for a CRM permit is received by the CRM Office, the DCRM Director shall review the application and either certify its completeness to the applicant or notify the applicant of any defects or omitted necessary information. After the submission of additional information, the Director shall have fifteen days in which to assess the completeness of the application. The time commencing review of an application specified in § 15-10-215 shall begin on the date an application is certified complete. This provision shall not apply to APC and emergency permits.

Modified, 1 CMC § 3806(d).

History: Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Proposed 36 Com. Reg. 35505 (Sept. 28, 2014).

Commission Comment: This section is adapted from former subsection (i) of § 15-10-205. The 2014 amendments proposed to designate this section as § 15-10-210 and renumber the remaining sections in this part. The Commission inserted it as new § 15-10-207 pursuant to 1 CMC § 3806(a). The Commission substituted section numbers pursuant to 1 CMC § 3806(d).

§ 15-10-210 Notice of Application

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

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 12 Com. Reg. 7183 (July 15, 1990); Amdts Proposed 12 Com. Reg. 6998 (May 15, 1990); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

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

§ 15-10-215 Review of Application

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

(b) Major Siting Permits

(1) The DCRM Director and the CRM agency officials shall have sixty days following certification of completion of application to grant or deny a major siting permit. For the purposes of section 9(a) of the Coastal Resources Management Act of 1983 (PL 3-47) (2 CMC § 1532(a)), the term receipt of any request for review shall mean CRM certification of completion of a permit application.

(2) The CRM Office shall review the application, publish notice of its contents, schedule a permit hearing if mandatory or requested by a CRM agency official or the public pursuant to § 15-10-220, and transmit the application to the CRM agency officials for review. The CRM Office shall provide technical findings on the impacts of proposed projects to assist CRM agency officials in reaching a unanimous decision on CRM permit applications and shall ensure compliance of CRM permit decisions with this chapter and CNMI PL 3-47 (2 CMC § 1532(d)). Where unanimous decision cannot be reached, the matter shall be submitted to the Governor for his determination pursuant to section 9(d) of PL 3-47 (2 CMC § 1532(d)).

(c) Review Period. The sixty-day period of review for major siting permits shall begin on the day the application is certified to be complete by the CRM Office.

Modified, 1 CMC § 3806(c), (g).

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 12 Com. Reg. 7183 (July 15, 1990); Amdts Proposed 12 Com. Reg. 6998 (May 15, 1990); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Commission Comment: The Commission changed reference numbers pursuant to 1 CMC § 3806(c). The Commission corrected “sixty day” to “sixty-day” in subsection (c) pursuant to 1 CMC § 3806(g).

§ 15-10-220 CRM Permit Hearing

When a hearing on a permit application is required or requested pursuant to this section the DCRM Director shall schedule the hearing, inform the party or parties involved of the hearing date and publish notices of the hearing two times in a newspaper of general circulation in the Commonwealth at least fourteen days prior to the hearing.

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

(1) The proposed project is determined to be a major siting by the CRM agency officials; or

(2) The proposed project does not constitute a major siting, but falls within one of the coastal APCs and the applicant, CRM agency official, or people pursuant to subsection (a)(4) below, submit a written request for a public hearing; or

(3) If a CRM agency official requires a hearing on a proposed project; or

(4) A petition signed by at least five people requesting a public hearing is received by the CRM Office within fourteen days of the date the application is published in the newspaper as required in § 15-10-210.

(b) [Reserved]

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

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

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

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

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

Modified, 1 CMC § 3806(c).

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 12 Com. Reg. 7183 (July 15, 1990); Amdts Proposed 12 Com. Reg. 6998 (May 15, 1990); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Commission Comment: The Commission changed reference numbers pursuant to 1 CMC § 3806(c).

§ 15-10-225 Filing of Documents

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

(a) Form and Size. Pleadings and briefs shall be bound by staple in the upper left hand corner and shall be typewritten upon white paper eight-and-a-half by eleven inches in size. Tables, maps, charts, exhibits or appendices, if larger, shall be folded to that size where practicable. Text shall appear on one side of the paper and shall be double-spaced, except that footnotes and quotations in excess of a few lines may be single-spaced.

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

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

(d) Copies. Unless otherwise required, there shall be filed with the CRM Office an original and five copies of each document.

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Commission Comment: The Commission struck the figure "8½" x 11" from subsection (a) pursuant to 1 CMC § 3806(e).

§ 15-10-230 Decision on CRM Application

The CRM agency officials shall review the CRM permit application, hearing transcripts, if any, DCRM technical findings, supporting documentation and relevant laws, rules and regulations, and issue a unanimous written decision to grant, deny, or grant with conditions, a CRM permit in accordance with the policies of CNMI PL 3-47 (2 CMC §§ 1501, et seq.) and applicable rules and regulations. In reviewing a CRM permit application, the following procedures shall apply:

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

(b) Disqualification by Challenge. If a CRM agency official refuses to disqualify himself or herself under subsection (a), an applicant or affected person may petition the DCRM Director at

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

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

(d) Unanimous Decision Required. Decisions regarding issuance or denial of CRM permits by the CRM officials shall be by unanimous vote. Attendance for all CRM officials at meeting to vote on permit request is not required, but a quorum is necessary, and the decision shall be by unanimous vote of the attending officials. Disagreements among the CRM agency officials shall be mediated by the DCRM Director, and he or she shall assist in the preparation of a joint decision in order to achieve unanimous consent. Further, the DCRM Director shall certify that each CRM permit decision complies with CNMI PL 3-47 (2 CMC §§ 1501, et seq.) and applicable rules and regulations.

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

(2) The determination on whether CRM agency officials have unanimously agreed to the issuance of a CRM permit is based on the vote by CRM officials in attendance at the meeting to vote on whether to issue the permit. If there was a unanimous decision to award or not award a permit, that decision was deemed to be made at that vote.

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

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

(e) Deadlock Resolution by Governor. In the event that the unanimity required by subsection (d) is not obtained, and/or the DCRM Director is unable to certify that a unanimous decision of CRM agency officials complies with CNMI PL 3-47 (2 CMC §§ 1501, et seq.) and/or applicable rules and regulations, the DCRM Director shall forward the CRM permit application to the Governor for resolution of the deadlock.

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

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

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

(4) Review. The decision of the Governor in a deadlock resolution under this section shall be conclusive for purposes of permit issuance or denial. Parties objecting to the Governor's decision may, if they seek review of the Governor's decision, appeal directly to the Appeals Board.

(f) Written Findings and Conclusions. Decisions rendered by the CRM agency officials on granting, denying or conditionally granting CRM permits shall be accompanied by written findings of facts and conclusions of law. The CRM Office shall assist the agency officials in preparing a consensus draft of findings of fact and conclusions of law for signature by CRM agency officials and the DCRM Director.

(g) Issuance of CRM Permit. If the CRM agency officials unanimously agree on the issuance or conditioned issuance of a CRM permit and the DCRM Director certifies that the CRM permit complies with CNMI PL 3-47 (2 CMC §§ 1501, et seq.) and applicable rules and regulations, the CRM permit shall be issued. The CRM Office shall prepare a written CRM permit stating the terms and conditions of issuance and obtain the signatures of the following on the CRM permit:

- (1) All CRM agency officials that voted for the issuance of the permit; and
- (2) The DCRM director.

(h) Issuance of CRM Permit in Case of CRM Permit Deadlock. In the case of a deadlocked CRM permit application, if the Governor finds that it is proper to grant or conditionally grant a CRM permit, then the CRM Office shall prepare a written CRM permit stating the terms and conditions of issuance and obtain the signatures of the following on the CRM permit:

- (1) The Governor;
- (2) All CRM agency officials, whether they voted to issue the permit or not; and
- (3) The DCRM Director.

(h) He Who Decides Must Hear. In those cases where a public hearing is held on a CRM permit application, the CRM agency officials shall review and consider the matters discussed or presented at the hearing. To this end, CRM agency officials shall, whenever practicable, attend CRM permit hearings, and if unable to attend a hearing, they shall listen to the audio recording of the hearing, or obtain and read a stenographic transcript prior to rendering any decision on the affected CRM permit application.

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

Modified, 1 CMC § 3806(c), (f), (g).

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 12 Com. Reg. 7183 (July 15, 1990); Amdts Proposed 12 Com. Reg. 6998 (May 15, 1990); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Commission Comment: The Commission changed reference numbers pursuant to 1 CMC § 3806(c). The Commission corrected the capitalization of the words “decision” in subsection (c) and “case,” “permit,” and “deadlock” in subsection (h) pursuant to 1 CMC § 3806(f). The Commission corrected the numbering of subsection (d)(4), corrected “director” to “director’s” in subsection (e)(2), and inserted a semicolon at the end of subsection (h)(1) pursuant to 1 CMC § 3806(g).

§ 15-10-235 Appeal of CRM Permit Decision

Any aggrieved person as defined in § 15-10-020 may appeal the decision of CRM agency officials or in the case of an APC development, the DCRM Director’s decision to grant, deny, or condition a new CRM permit to the CRM Appeals Board by filing a notice of the appeal with the CRM Office within thirty days of the issuance of the CRM permit decision. The DCRM Director shall then schedule an appellate hearing before the CRM Appeals Board.

(a) Disqualification; Voluntary or by Challenge. In the same manner and for the same reasons specified for CRM agency officials in § 15-10-230, the three members of the CRM Appeals Board shall render decisions on CRM permit applications in an impartial manner. They shall voluntarily disqualify themselves for bias or the appearance of bias, and they are subject to disqualification by challenge in the manner prescribed for CRM agency officials in § 15-10-230.

(b) Quorum, Vote. At least two members of the CRM Appeals Board shall constitute a quorum and must be present to act upon review of a CRM agency official decision and the vote of at least two members is necessary for board action on the appeal.

(c) Briefs, Statements. Any aggrieved person who requests an appeal before the CRM Appeals Board shall file with the CRM Office within fifteen days following its request for appeal, a written statement of objections to the CRM permit decision. In addition, any existing party may within ten days of receipt of appellant’s statement, submit to the CRM Office a statement or brief providing arguments in support of or in opposition to, the permit decision. Statements filed under this subsection shall be filed in accordance with the format and standards listed in § 15-10-225.

(d) Contents of Notice of Appeal. Any notice of appeal filed with the CRM Office shall contain all of the following:

- (1) The nature of the petitioner’s interest in the CRM permit;
- (2) The effect of the CRM permit on the petitioner’s interest; and

(3) The extent that the petitioner's interest is not represented by CRM, the applicant, or other aggrieved persons.

(e) Service of Papers. All parties to an appeal shall serve all other parties with any papers that are required to be filed at the CRM Office and such service shall occur on the same day as filing at the CRM Office.

(f) Papers Considered by CRM Appeals Board. For the purpose of reviewing the CRM permit application decision, the CRM Appeals Board shall receive and review all of the following:

- (1) Findings of facts and conclusions of law adopted by the CRM agency officials;
- (2) CRM permit application;
- (3) CRM permit, if issued;
- (4) Record of the CRM permit hearing, if any;
- (5) Statements filed with the CRM Office in support of, or in opposition to, the appeal; and
- (6) Any other documents, correspondence, or testimony considered in the permit decision-making process.

(g) Oral Argument. Upon written request to the CRM Office by the appellant or other party to the appeal, oral argument shall be permitted. The scope of the oral argument shall be limited to the written statements in support of, or in opposition to, the appeal. Oral argument shall be scheduled by the DCRM Director before the full membership of the CRM Appeals Board. Oral argument shall be heard after the submission of written statements by the appellant and opponents, if any, and within twenty-five days after the issuance of the CRM permit by CRM agency officials.

(h) Scope of Appeal. In reviewing the CRM permit decision of CRM agency officials, the CRM Appeals Board shall reverse the decision below, and remand if necessary when:

- (1) It is clearly erroneous in light of CRM rules and regulations and the policies established in CNMI PL 3-47 (2 CMC §§ 1501, et seq.); or
- (2) It is in violation of applicable federal or CNMI constitutional or statutory provisions; or
- (3) It is arbitrary or capricious; or
- (4) It was not issued in accordance with required procedures.

(i) Written Decision. After reviewing the record and considering the arguments, the CRM Appeals Board shall render a written decision detailing the reasons in support of its determination. The decision of the Board shall be the final administrative decision, subject to judicial review. In drafting its decision, the Appeals Board may utilize the resources of the CRM Office.

(j) Automatic Affirmance. If no decision is rendered by the CRM Appeals Board within thirty days of the date of the hearing, the DCRM Director shall issue a notice of summary affirmance of the CRM permit decision. The party or parties aggrieved by the CRM permit decision, as defined at § 15-10-020, may then appeal to the Commonwealth Superior Court, pursuant to § 15-10-240.

Modified, 1 CMC § 3806(c), (g).

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 12 Com. Reg. 7183 (July 15, 1990); Amdts Proposed 12 Com.

Reg. 6998 (May 15, 1990); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Commission Comment: The Commission changed reference numbers pursuant to 1 CMC § 3806(c). The Commission inserted commas after the words “deny” in the introductory paragraph, “applicant” in subsection (d)(3), and “correspondence” in subsection (f)(6), corrected the spelling of “an” in the introductory paragraph, and corrected “Director” to “Director’s” in the introductory paragraph pursuant to 1 CMC § 3806(g).

§ 15-10-240 Commonwealth Superior Court

Any person aggrieved by a final decision of the CRM Appeals Board may seek judicial review in accordance with 2 CMC §§ 1501, et seq. In the event that the CRM Appeals Board does not have a quorum within sixty days, the decision of CRM agency officials, CNMI Governor, or the DCRM Director shall be considered summarily affirmed and the aggrieved party may seek judicial review from the Commonwealth Superior Court in accordance with 2 CMC §§ 1501, et seq.

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 24 Com. Reg. 19947 (Dec. 27, 2002); Amdts Proposed 24 Com. Reg. 19519 (Sept. 27, 2002); Amdts Adopted 12 Com. Reg. 7183 (July 15, 1990); Amdts Proposed 12 Com. Reg. 6998 (May 15, 1990); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Part 300 - Standards for CRM Permit Issuance

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

In the course of reviewing all APC permits and major siting permits, the CRM agency officials and the DCRM Director shall require the applicant to demonstrate by a fair preponderance of evidence that the project will not have a significant adverse impact on the coastal environment or its resources. The CRM program agency officials and Director shall also base their decisions on technical findings and the policy set out in section 3 of Public Law 3-47 (2 CMC § 1511). Adverse impacts may include but are not limited to those defined at § 15-10-020.

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 12 Com. Reg. 7183 (July 15, 1990); Amdts Proposed 12 Com. Reg. 6998 (May 15, 1990); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

§ 15-10-305 General Criteria for CRM Permits

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

- (a) Cumulative Impact. The DCRM Director and CRM agency officials shall determine the impact of existing uses and activities on coastal resources and determine whether the added impact of the proposed project seeking a CRM permit will result, when added to the existing use, in a significant degradation of the coastal resources. Consideration shall include potential coastal nonpoint source pollution, watershed setting, and receiving waters of the watershed in which a project is situated.
- (b) Compatibility. The DCRM Director and CRM agency officials shall determine, to the extent practicable, whether the proposed project is compatible with existing adjacent uses and is not contrary to designated land and water uses being followed or approved by the Commonwealth government, its departments, or agencies.
- (c) Alternatives. The DCRM Director and CRM agency officials shall determine whether or not a reasonable alternative site exists for the proposed project.
- (d) Conservation. The DCRM Director and CRM agency officials shall determine, to the extent practicable, the extent of the impact of the proposed project, including construction, operation, maintenance, and intermittent activities, on its watershed and receiving waters, marine, freshwater, wetland, and terrestrial habitat, and preserve, to the extent practicable, the physical and chemical characteristics of the site necessary to support water quality and living resources.
- (e) Compliance with Local and Federal Laws. The DCRM Director and CRM agency officials shall require compliance with federal and CNMI laws, including, but not limited to, air and water quality standards, land use, federal and CNMI constitutional standards, and applicable permit processes necessary for completion of the proposed project.
- (f) Right to a Clean and Healthful Environment. Projects shall be undertaken and completed so as to maintain and, where appropriate, enhance and protect the Commonwealth's inherent natural beauty and natural resources, so as to ensure the protection of the people's constitutional right to a clean and healthful environment.
- (g) Effect on Existing Public Services. Activities and uses which would place excessive pressure on existing facilities and services to the detriment of the Commonwealth's interests, plans and policies, shall be discouraged.
- (h) Adequate Access. The DCRM Director and CRM agency officials shall determine whether the proposed project would provide adequate public access to and along the shoreline.
- (i) Setbacks. The DCRM Director and CRM agency officials shall determine whether the proposed project provides adequate space between the project and identified hazardous lands including floodplains, erosion-prone areas, storm wave inundation areas, air installation crash and sound zones and major fault lines unless it can be demonstrated that such development does not pose unreasonable risks to the health safety, and welfare of the people of the Commonwealth, and complies with applicable laws.

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

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Commission Comment: The Commission corrected the spelling of the word “development” in the introductory paragraph pursuant to 1 CMC § 3806(g). The Commission inserted commas after the words “departments” in subsection (b), “maintenance” in subsection (d), and “patterns” in subsection (j) pursuant to 1 CMC § 3806(g).

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

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

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Emergency 32 Com. Reg. 30802 (Oct. 22, 2010) (effective for 120 days following October 22, 2010); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 18 Com. Reg. 14038 (Mar. 15, 1996); Amdts Proposed 18 Com. Reg. 13987 (Feb. 15, 1996); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Commission Comment: The emergency regulation of 2010 added subsection (d)(4)(iii), governing seagrass habitat modification. It is no longer in effect. The 2014 amendments deleted former subsections (a) through (i), moving them to new sections 15-10-315 through 15-10-345.

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

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

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

- (1) Subsistence usage of coastal areas and resources shall be ensured;
- (2) Living marine resources, particularly fishery resources, shall be managed so as to maintain optimum sustainable yields;
- (3) Significant adverse impacts to reefs and corals shall be prevented;
- (4) Lagoon and reef areas shall be managed so as to maintain or enhance subsistence, commercial, and sport fisheries;
- (5) Lagoon and reef areas shall be managed so as to assure the maintenance of natural water flows, natural circulation patterns, natural nutrient and oxygen levels and to avoid the discharge of toxic wastes, sewage, petroleum products, siltation, and destruction of productive habitat;
- (6) Areas and objects of historic and cultural significance shall be preserved and maintained; and
- (7) Underwater preservation areas shall be designated.

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

- (1) Highest:
 - (i) Projects promoting conservation of open space, high water quality, historic, and cultural resources;
 - (ii) Projects promoting or enhancing public recreation and access;
 - (iii) Water-dependent projects which are compatible with adjacent uses;
 - (iv) Sport and small-scale taking of edible marine resources within sustainable levels;
 - (v) Activities related to the prevention of beach erosion; or
 - (vi) Projects preserving fish and wildlife habitat.
- (2) Moderate:
 - (i) Commercial taking of edible marine resources within sustainable levels;
 - (ii) Aquaculture projects which do not adversely affect the productivity of coastal waters or natural beach processes; or
 - (iii) Piers and docks which are constructed with floating materials or which, by design, do not impede or alter natural shoreline processes and littoral drift.
- (3) Lowest:
 - (i) Point source discharge of drainage water which will not result in significant permanent degradation in the water quality of the lagoon; or
 - (ii) Dredging and filling to construct piers, launching facilities, and boat harbors, if designed to prevent or mitigate adverse environmental impacts.
- (4) Unacceptable:
 - (i) Discharge of untreated sewage, petroleum products, or other hazardous materials;
 - (ii) Taking of sand and aggregate materials not associated with permitted activities and uses;
 - (iii) Destruction of coralline reef matter not associated with permitted activities and uses;
 - (iv) Dumping of trash, litter, garbage, or other refuse into the lagoon, or at a place on shore where entry into the lagoon is likely;

(v) Dredge and fill activities not associated with permitted construction of piers, launching facilities, infrastructure, and boat harbors.

(d) Seagrass and seaweed habitat within lagoon and reef APC.

(1) Management standards. Any proposed project within any seagrass APC shall be evaluated to determine its compatibility with the following standards, as well as the management standards for the lagoon and reef APC as listed at § 15-10-315(b).

(2) Use priorities. Activities listed within a use priority category are neither priority ranked nor exhaustive. Use priority categories for sea grass habitat areas are as follows:

(i) Highest: Preservation of natural seagrass and seaweed beds, which protect the shoreline from erosion and prevent the movement of sand in the lagoon.

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

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

(iv) Unacceptable

(A) Any project that does not minimize damage to sea grass habitat areas according to the provisions of NMIAC § 15-10-315(d)(3).

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

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

(3) Seagrass and seaweed habitat modification

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

(ii) In the event that reduction in the area of seagrass and seaweed habitat by direct actions associated with a permitted project are unavoidable, the following shall apply: In the case of safe swimming zones designated by Department of Public Safety where hotels are directly fronting or adjacent to the Saipan Lagoon, a given swimming zone may be cleared only to the point that 50% of a given swimming zone is clear of seagrass and seaweed, as authorized by Public Law 15-41 [2 CMC § 5601]. In the event that 50% or more of a given swimming zone is naturally barren of seagrass and seaweed, no further removal is permitted. No permit for the removal of seagrass and seaweed will be issued unless a hotel swimming zone is properly demarcated with appropriate buoys pursuant to Department of Public safety designation and in consultation with the DCRM, Marianas Visitor Authority and adjacent land owners. Under no circumstances will motorized removal of seagrass of any kind be permitted in a safe swimming zone.

Modified, 1 CMC § 3806(g).

History: Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Proposed 36 Com. Reg. 35505 (Sept. 28, 2014).

Commission Comment: The Commission inserted commas after the words “commercial” in subsection (b)(4), “siltation” in subsection (b)(5), “historic” in subsection (c)(1)(i), “products” in subsection (c)(4)(i), “garbage” in subsection (c)(4)(iv), and “infrastructure” in subsection (c)(4)(v), corrected the spelling of the word “seagrass” in subsections (d)(1) and (d)(3)(ii), corrected a colon to a period in subsection (d)(1), and removed an extra comma in subsection (d)(2)(iv)(B) pursuant to 1 CMC § 3806(g).

Prior to the 2014 amendments, criteria for reefs and lagoons were located at § 15-10-310(b).

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

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

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

(1) Highest. Maintenance of the island as an uninhabited place used only for cultural and passive recreational purposes.

(2) Moderate. Improvements for the purposes of sanitation and navigation.

(3) Lowest. Commercial activity situated on the island related to cultural and passive recreational pursuits.

(4) Unacceptable. Development, uses, or activities which preclude or deter or are unrelated to the use of the island by residents of the Commonwealth for cultural or passive recreational purposes.

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

(1) Highest. Maintenance of that part of the island outside the port and industrial APC as a wildlife sanctuary and for passive recreation.

(2) Unacceptable. Expansion of the port and industrial section of Anjota Island which would encroach upon or have significant adverse impact upon the maintenance of a wildlife preserve or upon recreational uses of the island.

Modified, 1 CMC § 3806(g).

History: Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Proposed 36 Com. Reg. 35505 (Sept. 28, 2014).

Commission Comment: The Commission inserted a comma after the word “uses” in subsection (b)(4) pursuant to 1 CMC § 3806(g).

Prior to the 2014 amendments, criteria for Managaha and Anjota were located at § 15-10-310(b).

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

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

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

(1) Highest:

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

(ii) Creation of underwater preserves in pristine areas.

(2) Moderate. Dredging of moderately productive corals and reefs associated with permitted uses and activities.

(3) Lowest. Taking of corals for cultural use (i.e. production of lime).

- (4) Unacceptable:
 - (i) Destruction of reefs and corals not associated with permitted projects; or
 - (ii) Taking corals for other than scientific study.

History: Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Proposed 36 Com. Reg. 35505 (Sept. 28, 2014).

Commission Comment: Prior to the 2014 amendments, criteria for coral reefs were located at § 15-10-310(b).

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

(a) **Area Defined.** The geographic area of particular concern which includes areas inundated by surface or ground water with a frequency sufficient to support a prevalence of plant or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands include swamps, marshes, mangroves, lakes, natural ponds, surface springs, streams, estuaries, and similar areas in the Northern Mariana Islands chain.

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

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

(2) The natural ecological and hydrological processes of mangrove areas shall be preserved;

(3) Critical wetland habitat shall be maintained and, where possible, enhanced so as to increase the potential for survival of rare and endangered flora and fauna;

(4) Public landholding in and adjacent to the wetland and mangrove APC shall be maintained and, to the extent possible, increased, for the purpose of access and/or hazard mitigation, through land trades with the Department of Public Lands or any of its successor agencies, land purchases, creation of easements, or through taking by eminent domain; and

(5) Wetland resources shall be utilized for appropriate agriculture, recreation, education, public open space, and other compatible uses which would not degrade productivity.

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

(1) **Highest:**

(i) Preservation and enhancement of wetland and mangrove areas; or

(ii) Preservation of wildlife, primary productivity, conservation areas, and historical properties in both wetland and mangrove areas.

(2) **Moderate:**

(i) Non-intensive agriculture benefitted by inundation, low density grazing;

(ii) Infrastructure corridors designed to avoid significant adverse impacts to natural hydrological processes and values as wildlife habitat;

(iii) Non-commercial recreation including light duty, elevated, non-permanent structures such as footbridges, observation decks, and similar non-enclosed recreational and access structures.

(3) **Lowest.** Residential development designed to avoid adverse environmental impacts and which is not susceptible to damage by flooding.

(4) **Unacceptable:**

- (i) Land fill and dumping not associated with flood control and infrastructure corridors or other allowable activities and uses; or
- (ii) Land clearing, grading, or removal of natural vegetation not associated with allowable activities, which would result in extensive sedimentation of wetland, mangrove areas, and coastal waters.

Modified, 1 CMC § 3806(g).

History: Certification and Adoption of Rule 38 Com. Reg. 37489 (Jan. 28, 2016); Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Proposed 36 Com. Reg. 35505 (Sept. 28, 2014).

Commission Comment: The Commission inserted commas after the words “nutrients” and “habitat” in subsection (b)(1), “easements” in subsection (b)(4), “space” in subsection (b)(5), “areas” in subsection (c)(1)(ii), “decks” in subsection (c)(2)(iii), and “grading” and “areas” in subsection (c)(4)(ii) pursuant to 1 CMC § 3806(g).

Prior to the 2014 amendments, criteria for wetlands and mangroves were located at § 15-10-310(c) and (d).

A Notice of Certification and Adoption of Rule was published by the Bureau of Environmental and Coastal Quality, Division of Coastal Resources Management in January 2016. That notice adopted the “Rapid Assessment Method User’s Manual.” Due to the format of the resource, the Commission has made it available by means of the following internet hyperlink:

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

- (a) **Area Defined.** The geographic area of particular concern consisting of the area between the mean high water mark or the edge of a shoreline cliff and one hundred fifty feet inland on the islands of the Northern Mariana Islands chain.
- (b) **Management Standards.** Any project proposed for location within the shoreline APC shall be evaluated to determine its compatibility with the following standards:
 - (1) The impact of onshore activities upon wildlife, marine, or aesthetic resources shall be minimized;
 - (2) The effects of shoreline development on natural beach processes shall be minimized;
 - (3) The taking of sand, gravel, or other aggregates and minerals from the beach and near shore areas shall not be allowed;
 - (4) Removal of hazardous debris from beaches and coastal areas shall be strongly encouraged;
 - (5) Where possible public landholding along the shore shall be maintained and increased, for the purpose of access and hazard mitigation, through land trades with the Department of Public Land, or its successor agency, land purchases, creation of easements, and where no practicable alternative exists, through the constitutional authority of eminent domain.
- (c) **Additional Considerations for Permits on Shorelines.** In addition to deciding whether the proposed project is consistent with the above standards, CRM agency officials shall consider the following in their review of coastal permit applications:
 - (1) Whether the proposed project is water-dependent or water-oriented in nature;
 - (2) Whether the proposed project is to facilitate or enhance coastal recreational, subsistence, or cultural opportunities. (i.e., docking, utt, fishing, swimming, picnicking, navigation devices);

- (3) Whether the existing land use, including the existence of roadways, has irreversibly committed the area to uses compatible with the proposed project, particularly water oriented uses, and provided that the proposed project does not create adverse cumulative impacts;
- (4) Whether the proposed project is a single-family dwelling in an existing residential area and would occur on private property owned by the same owner as of the effective date of the program, of which all or a significant portion is located in the shoreline APC, or no reasonable alternative is open to the property owner to trade land, relocate, or sell to the government;
- (5) Whether the proposed project would be safely located on a rocky shoreline and would cause significant adverse impacts to wildlife, marine or scenic resources;
- (6) Whether the proposed project is designed to prevent or mitigate shoreline erosion; and
- (7) Whether the proposed project would be more appropriately located in the port and industrial APC.

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

- (1) Effective runoff control shall be implemented which includes the use of pollution prevention activities and the proper design of hull maintenance areas;
- (2) Shoreline stabilization shall be implemented where erosion is a nonpoint source pollution problem;
- (3) Effective fuel station design shall be implemented to prevent spills and leaks and allow for efficient and effective cleanup of spills;
- (4) Effective sewage management facilities shall be installed where needed to reduce the release of sewage to surface waters. Facilities shall be designed to allow for efficient and effective maintenance and signage shall be posted to facilitate the public's use of the facility;
- (5) Effective fish waste management shall be implemented through restrictions, public education, and/or facilities for proper disposal of fish waste;
- (6) Petroleum control shall be implemented to reduce the amount of fuel and oil from boat bilges and fuel tank air vents and other vessel activities from entering marina and surface waters;
- (7) Boat cleaning operations shall minimize, to the extent practicable, the release of harmful cleaners and solvents as well as paint from in-water hull cleaning;
- (8) Public education management, outreach, and training shall promote marina activities that minimize environmental impact; and
- (9) Boating activities within marina areas shall conform to the Department of Public Safety Boating Safety Regulations [NMIAC, title 150, chapter 20].

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

- (1) Highest:
 - (i) Public recreational uses of beach area, including the creation of public shoreline parks and construction of structures enhancing access and use, such as barbecue grills, picnic tables, docks, shelters, or boardwalks;
 - (ii) Compatible water-dependent development which cannot be reasonably accommodated in other locations;
 - (iii) Traditional cultural and historic practices;

- (iv) Preservation of fish and wildlife habitat;
- (v) Preservation of natural open areas of high scenic beauty and scientific value; or
- (vi) Activities related to the prevention of beach erosion through non-structural means.
- (2) Moderate:
 - (i) Single-family dwellings in existing residential areas;
 - (ii) Agriculture/aquaculture, which requires or is enhanced by conditions inherent in this APC; or
 - (iii) Improvements to or expansion of existing water-oriented structures which are compatible with designated land uses and do not otherwise conflict with or obstruct public recreational use of coastal areas or other water-dependent or water-related uses.
- (3) Lowest:
 - (i) Projects which result in growth or improvements to existing commercial, non-recreational public or multi-unit residential uses; or
 - (ii) Water related and new water-oriented development compatible with designated land uses, which cannot be accommodated in other locations and which neither conflicts with recreational uses nor restricts access to or along the shoreline.
- (4) Unacceptable:
 - (i) New commercial structures, industrial structures, or non-recreational public structures which are not water-dependent, water-oriented, or water-related;
 - (ii) Disposal of litter and refuse; or
 - (iii) The taking of sand for other than cultural usage, and mining of gravel and extraction of minerals, oil and gas, or other extractive uses.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Proposed 36 Com. Reg. 35505 (Sept. 28, 2014).

Commission Comment: The Commission inserted commas after the words “marine” in subsection (b)(1), “relocate” in subsection (c)(4), “shelters” in subsection (e)(1)(i), and “water-oriented” in subsection (e)(4)(i) pursuant to 1 CMC § 3806(g). The Commission corrected the capitalization of the words “permits” and “shorelines” in subsection (c) and “marina,” “small,” “boat,” “harbor,” “project,” and “permits” in subsection (d) pursuant to 1 CMC § 3806(f).

Prior to the 2014 amendments, criteria for shorelines were located at § 15-10-310(e) and (f).

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

- (a) **Area Defined.** The land and water areas of particular concern surrounding the commercial ports of the Northern Mariana Islands which consists of projects, industrial uses, and all related activities.
- (b) **Management Standards.** Any project proposed for location within the port and industrial APC shall be evaluated to determine its compatibility with the following standards:
 - (1) Projects shall be undertaken and completed so as to maintain and, where appropriate, enhance and protect the Commonwealth’s inherent natural beauty and natural resources and so as to ensure the protection of the people’s constitutional right to a clean and healthful environment;
 - (2) In the siting of port and industrial development, its suitability in terms of meeting the long-term economic and social expectations of the Commonwealth;

- (3) Recognize the limited availability of the port and industrial resources in making allocation decisions;
- (4) Ensure that development is done with respect for the Commonwealth's inherent natural beauty and the people's constitutionally protected right to a clean and healthful environment;
- (5) Develop improvements to infrastructure in the port and industrial APC;
- (6) Prohibit projects which would result in significant adverse impacts, including cumulative impacts on coastal resources outside the port and industrial APC;
- (7) Conserve shoreline locations for water-dependent projects;
- (8) Consider and assist in resolution of possible conflicts by identifying and planning for the potential exercise of military retention area options affecting port resources;
- (9) Locate, to the maximum extent practicable, petroleum based coastal energy facilities within the port and industrial APC;
- (10) Consider development proposals from the perspective of federal port related opportunities and constraints which are applicable to the Commonwealth; and
- (11) The amount of shoreline frontage utilized by any project, regardless of the extent to which the project may be water-dependent, shall be minimized to the greatest extent practicable.

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

- (1) Highest:
 - (i) Water-dependent port and industrial activities and uses located on the APC shoreline;
 - (ii) Industrial uses that are not water-dependent but would cause significant adverse impacts if situated outside the port and industrial APC and would not be sited directly on the port and industrial APC shoreline, and would not preclude the opportunity for water-dependent activities and uses; or
 - (iii) Industries and services that support water-dependent industry and labor, which are not located on the port and industrial APC shoreline and do not interfere with water-dependent uses.
- (2) Moderate:
 - (i) Recreational boating facilities; or
 - (ii) Clearing, grading, or blasting which does not have long-term adverse effects on environmental quality, drainage patterns, or adjacent APCs, so long as the activity is related to the permitted project.
- (3) Lowest:
 - (i) Indefinite storage or stockpiling of hazardous materials;
 - (ii) Indefinite storage of goods, not awaiting water-borne transport, in a shorefront location; or
 - (iii) Uses or activities which are acceptable in other APCs and which do not enhance or are not reasonable necessary to support permissible uses, activities and priorities in the port and industrial APC.
- (4) Unacceptable:
 - (i) Non-port and industrial related activities and uses which, if permitted, would result in conversion to other uses at the expense of port and industrial related growth, or would induce port and industrial related growth into other APCs or areas; or

(ii) Uses and activities which would have a significant adverse impact on other APCs, the American Memorial Park, Anjota Preserve, historic properties, and other significant coastal resources.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Proposed 36 Com. Reg. 35505 (Sept. 28, 2014).

Commission Comment: The Commission corrected the capitalization of the word “defined” in subsection (a) pursuant to 1 CMC § 3806(f). The Commission inserted commas after the words “uses” in subsection (a), “grading” and “patterns” in subsection (c)(2)(ii), and “properties” in subsection (c)(4)(ii) pursuant to 1 CMC § 3806(g).

Prior to the 2014 amendments, criteria for ports and industrial areas were located at § 15-10-310(g) and (h).

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

(a) **Area Defined.** Areas identified as coastal flood hazard zones, (V & VE) in the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRMs), shall be considered coastal hazards APC.

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

(1) If the project will have a detrimental impact on existing landforms or coastal processes that provide natural resistance from the forces of coastal hazards such as beaches, wetlands, and cliff lines, impacts to these coastal resources shall be avoided to the maximum extent possible;

(2) If the project is located in a geologically unstable zone such as cliff lines, severe slopes, coastal headlands, or outcroppings, appropriate mitigation to prevent threat to human life, safety, and the environment must be applied;

(3) If the project design, form, or use tends to make the structure (or auxiliary structures) more vulnerable to the effects of coastal hazards such as high winds, wave energy, flooding, and storm surge, the plans must be certified by a CNMI licensed structural engineer to ensure potential impacts and threats to human life and safety are minimized;

(4) If the project is located within an area which has historically been known to flood or be at high risk to storm wave inundation or erosion, all design plans must be approved by the DPW Building Control Officer for compliance with the applicable building code; and

(5) If construction of the project may endanger human life or safety due to its design or siting, it shall not be allowed.

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

(1) Whether the project is shoreline dependent;

(2) Whether the project is located in an area where potentially hazardous construction or unsafe structures already exist;

(3) Whether the project is receiving funding by any entity of the federal or local government for its design or construction;

(4) Whether the project will enhance or facilitate recreational or cultural opportunities;

- (5) Whether access to or from the shoreline is enhanced or the level of safety to or along the shoreline is increased;
- (6) Whether the project is designed to prevent or mitigate for shoreline erosion; and
- (7) Whether the project meets the requirements of the applicable building code for structures in flood or storm hazard zones.

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

- (1) Highest:
 - (i) Projects which preserve or enhance the natural defense of the shoreline against storm wave attack and flooding;
 - (ii) Public recreational uses of beach area, including the creation of public shoreline parks and the preservation of open space along the shoreline;
 - (iii) Traditional cultural and historic practices;
 - (iv) Preservation of fish and wildlife habitat; or
 - (v) Preservation of natural open areas of high scenic beauty and/or scientific value.
- (2) Moderate:
 - (i) Projects which promote access to and from remote shoreline areas; or
 - (ii) Improvements to, or expansion of, existing water oriented structures which are located in low risk hazard areas, are compatible with designated land uses, and do not pose a risk to the health and safety of the public.
- (3) Lowest:
 - (i) Projects which result in the start, growth, or improvement of commercial, public, or multi-unit/single residential uses in areas identified or known to be in high hazard zones;
 - (ii) Transportation facilities, public infrastructure, or shoreline dependent projects which cannot be reasonably accommodated in other areas; or
 - (iii) Projects which require the installation or placement of shore protection structures.
- (4) Unacceptable:
 - (i) Projects which degrade or modify natural shoreline protective feature such as beaches, cliffs, or rocky shorelines;
 - (ii) Projects which require hard shore protection to facilitate or accommodate structural entities of the development, unless these developments are associated with boating or marine based facilities; or
 - (iii) Projects which interfere or disrupt the natural shoreline processes such as littoral transport or coastal dynamics.

Modified, 1 CMC § 3806(g).

History: Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Proposed 36 Com. Reg. 35505 (Sept. 28, 2014).

Commission Comment: The Commission removed an extra “a” from subsection (a), inserted commas after the words “wetlands” in subsection (b)(1), “headlands” and “safety” in subsection (b)(2), “form” and “flooding” in subsection (b)(3), “uses” in subsection (d)(2)(ii), “growth” in subsection (d)(3)(i), “infrastructure” in subsection (d)(3)(ii), and “cliffs” in subsection (d)(4)(i), and corrected “tend” to “tends” in subsection (b)(3) pursuant to 1 CMC § 3806(g).

Prior to the 2014 amendments, criteria for coastal hazards were located at § 15-10-310(i) and (j).

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

(a) Application of Guidelines, Generally. The following building design and site utilization guidelines will be applied to all projects requiring a CRM permit unless governed by zoning law pursuant to § 15-10-025 or if CRM agency officials in writing, and with concurrence by DCRM Director, grant an exception. An exception may only be granted when the applicant can demonstrate that there will be no significant impacts on scenic, historical, coastal, biological, and water resources. However, no exception may be granted for shoreline setbacks unless otherwise provided for in subsection (b). In order to be consistent with the 1990 CNMI Building Code (PL 6-45) (2 CMC §§ 7101, et seq.) building heights will be measured according to the definition provided by the appropriate sections of the applicable building code.

(b) Shoreline Setbacks.

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

(2) Shoreline Setbacks:

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

(ii) Shoreline setback B, from 35-75 feet. No vertical construction, which will obstruct the visual openness and continuity of the shoreline area, is permitted. Open space, rest and recreation areas, swimming pools, terraces, landscaping and related outdoor improvements are allowed. Parking areas are not permitted.

(iii) Shoreline setback C, from 75-100 feet. Single-story structures, covered porches, trellises and similar improvements not to exceed 12-feet in height measured from the natural grade line. Parking is permitted if otherwise allowed by law.

(iv) Shoreline setback D, greater than 100 feet. Building height based on § 15-10-350(c). If the building is higher than 2 stories, 100 feet from shoreline shall be considered the property line.

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

(i) Shoreline setback A-1, from 0-20 feet. Beach recreation zone for use as public access and recreation.

(ii) Shoreline setback B-1, from 20-60 feet. Shall be open space with no vertical construction or parking permitted.

(iii) Shoreline setback C-1, from 60-100 feet. Single and two-story structures only, with the total height not to exceed 20 feet.

(iv) Shoreline setback D-1, greater than 100 feet. Building height based on § 15-10-350(c).

(c) Height and Side Yard Setback.

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

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

(2) Multi-unit Residential. Multi-unit residential buildings must be set back one foot from the front and back of property lines for each one foot in the overall height of the building. All multi-unit residential buildings must be set back at least 10 feet from the side property lines.

(3) Commercial. Commercial buildings must be set back one foot from the front and back property lines for each one foot in the overall height of the building. All commercial buildings must be set back at least 10 feet from the side property lines. The DCRM Director may allow a smaller side setback upon a determination that the adjacent property is being or is substantially likely to be used for commercial or industrial purposes.

(4) Hotel & Resort. Hotel and resort buildings must be set back one foot from the front and back property lines for each one foot in the overall height of the building.

(5) Industrial. Industrial buildings shall be set back a minimum of 20 feet from all property lines. The DCRM Director may allow less than a 20 foot setback upon a determination that the adjacent property is being or is substantially likely to be used for industrial purposes.

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

(1) One and Two Family Residential:

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

(ii) In developments consisting of more than four lots, the developer and/or subdivider must provide common use open space at a ratio of one acre of common use open space per every five acres of private lots. Up to 50% of the required common open space may be open space useable by the community included in public schools or similar public facilities.

(2) Multi Unit Residential. Maximum lot coverage by buildings is 60%. A minimum of 1.25 parking spaces must be provided for each dwelling unit.

(3) Commercial. Maximum lot coverage by structures is 75%. A minimum of one parking space must be provided for each 200 square feet of commercial space; one parking space for each 150 square feet of office space; and one parking space for every four restaurant seats.

(4) Hotel & Resort:

(i) For buildings exceeding 35 feet in height. Maximum lot coverage by structures is 20%. Maximum lot coverage by parking, roads, and service entries is 35%. Minimum lot coverage for open space is 45%.

(ii) For buildings less than 35 feet in height. Maximum lot coverage by structures is 35%. Maximum lot coverage by parking, roads and service entries is 35%. Minimum lot coverage for open space is 30%.

(iii) A minimum of 1 parking space for every 5 guest units must be provided.

(5) Industrial. An adequate number of parking spaces for employees and customers must be provided.

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

Modified, 1 CMC § 3806(c), (g).

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 12 Com. Reg. 7183 (July 15, 1990); Amdts Proposed 12 Com. Reg. 6998 (May 15, 1990); Amdts Adopted 9 Com. Reg. 4989 (July 20, 1987); Amdts Proposed 9 Com. Reg. 4967 (May 15, 1987).

Commission Comment: The Commission corrected the capitalization of the words “guidelines” and “generally” in subsection (a) pursuant to 1 CMC § 3806(f). The Commission corrected reference numbers in subsections (b)(2)(iv) and (b)(3)(iv) pursuant to 1 CMC § 3806(c).

Prior to the 2014 amendments, the predecessor to this section was located at § 15-10-315. The 2014 proposed amendments designated this section as § 15-10-360. The December 2014 Notice of Adoption redesignated it as § 15-10-350.

Part 400 - Standards for APC Creation and Modification

§ 15-10-401 Authority

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

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

§ 15-10-405 Procedure

Requests for new or modified APCs shall include detailed documentation supporting the APC designation or boundary change. The documentation shall be based on criteria set forth in § 15-10-410 below, but may include other information pertinent to the area nominated or proposed boundary change. Within thirty days of a nomination or proposed boundary change, the DCRM Director shall circulate it to the CRM agency officials and the CRM Coastal Advisory Council. 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 CRM Office shall be available to receive public comment for a period of forty-five days from the date such notice is published. Within the forty-five day comment period, the CRM agency officials and the CRM Coastal Advisory Council shall submit to the CRM Office comments and recommendations, and a public hearing shall be conducted by the CRM Office. Within thirty days after the closure of the comment period, the CRM Coastal Advisory Council shall, after adequate consideration of the comments received, issue a recommendation on the nomination to the CRM agency officials who shall make the final decision regarding the proposed creation or modification.

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

§ 15-10-410 Criteria for Creation and Modification

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

- (a) Areas of unique, scarce, fragile, or vulnerable natural habitat; have a unique or fragile physical configuration (e.g. Saipan lagoon); are of historical significance, cultural value or scenic importance (including resources on or determined to be eligible for the National or CNMI Register of Historic Places);
- (b) Areas of high natural productivity or essential habitat for living resources, including fish, wildlife and endangered species and the various trophic levels in the food web critical to their well-being;
- (c) Areas of substantial recreational value or potential;
- (d) Areas where developments and facilities are dependent either upon the utilization of, or access to coastal waters or of geographic significance for industrial or commercial development or for dredge spoil disposal;
- (e) Areas of urban concentration where shoreline utilization and water uses are highly competitive;

- (f) Areas which, if development were permitted, might be subject to significant hazard due to storms, slides, floods, erosions, stormwater sedimentation, settlement or salt water intrusion;
- (g) Areas needed to protect, maintain, or replenish coastal lands or resources, including coastal flood plains, aquifers and their recharge areas, estuaries, sand dunes, coral and other reefs, beaches and offshore sand deposits; or
- (h) Areas needed for the preservation or restoration of coastal resources due to the value of those resources for conservation, recreational, ecological, or aesthetic purposes.

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

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

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

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Part 500 - Standards for Determination of a Major Siting

§ 15-10-501 Determination of Major Siting

- (a) The determination of whether a proposed project, inside or outside a coastal APC, constitutes a major siting shall be issued by the CRM Office based on a documented majority of CRM program agencies stating the rationale therefore. Major siting is defined in § 15-10-020.
- (b) All major sitings shall be in conformity with the policy enumerated in section 3 of PL 3-47 (2 CMC § 1511).
- (c) Any project determined to be a major siting must apply for a major siting permit.

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

§ 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 § 15-10-205(h)(20)(viii).

- (a) **Project Site Development.** The proposed project site development shall be planned and managed so as to ensure compatibility with existing and projected uses of the site and surrounding area.
- (b) **Minimum Site Preparation.** Proposed projects shall, to the extent practicable, be located at sites with pre-existing infrastructure, or which require a minimum of site preparation (e.g. excavation, filling, and removal of vegetation, utility connection).
- (c) **Adverse Impact on Fish and Wildlife.** The proposed project shall not adversely impact fragile fish and wildlife habitats, or other environmentally sensitive areas.
- (d) **Cumulative Environmental Impact.** The proposed project site shall be selected in order to minimize adverse primary, secondary, or cumulative environmental impacts.
- (e) **Future Development Options.** The proposed project site shall not unreasonably restrict the range of future development options in the adjacent areas.
- (f) **Mitigation of Adverse Impact.** Wherever practicable, adverse impact 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.
- (g) **Cultural-historic/Scenic Values.** Consider siting alternatives that promote the Commonwealth's goals with respect to cultural-historic and scenic values.
- (h) **Watershed Conservation.** In regard to site development (including roads, highways, and bridges), avoid development, to the extent practicable, of areas that are particularly susceptible to erosion and sediment loss; preserve areas that provide important water quality benefits and/or are necessary to maintain riparian and aquatic biota and/or protect to the extent practicable the natural integrity of water bodies and natural drainage systems.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Commission Comment: The Commission corrected “Commonwealths” to “Commonwealth’s” in subsection (g) pursuant to 1 CMC § 3806(g).

Part 600 - CRM Permit Conditions

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

CRM agency officials may delineate the scope of an approved activity, or otherwise limit CRM permits, by issuing conditions to CRM permits. The conditions shall be set out individually in writing, shall be accompanied by a specific reason for each condition and shall be issued contemporaneously with the CRM permit. In permitted projects of an ongoing nature, the requirement for satisfaction of or compliance with the CRM permit conditions shall continue for the duration of the permitted activity. Violation of a CRM permit condition at any time shall be cause for the DCRM Director to take enforcement action pursuant to parts 800 and 900.

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

§ 15-10-605 Purpose and Scope

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

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

§ 15-10-610 Mandatory Conditions

All CRM permits shall contain at least the following conditions:

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

(b) **Timing and Duration.**

(1) Permitted physical development of the project site subject to a CRM permit shall begin within the time frame specified for project commencement on the permit. The maximum time allowed for project commencement shall be one year. The project shall be completed within the time frame specified on the permit for project completion. The maximum time allowed for project

completion shall be three years unless it can be demonstrated the scope of the project requires additional time for construction purposes (only). Upon project completion, the permittee shall deliver a completion certificate to the CRM Office. If the project is not completed within the time frame specified in the permit, the permit will be reviewed by the DCRM Director who will do one of the following:

- (i) Extend or amend the permit; or
- (ii) Terminate the permit.

(2) If the DCRM Director grants an extension of the permit, a fee equaling fifty percent of the original permit fee shall be assessed. The DCRM Director shall have the discretion to waive this fee if the project has been substantially completed. Substantial completion means, the project is over seventy-five percent structurally complete as certified by a CNMI licensed architect or engineer.

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

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

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

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

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

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

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 16 Com. Reg. 12327 (Aug. 15, 1994); Amdts Proposed 16 Com. Reg. 12220 (July 15, 1994); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

§ 15-10-615 Insurance Condition

(a) When a permit is granted with a condition that permittee must obtain insurance for the activities engaged in by permittee, that insurance must be obtained from an insurer licensed by the

CNMI Department of Commerce to sell and supply such insurance in the Commonwealth, and otherwise legally competent to sell and supply such insurance. The failure to obtain such insurance is grounds for non-issuance or revocation of permit.

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

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

History: Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Proposed 36 Com. Reg. 35505 (Sept. 28, 2014).

Part 700 - CRM Permit Amendment

§ 15-10-701 CRM Permit Amendment

(a) Amendment of Permit for Change in Scope or Nature of Project. An amended DCRM permit shall be required of all projects before they are significantly altered or substantially expanded. Such an amendment shall require submittal of a revised DCRM permit application to the DCRM Office. Alterations and expansions requiring amended DCRM permits include, but are not limited to, project changes which exceed \$5000.00 of the monetary value of the permitted project as described in the original DCRM permit application. Where a substantially new project is proposed, a new and different permit must be obtained.

(b) Amendment of Permit on Request of CRM Agency. A CRM agency may request the inclusion of a condition to a permit, after the decision to award the permit but prior to actual issuance of permit to permittee, or at any time after the issuance of the permit. The permit shall be amended by the inclusion of the proposed condition if the CRM agency officials decide to include the condition through the same process as the original permit, as set forth in § 15-10-230.

Modified, 1 CMC § 3806(c), (f).

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Commission Comment: The Commission placed introductory phrases in title case pursuant to 1 CMC § 3806(f). The Commission changed reference numbers in subsection (c) pursuant to 1 CMC § 3806(c).

§ 15-10-705 Transfer of Interest

If a property interest in the project is transferred, the CRM Office shall issue a new permit in the name of the successors in interest within 30 days of receiving notice of the transfer. A permit issued under this section shall be identical in respect to terms and conditions to the permit issued to the predecessor in interest.

History: Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985).

Part 800 - Enforcement of CRM Permits

§ 15-10-801 Purpose

The provisions of this part are intended to establish procedures whereby the DCRM Director may enforce the terms and conditions of CRM permits. Final actions of the DCRM Director based upon this part are final agency actions reviewable directly by the Commonwealth Superior Court pursuant to the Administrative Procedure Act, 1 CMC §§ 9101, et seq.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 24 Com. Reg. 19947 (Dec. 27, 2002); Amdts Proposed 24 Com. Reg. 19519 (Sept. 27, 2002); Amdts Adopted 12 Com. Reg. 7183 (July 15, 1990); Amdts Proposed 12 Com. Reg. 6998 (May 15, 1990); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Commission Comment: The Commission corrected “final agency action” to “final agency actions” pursuant to 1 CMC § 3806(g).

§ 15-10-805 Grounds for Action

The DCRM Director shall take action to enforce compliance with CRM program policies and CRM permit conditions in any of the following cases:

- (a) **Misstatement.** The CRM permit applicant, a party or any participant in a hearing on the CRM permit application made a material misstatement that directly and significantly affected the CRM permit decision.
- (b) **Permit Violation.** The CRM permit applicant or its successor in interest, has violated a material term or condition of the CRM permit.
- (c) **Supervening Illegality.** The permitted project, as constructed or operated, has become unlawful by subsequent case law, statute, regulation, or other illegality.

(d) **New Environmental Impact.** The permitted project has a newly discovered adverse environmental impact.

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 24 Com. Reg. 19947 (Dec. 27, 2002); Amdts Proposed 24 Com. Reg. 19519 (Sept. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

§ 15-10-810 Warning

The DCRM Director, upon a determination that a permitted project violates one or more provisions of § 15-10-805, may issue a notice of intent to undertake CRM permit enforcement proceedings unless the CRM permit holder accomplishes corrective measures. This warning procedure shall not affect nor limit the DCRM Director's duties, powers, and responsibilities under § 15-10-815.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 24 Com. Reg. 19947 (Dec. 27, 2002); Amdts Proposed 24 Com. Reg. 19519 (Sept. 27, 2002); Amdts Adopted 12 Com. Reg. 7183 (July 15, 1990); Amdts Proposed 12 Com. Reg. 6998 (May 15, 1990); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Commission Comment: The Commission corrected "Director" to "Director's" pursuant to 1 CMC § 3806(g).

§ 15-10-815 Permit Enforcement Notice

If after thirty days of the date the DCRM Director issued a notice of intent under § 15-10-810, the CRM permit holder has failed to take corrective action, or continues to be in violation of its CRM permit or in the case of an ongoing violation, the DCRM Director shall issue a written permit enforcement notice to the CRM permit holder.

(a) **Content of Notice.** A permit enforcement notice shall include a statement of facts or conduct constituting the violation and shall indicate the intended action to be taken by the DCRM Director. If the DCRM Director intends to impose a fine for the violation(s), the permit enforcement notice shall state the proposed amount of the fine. A permit enforcement notice shall provide for permit enforcement hearings, if requested, and inform the CRM permit holder of his responsibilities and rights under this part. The notice shall inform the permit holder that unless he requests a permit enforcement hearing within 30 days, the proposed sanction will be imposed.

(b) **Service.** A permit enforcement notice shall be delivered by the CRM Office staff in person to the CRM permit holder, or served by certified U.S. mail addressed to the CRM permit holder, or his designated agent. Proof of service shall be made by affidavit.

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

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 24 Com. Reg. 19947 (Dec. 27, 2002); Amdts Proposed 24 Com. Reg. 19519 (Sept. 27, 2002); Amdts Adopted 12 Com. Reg. 7183 (July 15, 1990); Amdts Proposed 12 Com. Reg. 6998 (May 15, 1990); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

§ 15-10-820 Emergency Suspension

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

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 12 Com. Reg. 7183 (July 15, 1990); Amdts Proposed 12 Com. Reg. 6998 (May 15, 1990); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

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

§ 15-10-825 Permit Enforcement Hearing

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

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 24 Com. Reg. 19947 (Dec. 27, 2002); Amdts Proposed 24 Com. Reg. 19519 (Sept. 27, 2002); Amdts Adopted 12 Com. Reg. 7183 (July 15, 1990); Amdts Proposed 12 Com. Reg. 6998 (May 15, 1990); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Commission Comment: The December 2014 Notice of Adoption made corrections to this section.

§ 15-10-830 Remedies

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

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

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 24 Com. Reg. 19947 (Dec. 27, 2002); Amdts Proposed 24 Com. Reg. 19519 (Sept. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Commission Comment: The December 2014 Notice of Adoption made corrections to this section.

Part 900 - Enforcement of CRM Standards and Policies

§ 15-10-901 Purpose

The provisions of this part are intended to establish procedures whereby the DCRM Director and/or CRM agency officials may enforce penalties against persons conducting activities or participating in projects within the jurisdiction of the CRM program without a required CRM

permit. The actions of the DCRM Director and/or CRM agency officials based upon this part are agency action reviewable by the Commonwealth Superior Court.

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 12 Com. Reg. 7183 (July 15, 1990); Amdts Proposed 12 Com. Reg. 6998 (May 15, 1990); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

§ 15-10-905 Investigation

(a) The DCRM Director shall have the authority to investigate suspected violations of CNMI PL 3-47 (2 CMC §§ 1501, et seq.) or this chapter. If practicable, the DCRM Director shall first request the person or persons having knowledge or custody of the information to voluntarily produce or allow access to it. If voluntary production of or access to the information is not forthcoming, the DCRM Director may implement the following measures to compel disclosure.

(b) Authority to Search.

(1) Consent from Permit Application. The DCRM Director or his designee may enter, at any reasonable time, the site of a proposed project for which there exists a signed CRM permit application on file with the CRM Office.

(2) Permit Authorization. The DCRM Director or his designee may enter, at any reasonable time, the site of a project for which there has been granted a CRM permit.

(3) Search Warrant. The DCRM Director may, if necessary, apply to the Commonwealth Superior Court for a search warrant allowing entry onto a project site on land or water subject to CRM program jurisdiction, pursuant to applicable law of administrative searches, regardless of the existence of a pending CRM permit application or a currently valid CRM permit.

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

§ 15-10-910 Conditions Warranting Investigation

The DCRM Director may act pursuant to this part upon reasonable determination that a violation of CNMI PL 3-47 (2 CMC §§ 1501, et seq.), or this chapter, or CRM administrative orders issued under this chapter has occurred. Such violations include, but are not limited to, projects undertaken without a required CRM permit and activities that do not conform to the CRM permit terms and conditions under part 800.

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 12 Com. Reg. 7183 (July 15, 1990); Amdts Proposed 12 Com. Reg. 6998 (May 15, 1990); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985);

Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

§ 15-10-915 Warning

Upon a determination that a violation of law subject to CRM program jurisdiction has occurred, the DCRM Director may issue a cease and desist order to the person(s) responsible for the violation and state notice of intent to undertake legal proceedings unless corrective measures are undertaken. The letter shall state the corrective measures necessary and shall provide for a period in which compliance shall be effected.

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

§ 15-10-920 Enforcement

Upon a determination that a person other than a CRM permit holder is in violation of CNMI PL 3-47 (2 CMC §§ 1501, et seq.), or applicable rules and regulations or administrative orders issued thereunder, the DCRM Director shall promptly issue an enforcement notice to the offending party. The enforcement notice shall be delivered personally to the offending party or, if such service is not reasonably possible, it may be sent by certified mail to his residence or place of business.

(a) Content of Enforcement Notice.

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

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

(b) Response to Notice. If the party to whom enforcement notice is sent objects to the finding of violation, or seeks an enforcement hearing on the fine, he shall submit a written response to the enforcement notice within seven days of service of the enforcement notice. Failure to provide written response or to demand an enforcement hearing within the prescribed period shall be deemed a waiver of defenses and the right to an enforcement hearing and the fine, as set in the enforcement notice, shall upon expiration of the seven day period, become immediately due and

payable to the CNMI Treasurer. All fines shall be paid by check made payable to the Treasurer of the CNMI. A copy of the payment receipt shall be provided to the CRM Office by the violator.

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 12 Com. Reg. 7183 (July 15, 1990); Amdts Proposed 12 Com. Reg. 6998 (May 15, 1990); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

§ 15-10-925 Determination of Fines and Penalties

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

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 12 Com. Reg. 7183 (July 15, 1990); Amdts Proposed 12 Com. Reg. 6998 (May 15, 1990); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

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

§ 15-10-930 Enforcement Hearing

If a written response to an enforcement notice is filed with the CRM Office requesting an enforcement hearing, it shall be conducted by DCRM Director pursuant to § 15-10-825. The decision of the DCRM Director shall be final as within the CRM program. Appeal from an enforcement decision shall be to the Commonwealth Superior Court within thirty days following service of the DCRM Director’s written enforcement decision on the offending party.

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 12 Com. Reg. 7183 (July 15, 1990); Amdts Proposed 12 Com. Reg. 6998 (May 15, 1990); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

§ 15-10-935 Enforcement by Commonwealth Superior Court

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

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

§ 15-10-940 Enforcement by Criminal Prosecutions

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

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 12 Com. Reg. 7183 (July 15, 1990); Amdts Proposed 12 Com. Reg. 6998 (May 15, 1990); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

§ 15-10-945 Administrative Order

For purposes of parts 800 and 900 administrative orders shall be any orders issued by the DCRM Director for enforcement of CRM policies and regulations pursuant to 2 CMC § 1453(a).

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Amdts Adopted 12 Com. Reg. 7183 (July 15, 1990); Amdts Proposed 12 Com. Reg. 6998 (May 15, 1990).

Part 1000 - Public Information and Education

§ 15-10-1001 Public Information and Education

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

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

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

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

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

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Part 1100 - CRM Coastal Advisory Council

§ 15-10-1101 Creation

Pursuant to CNMI PL 3-47 § 6 (2 CMC §§ 1521-1522), a CRM Coastal Advisory Council (CAC) shall be established, consisting of those members listed in § 15-10-020.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Commission Comment: The Commission corrected the citation to 2 CMC §§ 1521-1522 pursuant to 1 CMC § 3806(g).

§ 15-10-1105 Adopt Internal Procedures

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

History: Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

§ 15-10-1110 Advise CRM

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

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

§ 15-10-1115 Conduct Meetings

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

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Part 1200 - CRM Public Records

§ 15-10-1201 Retention

The CRM Office shall retain and preserve the following documents for a minimum of five years following their receipt or acquisition, unless the CRM Office determines that they shall be retained for a longer period of time. After five years, all pertinent materials shall be safely stored.

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

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

(c) Coastal Resources Materials. All studies, guides, plans, policy statements, charts, special reports, educational materials, or the information obtained or prepared by the CRM Office in order to provide public education shall be retained and preserved.

(d) Best Management Practices. CRM shall provide access to reference documents, including, Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters published under the authority of section 6217(G) of the Coastal Zone Management Act

Reauthorization Amendments of 1990, United States Environmental Protection Agency Office of Water, Washington, DC, and relevant BMP documents published by Office of Ocean and Coastal Resources Management, Environmental Protection Agency, Natural Resources Conservation Service, and other local and federal agencies.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

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

§ 15-10-1205 Public Access to CRM Records

All CRM program records shall be available for inspection for a period of five years by any person during established business hours at the CRM Office in Saipan except as otherwise provided by law.

(a) **Minutes and Transcripts.** Minutes of CAC meetings and transcripts or tapes of CRM permit or enforcement hearings shall be made available upon request to the public within thirty days after the meeting or hearing involved, except where the disclosure would be inconsistent with law, or where the public distribution of minutes of meetings held in executive session would defeat the lawful purpose of the executive meeting. All CRM permit or enforcement hearings must be open to the public, and all transcripts of the hearing shall be made available upon request; provided, however, that those persons requesting transcription shall pay the costs of transcription at the time of the request.

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

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

Modified, 1 CMC § 3806(e).

History: Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Part 1300 - CRM Access to Records

§ 15-10-1301 Director Access

The Director, on behalf of him or herself, the CRM Office, the CRM agency officials, the Governor, the CRM Appeals Board, and the CRM Coastal Advisory Council, shall have access to such records necessary for conducting official CRM business, except as provided by law.

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

§ 15-10-1305 CNMI Government Records

The DCRM Director shall have access to relevant CNMI governmental records for the purpose of obtaining information for official CRM business. This access may include government reports, reviews, policy statements, and any other data not protected as confidential by law. The DCRM Director shall keep his or her requests reasonable in scope and accompany his or her requests for information with payment for copying or gathering of specific information.

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

§ 15-10-1310 Private Records

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

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Part 1400 - Computation of Time

§ 15-10-1401 Computation of Time

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

History: Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Part 1500 - Federal Consistency

§ 15-10-1501 General Law

Federal activities and development projects which directly affect the coastal zone must be conducted or supported in a manner which is, to the maximum extent practicable, consistent with the CRM enforceable policies approved by the National Oceanic and Atmospheric Administration. Federally licensed or permitted activities and the provisions for federal financial assistance for activities affecting land or water uses of the coastal zone must be consistent with the CRM program. Furthermore, any federal agency proposing to undertake any development project in the coastal zone shall insure that the project is, to the maximum extent practicable, consistent with the CRM program. The implementation of these federal consistency provisions will be carried out in accordance with section 307 of the CZMA and federal regulations at 15 CFR, part 930.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Commission Comment: The Commission inserted the word “the” before “National Oceanic and Atmospheric Administration” pursuant to 1 CMC § 3806(g).

§ 15-10-1505 Standard for Determining Consistency

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

- (a) The goals and policies set forth in CNMI Public Law 3-47 (2 CMC §§ 1501, et seq.);
- (b) The standards and priorities set forth in this chapter;
- (c) Federal air and water quality standards and regulations, to the extent applicable to the Commonwealth of the Northern Mariana Islands; and
- (d) Air and water quality standards and regulations of the CNMI, including, but not limited to, the CNMI Underground Injection Control Regulations [NMIAC, title 65, chapter 90] and the CNMI Drinking Water Regulations [NMIAC, title 65, chapter 20]; and

(e) Any additional policies, regulations, standards, priorities and plans that are enforceable and incorporated into any amendment of the CRM program in the future.

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

§ 15-10-1510 Federal Activities and Development Projects

(a) A federal development project includes any federal activity involving the planning, construction, modification, or removal of public works, facilities, or other structures; and the acquisition, utilization or disposal of land or water resources.

(b) Federal activities include those federal agency actions which are either development projects or licenses, permits, or assistance actions as described herein below. Examples include federal agency activities requiring a federal permit and federal assistance to entities other than the local government. Although federal lands in the CNMI are excluded from the CRM program jurisdiction pursuant to section 7 of PL 3-47 (2 CMC § 1513), federal activities occurring on federal lands which result in spillover impacts which directly affect the Commonwealth's coastal zone must be consistent, to the maximum extent practicable, with the CRM program.

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

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

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

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

resolve its differences with the federal agency's consistency determination within the ninety day notification period.

(f) In the event that the DCRM and the federal agency are unable to come to an agreement on the manner in which a federal activity or development project may be conducted or supported in a manner consistent, to the maximum extent practicable, with the DCRM enforceable policies, the DCRM or federal agency may request mediation of the disagreement pursuant to the procedures set forth in section 307 of the Federal Coastal Zone Management Act of 1972 (PL 92-583, as amended) [16 U.S.C. § 1456] and 15 C.F.R. pt. 930, subpart H.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Commission Comment: The December 2014 Notice of Adoption made corrections to this section. The Commission corrected the citation to 15 C.F.R. pt. 930 pursuant to 1 CMC § 3806(g).

§ 15-10-1515 Federal Licenses and Permits

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

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

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

(d) Federal Agency Licenses and Permits.

(1) The federal agency licenses and permits that the DCRM will review for consistency with the DCRM enforceable policies are those listed in the Procedures Guide for Achieving Federal Consistency with the CNMI DCRM enforceable policies (available from DCRM), incorporated and made a part hereof. If, in the future, it is found that the issuance of other types of federal permits and licenses cause direct and significant impact on coastal land and water resources, the said listing will be expanded as necessary.

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

(e) If any project which requires a federal license or permit also requires a coastal permit, applications for both should be filed simultaneously. A certification of consistency with the DCRM enforceable policies shall be filed with both applications. The issuance or denial of a DCRM permit will indicate consistency or the lack of consistency with the CRM program and the DCRM shall notify the federal agency of the DCRM permitting decision for its use in its federal permitting decision.

(f) Certification of Consistency.

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

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

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

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

(i) Certification of Consistency Decisions.

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

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

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept.

16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Commission Comment: The Commission corrected the capitalization of the word “federal” in subsection (i)(2) pursuant to 1 CMC § 3806(f). The Commission inserted a comma after the word “effects” in subsection (f)(2) pursuant to 1 CMC § 3806(g).

§ 15-10-1520 Federal Assistance

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

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

(c) The DCRM shall be notified of any application submitted to the Planning and Budget Affairs Office for any federal assistance program listed in the Catalog of Federal Domestic Assistance in addition to applications to the Office of Ocean and Coastal Resource Zone Management for Coastal Energy Impact Program grants.

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

(e) If a coastal permit is required for a project utilizing federal assistance, then the coastal permit and the federal assistance application shall be filed simultaneously.

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

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Commission Comment: The Commission corrected the capitalization of the word “federal” in subsection (f) pursuant to 1 CMC § 3806(f). The December 2014 Notice of Adoption made corrections to this section.

Part 1600 - Water Sports Permits

§ 15-10-1601 Water Sports Permits

The CRM shall have the right and responsibility to permit all commercial water sports activities in the CNMI. All rules and regulations pertaining to such permits shall be found at NMIAC Title 15, Chapter 15-20. Until rules and regulations pertaining to water sports permits are promulgated by the CRM, CRM may permit water sports operators and their operations by means of the regulations of NMIAC Title 15, Chapter 15-10.

History: Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Proposed 36 Com. Reg. 35505 (Sept. 28, 2014).

Commission Comment: The 2014 amendments inserted this part and redesignated former part 1600 as part 1700.

Part 1700 - Miscellaneous Provisions

§ 15-10-1701 Severability Provision

If any provision of this chapter or the application of any provision of this chapter to any person or any other instrumentality or circumstance is held invalid by a court of competent jurisdiction, the remainder of this chapter and the application of the affected provision to other persons, instrumentalities and circumstances, shall not be affected thereby.

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985) (effective for 120 days from July 22, 1985); Adopted 6 Com. Reg. 3366 (Dec. 17, 1984); Proposed 6 Com. Reg. 3240 (Nov. 15, 1984).

Commission Comment: The 2014 amendments renumbered this section from § 15-10-1601.

§ 15-10-1705 Savings

The repeal of the CRM Rules and Regulations which notice of adoption was published in Commonwealth Register [volume] 7, number 7 at [page] 3883, does not release or extinguish any penalty, forfeiture or liability incurred or right accrued or accruing under such law. The regulation shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of the right, penalty or forfeiture.

History: Amdts Adopted 37 Com. Reg. 36004 (Jan. 28, 2015); Amdts Proposed 36 Com. Reg. 35505 (Sept. 28, 2014); Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 25 Com. Reg. 20078 (Mar. 31, 2003); Amdts Proposed 24 Com. Reg. 19862 (Dec. 27, 2002); Adopted 7 Com. Reg. 4083 (Oct. 17, 1985); Proposed 7 Com. Reg. 4015 (Sept. 16, 1985); Emergency and Proposed 7 Com. Reg. 3883 (July 22, 1985).

Commission Comment: The 2014 amendments renumbered this section from § 15-10-1605.

CHAPTER 15-20 JET SKI RULES AND REGULATIONS

- Part 001 General Provisions**
- Part 100 Jet Ski Operations**
§ 15-20-101 Application
§ 15-20-105 Exclusion Areas
- Part 200 Jet Ski Rental Operations**
§ 15-20-201 Definitions
§ 15-20-205 Launching and Landing
§ 15-20-210 Operation
§ 15-20-215 Hours of Operation
§ 15-20-220 Insurance
§ 15-20-225 CRM Permit
- Part 300 Water Ski Operations**
§ 15-20-301 Water Ski Operations
- Part 400 Miscellaneous**
§ 15-20-401 Severability
§ 15-20-405 Enforcement

Chapter Authority: 2 CMC §§ 1501-1543.

Chapter History: Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 21* Com. Reg. 16563 (Feb. 18, 1999); Amdts Proposed 20 Com. Reg. 16323 (Dec. 15, 1998); Amdts Adopted 16 Com. Reg. 12435 (Sept. 15, 1994); Amdts Proposed 16 Com. Reg. 12303 (Aug. 15, 1994); Adopted 8 Com. Reg. 4726 (Nov. 17, 1986); Proposed 8 Com. Reg. 4580 (Sept. 15, 1986).

*Commonwealth Register volume 21, number 2, pages 16459-16571, published February 18, 1999, were mislabeled volume 20.

Commission Comment: For the history of the coastal resources management program in the Commonwealth, see the general comment to NMIAC chapter 15-10.

In May 2007, the CNMI Attorney General's Office issued Opinion 07-01 regarding the CNMI's rights over its submerged lands. 29 Com. Reg 26517 (May 16, 2007). Opinion 07-01 provides:

The CNMI has unimpeded jurisdiction over its internal waters and underlying submerged lands. The CNMI maintains traditional police powers in the three-mile wide territorial sea. The CNMI is entitled to additional rights in its territorial sea and exclusive economic zone, though the specific extent of those rights must be clarified by, and vested through, an act of Congress.

For the full text of Attorney General Opinion 07-01, see 29 Com. Reg 26517 (May 16, 2007).

Pub. L. No. 113-34 (2013), codified at 48 U.S.C. §§ 1705 and 1706, clarified and vested the CNMI's rights in its territorial seas.

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 Coastal Resources Management Office as the Division of Coastal Resources Management 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

[Reserved.]

History: Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004).

Part 100 - Jet Ski Operations

§ 15-20-101 Application

All jet skis are subject to this part and all other applicable parts of these regulations and the Boating Safety Act of 1982 as amended from time to time.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Adopted 8 Com. Reg. 4726 (Nov. 17, 1986); Proposed 8 Com. Reg. 4580 (Sept. 15, 1986).

Commission Comment: The 2004 amendments republished and readopted the regulations in this chapter in their entirety. The Commission, therefore, cites the 2004 amendments in the history sections throughout this chapter.

§ 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.

Modified, 1 CMC § 3806(e), (g).

History: Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 21 Com. Reg. 16563 (Feb. 18, 1999); Amdts Proposed 20 Com. Reg. 16323 (Dec. 15, 1998); Amdts Adopted 16 Com. Reg. 12435 (Sept. 15, 1994); Amdts Proposed 16 Com. Reg. 12303 (Aug. 15, 1994); Adopted 8 Com. Reg. 4726 (Nov. 17, 1986); Proposed 8 Com. Reg. 4580 (Sept. 15, 1986).

Commission Comment: The 1994 amendments deleted former subsection (f), entitled "Chalan Laulau." See 8 Com. Reg. at 4728 (Nov. 17, 1986).

The 1999 amendments added new subsections (g) and (h), now subsections (f) and (g). The 2004 amendments amended subsections (c), (d) and (e).

In subsection (g), the Commission corrected the spelling of "marina." The Commission inserted a comma into the phrase "landed, launched or operated" pursuant to 1 CMC § 3806(g).

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.

History: Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Adopted 8 Com. Reg. 4726 (Nov. 17, 1986); Proposed 8 Com. Reg. 4580 (Sept. 15, 1986).

§ 15-20-205 Launching and Landing

Jet ski rental operations shall only stage their operation and allow the launching and landing of their jet skis at the following locations:

- (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;
- (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.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Amdts Adopted 21 Com. Reg. 16563 (Feb. 18, 1999); Amdts Proposed 20 Com. Reg. 16323 (Dec. 15, 1998); Adopted 8 Com. Reg. 4726 (Nov. 17, 1986); Proposed 8 Com. Reg. 4580 (Sept. 15, 1986).

Commission Comment: The 1999 amendments added new subsections (f) and (g).

§ 15-20-210 Operation

Jet ski rental operations shall only allow their patrons to operate jet skis on marked courses in the areas of the lagoon adjacent to the launching and landing areas set forth in § 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 buoys and other lagoon markings required for their operations by permit or law.

Modified, 1 CMC § 3806(c).

History: Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Adopted 8 Com. Reg. 4726 (Nov. 17, 1986); Proposed 8 Com. Reg. 4580 (Sept. 15, 1986).

§ 15-20-215 Hours of Operation

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

History: Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Adopted 8 Com. Reg. 4726 (Nov. 17, 1986); Proposed 8 Com. Reg. 4580 (Sept. 15, 1986).

§ 15-20-220 Insurance

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

History: Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Adopted 8 Com. Reg. 4726 (Nov. 17, 1986); Proposed 8 Com. Reg. 4580 (Sept. 15, 1986).

§ 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.

Modified, 1 CMC § 3806(c).

History: Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Adopted 8 Com. Reg. 4726 (Nov. 17, 1986); Proposed 8 Com. Reg. 4580 (Sept. 15, 1986).

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).

Modified, 1 CMC § 3806(c).

History: Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Adopted 8 Com. Reg. 4726 (Nov. 17, 1986); Proposed 8 Com. Reg. 4580 (Sept. 15, 1986).

Part 400 - Miscellaneous

§ 15-20-401 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.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Adopted 8 Com. Reg. 4726 (Nov. 17, 1986); Proposed 8 Com. Reg. 4580 (Sept. 15, 1986).

§ 15-20-405 Enforcement

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

History: Amdts Adopted 26 Com. Reg. 22527 (May 24, 2004); Amdts Proposed 26 Com. Reg. 21801 (Feb. 23, 2004); Amdts Proposed 26 Com. Reg. 21609 (Jan. 22, 2004); Adopted 8 Com. Reg. 4726 (Nov. 17, 1986); Proposed 8 Com. Reg. 4580 (Sept. 15, 1986).