

**CHAPTER 20-60
GARMENT MANUFACTURING RULES AND REGULATIONS**

Subchapters

20-60.1 Regulations Restricting the Issuance of Business Licenses to Garment Manufacturers, the Processing of Applications for Work Certificates and Entry Permits for Non-immigrant Alien Garment Workers, and the Issuance of Certificates of Origin for Export of Textiles and Textile Products

20-60.2 Rules and Regulations for the Issuance of Business Licenses for Garment Manufacturing or Products Listed under the Harmonized Tariff Schedule of the United States General Note 3(a)(iv)

SUBCHAPTER 20-60.1

REGULATIONS RESTRICTING THE ISSUANCE OF BUSINESS LICENSES TO GARMENT MANUFACTURERS, THE PROCESSING OF APPLICATIONS FOR WORK CERTIFICATES AND ENTRY PERMITS FOR NON-IMMIGRANT ALIEN GARMENT WORKERS, AND THE ISSUANCE OF CERTIFICATES OF ORIGIN FOR EXPORT OF TEXTILES AND TEXTILE PRODUCTS

Part 001 General Provisions

§ 20-60.1-001 Authority

§ 20-60.1-005 Definitions

§ 20-60.1-010 Purpose

§ 20-60.1-101 Issuance of Business Licenses

§ 20-60.1-105 Issuance of Work Certificates

§ 20-60.1-110 Issuance of Entry Permits

§ 20-60.1-115 Issuance of Certificates of Origin

Part 100 Moratorium; Business Licenses, Work Certificates, Entry Permits and Certificates of Origin

§ 20-60.1-120 Limited Exemption for the Island of Rota

Subchapter Authority: 1 CMC §§ 2453(d), 2454; former 1 CMC § 2553(d), 1 CMC § 2557; 3 CMC §§ 4424(a), 4435(b); 3 CMC §§ 4311, 4312(d)(1), 4331; Executive Order 94-3 (effective August 23, 1994).

Subchapter History: Amdts Adopted 18 Com. Reg. 14026 (Feb. 15, 1996); Amdts Emergency 17 Com. Reg. 13828 (Nov. 15, 1995) (effective 120 days from Oct. 31, 1995); Amdts Proposed 17 Com. Reg. 13801 (Nov. 15, 1995); Amdts Adopted 17 Com. Reg. 13741 (Oct. 15, 1995); Amdts Proposed 17 Com. Reg. 13648 (Aug. 16, 1995); Amdts Adopted 17 Com. Reg. 13710 (Sept. 15, 1995); Amdts Proposed 17 Com. Reg. 13380 (May 15, 1995); Amdts Adopted 14 Com. Reg. 10211 (Dec. 15, 1992) (repealing the June 15, 1992 amendments); Amdts Proposed 14 Com. Reg. 9822 (Oct. 15, 1992); Amdts Adopted 14 Com. Reg. 9323 (June 15, 1992); Amdts Proposed 14 Com. Reg. 9206 (Apr. 15, 1992); Certified and Adopted 14 Com. Reg. 9178 (Apr. 15, 1992); Amdts Emergency and Proposed 12 Com. Reg. 7395* (Oct. 15, 1990); Certified 14 Com. Reg. 9178 (Apr. 15, 1992); Amdts Adopted 12 Com. Reg. 7137 and 7151 (June 15, 1990); Amdts Emergency and Proposed 12 Com. Reg. 7016 (May 15, 1990) (effective 120 days from May 11, 1990); Certified 14 Com. Reg. 9178 (Apr. 15, 1992); Amdts Adopted 11 Com. Reg. 6193 (May 15, 1989); Amdts Proposed 11 Com. Reg. 6053 (Mar. 15, 1989); Certified 14 Com. Reg. 9178 (Apr. 15, 1992); Adopted 10 Com. Reg. 5414 (Jan. 18, 1988); Proposed 9 Com. Reg. 5268 (Oct. 15, 1987).

*Pages 7395 through 7397 appear at the end of volume 12, number 9 published on September 15, 1990, and are repeated at the beginning of volume 12, number 10, published on October 15, 1990.

TITLE 20: DEPARTMENT OF COMMERCE

Commission Comment: Prior to January 1988, the issuance of business licenses to garment manufacturers under 1 CMC § 2453(d), the processing of applications for work certificates under 3 CMC § 4435(b), the issuance of certificates of origin for export of textiles under former 1 CMC § 2553(d), and the issuance of entry permits for non-immigrant alien garment workers under 3 CMC §§ 4311 and 4331 were addressed by several emergency regulatory programs as follows:

Emergency 9 Com. Reg. 5274 (Oct. 15, 1987) (effective 120 days from October 20, 1987); Emergency Amdts 9 Com. Reg. 5007 (Aug. 15, 1987) (effective 120 days from July 20, 1987); Emergency 9 Com. Reg. 4993 (July 20, 1987) (effective 120 days from June 19, 1987); Emergency 8 Com. Reg. 4666 (Sept. 15, 1986) (effective August 18, 1986 to September 8, 1986); Emergency 8 Com. Reg. 4337 (Apr. 18, 1986) (effective 120 days from April 18, 1986).

On September 15, 1986, the Department of Finance also proposed “Regulations Establishing a Voluntary Restraint System for the Commonwealth Garment Industry.” See 8 Com. Reg. 4558 (Sept. 15, 1986). A notice of adoption was never published.

The original January 1988 regulations codified as amended in this subchapter were issued jointly by the Department of Commerce and Labor, the Department of Finance, and the Chief of Immigration. See 9 Com. Reg. at 5268 (Oct. 15, 1987); 10 Com. Reg. at 5414 (Jan. 18, 1988). Executive Order 94-3 (effective August 23, 1994) and Executive Order 03-01 (effective May 9, 2003) affected the names and relative duties and authority of these agencies as noted below.

Subsequent statutes have also affected the authority for this subchapter. Effective May 28, 1996, PL 10-9 § 3, codified at 4 CMC § 5702, prohibited the issuance of business licenses for the purpose of garment manufacturing except as otherwise provided by that act. Subsequently, the general authority to issue business licenses was transferred to the Department of Finance by PL 11-73 (effective March 19, 1999), which amended 1 CMC § 2553 and 4 CMC § 5702 and 5703 accordingly. These changes to the authorizing statutes are discussed in more detail in the following paragraphs.

1 CMC § 2451 created the Department of Commerce and Labor. PL 1-8 originally created an Office of Immigration within the Office of the Attorney General, headed by an Immigration Officer. See former 1 CMC § 2171(1999). This office was originally called the Office of Immigration and Naturalization. See the commission comment to 1 CMC § 2171; see also PL 9-5 § 15 (changing all references to “Immigration and Naturalization” in the Commonwealth Code to “Immigration”); see also 3 CMC § 4311 (calling the immigration officer the “Chief of Immigration” and further establishing the duties of the Office of Immigration).

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 §§ 103 and 301:

Section 103. Department of Commerce.

The Department of Commerce and Labor is re-designated the Department of Commerce.

...

Section 301. Department of Labor and Immigration.

(a) Department Established. There is hereby established a Department of Labor and Immigration which shall have at its head a Secretary of Labor and Immigration.

(b) Labor and Employment Services.

(1) The Division of Labor and the Division of Employment Services are transferred from the Department of Commerce to the Department of Labor and Immigration. The Secretary of Labor and Immigration shall strengthen the Division of Employment Services to increase its ability to encourage and locate private sector employment for Commonwealth residents. The Secretary shall coordinate the functions of the two offices such that the availability of resident workers known to

TITLE 20: DEPARTMENT OF COMMERCE

the Division of Employment Services is considered by the Division of Labor before non-resident worker certificates are issued.

(2) The functions of the Secretary of Commerce under Chapter 2 [of] 4 CMC, Division 9 [4 CMC §§ 9211, et seq.] relating to minimum wages and hours are transferred to the Secretary of Labor and Immigration.

...

(c) Immigration.

(1) The Office of Immigration and Naturalization is re-designated the Immigration Service and is transferred to the Department of Labor and Immigration as a division of that department. The Immigration Service shall have at its head a Director of Immigration, who shall have all the powers assigned by law to the Immigration and Naturalization Officer, except any power transferred pursuant to Section 201 of this plan. The position of Immigration and Naturalization Officer is abolished.

(2) All functions of the Attorney General relating to immigration and naturalization, are transferred to the Secretary of Labor and Immigration except:

- (A) any function transferred pursuant to Section 201 of this plan,
- (B) the hearing of immigration appeals as provided in 3 CMC § 4336(d), and
- (C) the constitutional function of legal representation.

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

The Garment Industry Moratorium Act of 1996, PL 10-9 (effective May 28, 1996), codified as amended by PL 11-73 (effective Mar. 19, 1999), PL 11-76 (effective Mar. 26, 1999) and PL 12-11 (effective August 3, 2000) at 4 CMC §§ 5701-5711, specifically addressed the licensing of garment manufacturers in the Third Senatorial District (comprised of Saipan and the islands north of Saipan) and the issuance of labor certificates and entry permits for nonresident workers. See 4 CMC §§ 5702 through 5704.

According to PL 10-9 § 2:

Section 2. Findings and Purpose.

...

It is therefore the purpose of this legislation to prohibit the issuance of new business licenses for garment manufacturing and to limit the number of nonresident workers employed by the industry. These purposes were formerly implemented by regulation. The former regulations accomplished the following: placed a moratorium on the issuance of business licenses for garment manufacturing; placed restrictions on the issuance of nonresident worker certificates for garment workers; established a garment worker pool and quotas per manufacturer for garment workers; established reporting requirements for garment manufacturers. These regulations were administratively repealed in 1995. It is the intent of this legislation to statutorily and administratively re-impose the moratorium and restrictions on the garment industry that has served the Commonwealth well since 1987.

According to PL 10-9 § 3, codified at 4 CMC § 5707:

The Secretary of Labor and Immigration, the Secretary of Commerce, and the Secretary of Finance shall jointly promulgate regulations to implement the purposes of this chapter. To the extent that they do not conflict with the provisions of this chapter, these regulations shall include repromulgating regulations originally published as emergency regulations in Commonwealth Register Vol. 9, No. 9 (October 15, 1987), republished as final regulations in Commonwealth Register Vol. 10, No. 1 (January 19, 1989),* subsequently amended and in effect prior to their repeal effective May 15, 1995, and October 15, 1995.

*Volume 10, Number 1 was actually published on January 18, 1988.

TITLE 20: DEPARTMENT OF COMMERCE

PL 10-9 § 4 provided: “Any procedural defect in the promulgation of those former regulations referenced in [4 CMC § 5707], as enacted by this Act, is hereby ratified.” See the commission comment to 4 CMC § 5707.

On September 15, 1996 the Department of Commerce, the Department of Finance and the Department of Labor and Immigration published emergency and proposed regulations to administer the Garment Industry Moratorium Act of 1996, PL 10-9, codified at 4 CMC §§ 5701, et seq. See 18 Com. Reg. 14316 (Sept. 15, 1996) (emergency regulations effective 120 days from Sept. 3, 1996). These regulations repromulgated the regulatory program established in this subchapter to the extent consistent with PL 10-9, with significant amendments. The 1996 regulations were never adopted as permanent regulations and expired on January 1, 1997. While the regulations codified in this subchapter were never repealed, they are superceded in large part by PL 10-9, 4 CMC §§ 5701-5711, as amended, and their continuing validity is unclear.

Executive Order 03-01 (effective May 9, 2003), the “Department of Labor and Immigration Reorganization Plan of 2003,” returned the immigration functions of the executive branch to the Office of the Attorney General.

Section 702 of the Consolidated Natural Resources Act of 2008 (PL 110-229, codified at 48 U.S.C. § 1806) amended the Covenant to remove the CNMI’s authority to create and manage its own immigration laws. On March 22, 2010, the Governor signed PL 17-1, removing all references to immigration and deportation functions from the Commonwealth Code. These regulations have not been amended, but portions of the regulations pertaining to immigration are superceded by 48 U.S.C. § 1806.

Part 001 - General Provisions

§ 20-60.1-001 Authority

The regulations in this subchapter are issued:

- (a) Under the authority of the Director of Commerce and Labor to issue business licenses conferred by 1 CMC § 2453(d) and to issue work certificates for alien workers conferred by 3 CMC § 4435(b);
- (b) Under the authority of the Director of Finance to regulate customs conferred by 1 CMC § 2553(d); and
- (c) Under the authority of the Chief of Immigration to regulate the issuance of entry permits for non immigrant aliens conferred by 3 CMC §§ 4311(3) and 4331.

Modified, 1 CMC § 3806(d), (f).

History: Certified 14 Com. Reg. 9178 (Apr. 15, 1992); Adopted 10 Com. Reg. 5414 (Jan. 18, 1988); Proposed 9 Com. Reg 5268 (Oct. 15, 1987).

Commission Comment: With respect to the references to the Director of Commerce and Labor, the Director of Finance, and the Chief of Immigration, see Executive Order 94-3, reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the commission comment to 1 CMC § 2001; see also the general comment to this subchapter.

§ 20-60.1-005 Definitions

- (a) “Business licenses” means that license required to engage in or conduct a business under 4 CMC § 5103.

TITLE 20: DEPARTMENT OF COMMERCE

- (b) “Certificate of origin” means form 3229 (9-22-75) of the United States Customs Service certifying the origin of articles shipped from insular possessions to the United States.
- (c) “Entry permit” means documentation authorizing the entry of a non immigrant alien into the Commonwealth including but not limited to a passport stamp or visa.
- (d) “Garment manufacturer” means any sole proprietorship, partnership, corporation, firm, association or other group or combination engaged in the creation, production, or assembly of textiles or textile products.
- (e) “Garment worker” means any person, regardless of title, employed in the manufacture or assembly of textiles or textile products.
- (f) “Qualified garment manufacturer” means a garment manufacturer determined by the panel appointed by the Director of Commerce and Labor pursuant to section 4 of the “Emergency Regulations Restricting the Issuance of Business Licenses to Garment Manufacturers and the Processing of Applications for Work Certificates for Alien Garment Workers” filed with the Registrar of Corporations on June 19, 1987, to be engaged in manufacturing within the meaning of subsection 2(d) thereof.
- (g) “Secretary” means the Secretary of Labor and Immigration as established by E.O. 94-3, section 301.
- (h) “Textiles and textile products” includes, but is not limited to, all manmade fibers, tops, yarns, piece goods., made up articles, garments, and other textile manufactured products (which made in whole or in part from any natural or manmade fiber, or blend thereof, that are classified under schedule 3, part 6, parts 1, 4, 5, 7, or 13 of schedule 7, part 1 of schedule 8, or part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. § 1202).
- (i) “Work certificate” means a certificate of labor issuable by the Secretary pursuant to 3 CMC § 4435(b).

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 17 Com. Reg. 13741 (Oct. 15, 1995); Amdts Proposed 17 Com. Reg. 13648 (Aug. 16, 1995); Amdts Adopted 14 Com. Reg. 10211 (Dec. 15, 1992) (repealing the June 15, 1992 amendments); Amdts Proposed 14 Com. Reg. 9822 (Oct. 15, 1992); Amdts Adopted 14 Com. Reg. 9323 (June 15, 1992); Amdts Proposed 14 Com. Reg. 9206 (Apr. 15, 1992); Certified 14 Com. Reg. 9178 (Apr. 15, 1992); Adopted 10 Com. Reg. 5414 (Jan. 18, 1988); Proposed 9 Com. Reg. 5268 (Oct. 15, 1987).

Commission Comment: The June 1992 amendments added new subsection (i) and amended subsections (d) and (e). The December 1992 amendments repealed the June 1992 amendments in their entirety and readopted the original provisions of the regulations. The 1995 amendments added new subsection (g), redesignated subsections (h) and (i), and amended subsection (i).

The 1995 amendments contained a purpose provision as follows:

Section 2. Purpose of Regulations.

TITLE 20: DEPARTMENT OF COMMERCE

These regulations amend the rules and regulations promulgated on January 19, 1988, and published at Vol. 10, No. 1, page 5414-5417, which place certain limitation on the issuance of labor and immigration permits for nonresident workers under the classification of garment worker. These amendments increase the legal number of labor and immigration permits that may be issued for the employment of nonresident garment workers to reflect and accommodate the changes in the industry. The amendments also make minor changes in the regulations to reflect the organizational changes made by E.O. 9-43 [sic].

17 Com. Reg. at 13744 (Oct. 15, 1995). The reference to Executive Order 9-43 should be to Executive Order 94-3.

With respect to the references to the Director of Commerce and Labor and the Department of Labor and Immigration, see Executive Order 94-3, reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the commission comment to 1 CMC § 2001; see also the general comment to this subchapter.

Former 4 CMC § 1503, cited in subsection (a) was repealed by PL 9-22, which enacted 4 CMC § 5611 to govern business licenses in the Commonwealth. PL 11-73 (effective March 19, 1999) transferred the authority to issue business licenses to the Department of Finance.

The “Emergency Regulations Restricting the Issuance of Business Licenses to Garment Manufacturers and the Processing of Applications for Work Certificates for Alien Garment Workers’ filed with the Registrar of Corporations on June 19, 1987,” referenced in subsection (f), were published at 9 Com. Reg. 4993, 4997 (July 20, 1987).

In subsection (f) the commission corrected the spelling of “licenses.”

§ 20-60.1-010 Purpose

The Directors of Commerce and Labor and Finance and the Chief of Immigration find that the imposition of regulatory controls on the unchecked growth of the garment industry, designed to consolidate the restraints imposed by the prior moratorium and stabilize industry growth, is in the public interest pending legislative enactment of long term statutory controls. The regulations promulgated in this subchapter will ensure stabilization of growth within the industry and maintenance of the status quo by prohibiting the issuance of business licenses and the construction and operation of additional garment factories, by halting the entry of non immigrant alien garment workers into the Commonwealth except under certain narrowly defined circumstances, and by limiting the issuance of certificates of origin to textiles and textile products manufactured by qualified garment manufacturers as defined by this subchapter.

Modified, 1 CMC § 3806(d).

History: Certified 14 Com. Reg. 9178 (Apr. 15, 1992); Adopted 10 Com. Reg. 5414 (Jan. 18, 1988); Proposed 9 Com. Reg 5268 (Oct. 15, 1987).

Commission Comment: With respect to the references to the Director of Commerce and Labor, the Director of Finance, and the Chief of Immigration, see Executive Order 94-3, reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the commission comment to 1 CMC § 2001; see also the general comment to this subchapter.

Part 100 - Moratorium; Business Licenses, Work Certificates, Entry Permits and Certificates of Origin

TITLE 20: DEPARTMENT OF COMMERCE

§ 20-60.1-101 Issuance of Business Licenses

[Reserved.]

History: Amdts Adopted 17 Com. Reg. 13710 (Sept. 15, 1995) (repealing former § 4(a) (now § 20-60.1-101)); Amdts Proposed 17 Com. Reg. 13380 (May 15, 1995); Certified 14 Com. Reg. 9178 (Apr. 15, 1992); Adopted 10 Com. Reg. 5414 (Jan. 18, 1988); Proposed 9 Com. Reg. 5268 (Oct. 15, 1987).

Commission Comment: Former section 4 (now § 20-60.1-101 through § 20-60.1-115) originally provided:

Section 4. Moratorium.

(a) Issuance of Business Licenses. No employee of the Department of Commerce and Labor shall issue or cause to be issued to any applicant a business license for the purpose of garment manufacturing.

(b) Issuance of Work Certificates. No employee of the Department of Commerce and Labor shall issue or cause to be issued the work certificate defined in 3 CMC Section 4435(b) to or on behalf of a non-immigrant alien to be employed as a garment worker except upon a written finding by the Director of Commerce and Labor or his designee that the applicant is recruited to replace a non-immigrant alien worker whose contract of employment with a qualified garment manufacturer has terminated or will terminate on or before the effective date of the applicant's contract of employment or the applicant is recruited to fill alien garment labor employment quotas previously authorized by administrative findings pursuant to regulations.

(c) Issuance of Entry Permits. No employee of the Immigration and Naturalization office shall issue or cause to be issued an entry permit on behalf of a non-immigrant alien to be employed as a garment worker except upon the written finding by the Director of Commerce and Labor or his designee prescribed in subsection (b) of this section.

(d) Issuance of Certificates of Origin. No employee of the Division of Customs Services shall issue or cause to be issued a certificate of origin for textile products manufactured in whole or in part in the Commonwealth of the Northern Mariana Islands unless the products is that of a qualified garment manufacturer.

10 Com. Reg. at 5417 (Jan. 18, 1988). For clarity, the commission codified section 4, as amended, in part 100, sections 20-60.1-101 through 20-60.1-120.

The authority to issue business licenses has a complicated history in the Commonwealth. Originally, the Department of Commerce and Labor had authority to issue these licenses under 1 CMC § 2453(d) and 4 CMC § 1503. Under Executive Order 94-3 (effective August 23, 1994) this power was transferred to the Department of Commerce. PL 9-22 (effective retroactively January 1, 1995) repealed 4 CMC § 1503 and enacted 4 CMC § 5611 to regulate business licenses in the Commonwealth, but left the authority to issue such licenses with the Department of Commerce. PL 11-73 (effective March 19, 1999) transferred authority to issue business licenses to the Department of Finance and amended 4 CMC § 5611 and other relevant provisions of the Commonwealth Code accordingly.

§ 20-60.1-105 Issuance of Work Certificates

No employee of the Department of Labor and Immigration shall issue or cause to be issued the work certificate to or on behalf of a non immigrant alien to be employed as a garment worker except upon a written finding by the Secretary or his designee that the applicant meets the criteria for issuance of such certificate as provided by the rules in this subchapter.

(a) Statement or Report Required. Every qualified garment manufacturer shall file a semi-annual report with the Secretary. The report shall contain a complete, true and correct statement

TITLE 20: DEPARTMENT OF COMMERCE

listing the names, permit numbers, expiration dates of permits issued for all non-immigrant alien garment workers and such other information as may be required or prescribed by the Secretary. Failure to file the statement or report required herein shall constitute default and the Secretary or his designee shall make such finding within 30 days of such failure. In the event of default, the Secretary or his designee shall deny any application for a work certificate on behalf of a non-immigrant alien to be employed as a garment worker filed by such defaulting party until the default is cured.

(b) Application for Garment Worker Certificate

Any qualified garment manufacturer may apply for a work certificate on behalf of a non-immigrant alien to be employed as a garment worker and the Secretary shall approve such certificate provided that the applicant meets all laws applicable to the approval of the certificate, including but not limited to those enumerated below, as of the date of the application.

- (1) Applicant is a holder of a certificate of origin issued by the Division of Customs and has exported textile products during the last three months.
- (2) Applicant has substantially begun construction or has completed construction of a factory to accommodate the request for additional workers.
- (3) Applicant has purchased capital equipment (sewing machines) for the requested additional workers, which equipment shall be in place in the Commonwealth or in transit for delivery prior to the date that such requested workers contract is to begin.
- (4) Applicant has available living quarters to accommodate the additional workers.
- (5) Applicant provides its own power and water for any additional workers requested herein unless the Commonwealth Utilities Corporation certifies to the Secretary or his designee that there is a surplus of electrical power and water and that the applicant has been granted use of such utilities.
- (6) Applicant's resident work force is comprised of at least two management and three supervisory staffs at wage of not less than \$1,200.00 per month and \$900.00 per month respectively for a 40-hour workweek. The number shall increase by one in each category until such time that management and supervisory full-time resident work force comprise 75 percent of the manufacturer's work force. The employer may hire a resident worker who does not meet the occupational qualification for the position on a six-month probationary basis at wage of not less than thirty percent of the amounts enumerated herein. The employee must demonstrate satisfactory performance before being converted to a permanent employment. The term "management" and "supervisory" shall have the same meaning as those contained in PL 5-32.
- (7) Applicant's full-time work force is comprised of 14 percent resident workers or whatever the current percentage required by 3 CMC § 4436(a), which percentage shall include the additional number of workers requested under this section.
- (8) Submission of a training plan in accordance with subsection (c).

(c) Resident Worker Training Program. Notwithstanding any other provisions of the regulations in this subchapter, no application for a work certificate on behalf of a non-immigrant alien to be employed as a garment worker shall be issued by the Secretary or his designee until the Secretary or his designee has approved a resident worker training program for the manufacturer/employer. A resident worker training program shall be designed to provide knowledge and skills essential to the full and satisfactory performance of the duties and

TITLE 20: DEPARTMENT OF COMMERCE

responsibilities of garment manufacturer jobs, provide opportunities for career advancement, and reduce the employer's reliance on non-immigrant alien garment workers.

(d) Receipt of Application. Upon receipt of a completed application for a work certificate on behalf of a non-immigrant alien to be employed as a garment worker, the Secretary or his designee shall review the application for compliance with the regulations in this subchapter and other applicable laws or regulations. Within forty-five days of the filing of the application, the Secretary or his designee shall determine if the application is in compliance with such regulations and laws and shall either approve the application and issue the work certificate or deny the application. Any failure by the Secretary or his designee to issue a determination on an application within the forty-five day period shall be deemed a denial of the application.

(e) The Secretary or his designee may suspend, modify, revoke or withdraw any approval or issuance of a work certificate hereunder whenever the approval or issuance was in error, or was based on incorrect, false, or misleading information.

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

History: Amdts Adopted 18 Com. Reg. 14026 (Feb. 15, 1996); Amdts Emergency 17 Com. Reg. 13828 (Nov. 15, 1995) (effective 120 days from Oct. 31, 1995); Amdts Proposed 17 Com. Reg. 13801 (Nov. 15, 1995); Amdts Adopted 17 Com. Reg. 13741 (Oct. 15, 1995); Amdts Proposed 17 Com. Reg. 13648 (Aug. 16, 1995); Certified and Adopted 14 Com. Reg. 9178 (April 15, 1992); Amdts Emergency and Proposed 12 Com. Reg. 7395 (Oct. 15, 1990); Amdts Certified 14 Com. Reg. 9178 (Apr. 15, 1992); Adopted 11 Com. Reg. 6193 (May 15, 1989); Amdts Proposed 11 Com. Reg. 6053 (Mar. 15, 1989); Certified 14 Com. Reg. 9178 (Apr. 15, 1992); Adopted 10 Com. Reg. 5414 (Jan. 18, 1988); Proposed 9 Com. Reg. 5268 (Oct. 15, 1987).

Commission Comment: The 1989 amendments amended the opening paragraph and added new subsections (a) through (h). The 1992 amendments amended former subsection (a)(3). The 1995 amendments amended former subsections (a), (b)(1) and (e)(1), and added new subsections (c)(1)(i) through (c)(1)(iii).

The 1989 amendments contained a purpose and findings provision as follows:

Section 2. Purpose and Findings.

The Directors of Commerce and Labor, Finance, and the Chief of Immigration find that the continuance of reasonable regulatory controls imposed by the prior moratorium is in the public interest pending long term statutory controls. These regulations are designed to maximize utilization of the Commonwealth-wide non-immigrant alien garment worker quotas by redistributing or reallocating unused or unfilled quotas to qualified garment manufacturers and to require all garment manufacturers to prepare and implement a training plan. The amendments will not have a significant impact on Commonwealth utilities.

11 Com. Reg. at 6195 (May 15, 1989).

The 1995 amendments amended former subsections (a), (b), (c) and (e). The 1995 amendments also replaced all references in this section to the "Department of Commerce and Labor" or "Department" with the term "Department of Labor and Immigration," and replaced all references to the "Director of Commerce and Labor" or "Director" with the term "Secretary." See 17 Com. Reg. at 13746 (Oct. 15, 1995).

The 1996 amendments restructured this section in its entirety with numerous amendments. The 1996 amendments contained a purpose provision as follows:

TITLE 20: DEPARTMENT OF COMMERCE

Section 2. Purpose of Regulations. These regulations amend the rules and regulations promulgated on January 19, 1988, published at Vol. 10, No. 1, pages 5414-5417, and amended on May 15, 1989, published at Vol. 11, No. 5, pages 6193-6199, and October 16, 1995, published at Vol. 17, No. 10, pages 13741-13747, which place certain limitations on the issuance of labor and immigration permits for non-resident workers under the classification of garment worker. These proposed regulations repeal the operation of the garment worker pool and the quota allotments to garment manufacturers. The effect of the proposed rules is to remove the cap on non-resident workers and allow manufacturers to employ such number of non-resident workers as they have jobs, proper facilities, and the proper number of resident workers as provided by law. Nothing in these proposed regulations is designed to limit the Department's authority or duty to review applications for non-resident workers for compliance with the Department's regulations that remain in effect.

§ 20-60.1-110 Issuance of Entry Permits

No employee of the Department of Labor and Immigration shall issue or cause to be issued an entry permit on behalf of a non immigrant alien to be employed as a garment worker except upon the written finding by the Secretary (or the Secretary's designee) as prescribed in § 20-60.1-105 of this part.

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

History: Amdts Adopted 17 Com. Reg. 13741 (Oct. 15, 1995); Amdts Proposed 17 Com. Reg. 13648 (Aug. 16, 1995); Certified 14 Com. Reg. 9178 (Apr. 15, 1992); Adopted 10 Com. Reg. 5414 (Jan. 18, 1988); Proposed 9 Com. Reg 5268 (Oct. 15, 1987).

Commission Comment: With respect to the references to the Director of Commerce and Labor and the Immigration and Naturalization Office, see Executive Order 94-3, reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the commission comment to 1 CMC § 2001; see also the general comment to this subchapter.

The commission changed "of behalf of a" to "on behalf of a" to correct a typographical error. Compare 17 Com. Reg. at 13747 (Oct. 15, 1995) and 10 Com. Reg. at 5417 (Jan. 18, 1988).

§ 20-60.1-115 Issuance of Certificates of Origin

No employee of the Division of Customs Services shall issue or cause to be issued a certificate of origin for textile products manufactured in whole or in part in the Commonwealth of the Northern Mariana Islands unless the products is that of a qualified garment manufacturer.

Modified, 1 CMC § 3806(f).

History: Certified 14 Com. Reg. 9178 (Apr. 15, 1992); Adopted 10 Com. Reg. 5414 (Jan. 18, 1988); Proposed 9 Com. Reg 5268 (Oct. 15, 1987).

§ 20-60.1-120 Limited Exemption for the Island of Rota

Notwithstanding the provisions of §§ 20-60.1-101 through 20-60.1-115, the Department of Commerce and Labor is authorized to issue up to a maximum of three business licenses for the manufacture of garments on the Island of Rota provided that garment manufacturers operating

TITLE 20: DEPARTMENT OF COMMERCE

under such licenses shall not employ more than 250 alien garment workers each. Licenses shall be issued based on the following criteria:

- (a) Amount of capital investment;
- (b) Number of resident workers to be employed in management, supervisory and non-supervisory positions;
- (c) Wages to be paid and benefits offered to resident employees;
- (d) Training programs offered; and
- (e) The degree of local ownership offered and the degree to which the applicant will improve infrastructure and other utility needs.

Modified, 1 CMC § 3806(c), (e), (f).

History: Certified 14 Com. Reg. 9178 (Apr. 15, 1992); Amdts Adopted 12 Com. Reg. 7137, 7151 (June 15, 1990); Amdts Emergency and Proposed 12 Com. Reg. 7016 (May 15, 1990) (effective 120 days from May 11, 1990).

Commission Comment: The 1990 amendments contained a purpose and findings provision as follows:

Section 2. Purpose and Findings.

The Textile Panel finds that the request of the people of Rota for a limited exemption permitting the establishment of garment factories on the Island of Rota is in the public interest in that it will provide substantial economic opportunities for a majority of its resident population. This amendment encourages economic growth by permitting limited exemption for the Island of Rota.

12 Com. Reg. at 7151 (June 15, 1990).

With respect to the reference to the Department of Commerce and Labor, see Executive Order 94-3, reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the commission comment to 1 CMC § 2001; see also the general comment to this subchapter.

TITLE 20: DEPARTMENT OF COMMERCE

CHAPTER 20-60 GARMENT MANUFACTURING RULES AND REGULATIONS

SUBCHAPTER 20-60.2 RULES AND REGULATIONS FOR THE ISSUANCE OF BUSINESS LICENSES FOR GARMENT MANUFACTURING OR PRODUCTS LISTED UNDER THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES GENERAL NOTE 3(a)(iv)

Subchapter Authority: 1 CMC § 2454; 4 CMC § 5611; Executive Order 94-3 (effective August 23, 1994).

Subchapter History: Adopted 17 Com. Reg. 13738 (Oct. 15, 1995); Proposed 17 Com. Reg. 13674 (Sept. 15, 1995).

Commission Comment: The authority to issue business licenses has a complicated history in the Commonwealth. Originally, the Department of Commerce and Labor had authority to issue these licenses under 1 CMC § 2453(d) and 4 CMC § 1503. Executive Order 94-3 (effective August 23, 1994) transferred this power to the renamed Department of Commerce. PL 9-22 (effective retroactively January 1, 1995) repealed 4 CMC § 1503 and enacted 4 CMC § 5611 to regulate general business licenses in the Commonwealth, but left the authority to issue such licenses with the Department of Commerce.

PL 10-9, the “Garment Industry Moratorium Act of 1996” went into effect on May 28, 1996. PL 10-9, codified as amended at 4 CMC §§ 5701-5711, specifically prohibits the issuance of business licenses for garment manufacturing, except as provided by the act. See 4 CMC § 5702.

The “Business License Processing Act of 1998,” PL 11-73 (effective March 19, 1999), transferred authority to issue business licenses to the Department of Finance and amended 4 CMC § 5611, 4 CMC § 5702 and other relevant provisions of the Commonwealth Code accordingly.

The October 1995 Department of Commerce Rules and Regulations for the Issuance of Business Licenses for Garment Manufacturing were promulgated in conjunction with the repeal of the administrative moratorium on the issuance of business licenses for garment manufacturing, prior to the enactment of PL 10-9 or PL 11-73. See 17 Com. Reg. 13738 (Oct. 15, 1995); 17 Com. Reg. 13710 (Sept. 15, 1995); 17 Com. Reg. 13380 (May 15, 1995). Although the Department of Commerce has not repealed the regulations, they are superseded by subsequent statutes.

[Superseded by PL 10-9 and PL 11-73.]