

CHAPTER 65-60

LITTER CONTROL REGULATIONS

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Chapter Authority: 1 CMC §§ 2646-2649; 1 CMC § 2650; 2 CMC §§ 3411-3416.

Chapter History: Amdts Adopted 40 Com. Reg. 40857 (July 28, 2018); Amdts Proposed 40 Com. Reg. 40748 (June 28, 2018); Adopted 12 Com. Reg. 7381 (Sept. 15, 1990); Proposed 12 Com. Reg. 7153 (July 15, 1990).

Commission Comment: For a complete history of the authority of the Division of Environmental Quality, see the commission comment to NMIAC chapter 65-10.

PL 6-37 (effective Sept. 8, 1989), the "Commonwealth Litter Control Act of 1989," codified as amended at 2 CMC §§ 3411-3416, charged the Division of Environmental quality with implementing a litter control program consistent with the provisions of the act. See 2 CMC § 3412.

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adopted prior to the effective date of this Executive Order shall continue to be effective until revised, amended, repealed or terminated."

Part 001 - General Provisions

§ 65-60-001 Short Title

The rules and regulations in this chapter shall be cited to as the Commonwealth Litter Control Regulations of 2018.

TITLE 65: DIVISION OF ENVIRONMENTAL QUALITY

History: Amdts Adopted 40 Com. Reg. 40857 (July 28, 2018); Amdts Proposed 40 Com. Reg. 40748 (June 28, 2018); Adopted 12 Com. Reg. 7381 (Sept. 15, 1990); Proposed 12 Com. Reg. 7153 (July 15, 1990).

§ 65-60-005 Authority and Scope

The regulations in this chapter are promulgated by the Division of Environmental Quality, within the Bureau of Environmental and Coastal Quality, in collaboration with the Department of Public Safety, Department of Finance, Division of Coastal Resources Management, Department of Lands and Natural Resources, Department of Commerce, Mayor's Office of each respective Senatorial District and the Northern Islands, the Commonwealth Healthcare Corporation, the Marianas Visitors Authority, and the Zoning Office, and in accordance with Public Laws 6-37, 11-15, and 19-53—the Commonwealth Litter Control Act of 1989, as amended. These regulations shall have the force and effect of law, shall be binding on all persons subject to the jurisdiction of the Commonwealth Superior Court, and shall apply to all public and private lands and waters of the Commonwealth of the Northern Mariana Islands (CNMI) unless otherwise provided for by law.

History: Amdts Adopted 40 Com. Reg. 40857 (July 28, 2018); Amdts Proposed 40 Com. Reg. 40748 (June 28, 2018); Adopted 12 Com. Reg. 7381 (Sept. 15, 1990); Proposed 12 Com. Reg. 7153 (July 15, 1990).

Commission Comment: [Historical comment removed.]

§ 65-60-010 Purpose

The regulations in this chapter shall govern the government agencies' duties, responsibilities, and powers as required to implement the Litter Control Act of 1989, as amended. The regulations define prohibited acts, enforcement procedures, penalties, and jurisdiction.

History: Amdts Adopted 40 Com. Reg. 40857 (July 28, 2018); Amdts Proposed 40 Com. Reg. 40748 (June 28, 2018); Adopted 12 Com. Reg. 7381 (Sept. 15, 1990); Proposed 12 Com. Reg. 7153 (July 15, 1990).

§ 65-60-015 Definitions

- (a) "Act" means the Commonwealth Litter Control Act 1989, as amended.
- (b) "Apprehending Officer" means designated employees of the Bureau of Environmental and Coastal Quality, Department of Lands and Natural Resources, Department of Public Health, Department of Public Works, Department of Public Safety, and the Office of the Mayor.
- (c) "BECQ" means the Bureau of Environmental and Coastal Quality.
- (d) "Commercial violation" means littering the byproduct of industrial, commercial, mining, or agricultural operations in which the person has a financial interest.
- (e) "DEQ" means the Division of Environmental Quality.

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- (f) “Gross violation” means the act of intentionally littering any household or office furniture or appliances, automotive parts, trailers, boats or boating accessories, tools or equipment, or building materials.
- (g) “Intentional violation” means the act of intentionally littering.
- (h) “Lakes” means any surface water body as included in the definition of “wetlands” that are habitat for protected fresh water organisms and plant life.
- (i) “Litter” means garbage, trash, rubbish, refuse, paper containers, carcasses of dead animals, packing or construction materials, bottles, cans, debris, including, but not limited to, organic waste such as betelnut or tobacco waste or spittle, or any other disposable item of whatever nature that results in the defacing of public places or infrastructure.
- (j) “Littering” means throwing, dropping, placing, depositing, sweeping, discarding, or otherwise disposing of any litter on land or water, or such a manner that the litter becomes airborne, in other than appropriate storage containers or areas designated for such purpose, and shall include depositing any litter that was generated in a home or business into any public litter container or receptacle, except for containers or receptacles specifically designated for household or commercial waste disposal, such as containers or receptacles at a transfer station.
- (k) “Marine Sanctuary” means an area of marine water designated by federal, Commonwealth, or local government as a protected area—including, but not limited to, conservation areas, reserve areas, and sanctuaries—and managed for the protection of animal and plant species—including, but not limited to, those species that are listed as threatened or endangered.
- (l) “Marine Water” means any and all coastal waters of mean sea level from shoreline out to three miles of CNMI submerged land including all coastal waters of a depth less than 20 fathoms, or waters up to a distance of 1,000 feet off-shore from the mean high water marks, whichever is the greater distance from the shoreline.
- (m) “Person” means the government of the United States or an agency or department thereof, the government of the Commonwealth of the Northern Mariana Islands (CNMI) or an agency or department of a municipality thereof, a public or private institution, a public or private corporation, association, or partnership, or an individual.
- (n) “Sensitive Area Multiplier” means the numeral established by the fee matrix in § 65-60-320(b) by which the base violation fee is multiplied when the littering occurs in a listed sensitive area defined herein.
- (o) “Simple violation” means the act of littering absent circumstances justifying a citation for an intentional, commercial, or gross violation, including, but not limited to,

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creating a condition the person knew or should have known was likely to result in littering.

(p) “Streams” means any surface water body found upland in the CNMI watershed systems flowing seasonally or permanently leading into the lakes or the coastal shorelines.

(q) “Storm Water Drainage System” means any privately or publicly owned structure or system of structures designed to collect, carry, and/or divert surface run-off. This term includes, but is not limited to: lined and unlined drainage ways, swells, ditches, culverts, drain pipes, catch basins, ponding basins, and infiltration beds.

(r) “Vehicle” means a device in, upon, off, or by which any person or property may be propelled, moved, or drawn upon a road.

(s) “Watercraft” means any boat, ship, vessel, barge, or other floating craft.

(t) “Well field” means a land area where groundwater aquifer designation as class I or II and where municipal water wells are located.

(u) “Wetland” means those areas that are inundated or saturated by surface water or groundwater with frequency sufficient to support a prevalence of plant or aquatic life that requires seasonally saturated soil conditions for growth and/or reproduction. Wetlands include swamps, marshes, mangroves, lakes, natural ponds, surface springs, streams, estuaries, and similar areas in the Northern Marianas Islands archipelagoes. Wetlands include both wetlands connected to other waters and isolated wetlands. Wetlands do not include those artificial wetlands intentionally created to provide treatment of waste water or storm water run-off.

(v) “Wildlife Sanctuary” means an area of land designated by federal, Commonwealth, or local government as a protected area—including, but not limited to, conservation areas, reserve areas, and sanctuaries—and managed for the protection of animal and plant species—including but not limited to, those species that are listed as threatened or endangered.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 40 Com. Reg. 40857 (July 28, 2018); Amdts Proposed 40 Com. Reg. 40748 (June 28, 2018); Adopted 12 Com. Reg. 7381 (Sept. 15, 1990); Proposed 12 Com. Reg. 7153 (July 15, 1990).

Commission Comment: [Historical comments removed.]

Part 100 - Agency Powers and Duties

§ 65-60-101 Bureau of Environmental and Coastal Quality

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The Administrator of BECQ shall administer the programs and provisions of this chapter, including:

- (a) Implementing programs in the areas of litter control, prevention, removal, and disposal and promoting and carrying out public education programs;
- (b) Encouraging public voluntary anti-litter campaigns;
- (c) Conducting educational programs intended to instill an anti-littering ethic;
- (d) Coordinating anti-littering efforts with other agencies of the government;
- (e) Designing a Commonwealth anti-littering symbol;
- (f) Facilitating the design and placement of litter containers or receptacles bearing the Commonwealth anti-littering symbol to be placed along the public roads, highways, parks, beaches, and other public places of the Commonwealth, in cooperation with the Department of Public Works, the Department of Lands and Natural Resources, the Marianas Visitors Authority, the Department of Public Lands, the Zoning Office, and other relevant agencies and entities whether public or private;
- (g) Posting anti-littering signs in public places where appropriate in cooperation with the Department of Public Lands and the Zoning Office;
- (h) Cooperating with the Attorney General's Office in the prosecution of violators of this chapter;
- (i) Biennially submitting to the legislature, a report summarizing the actions taken under this chapter, and the effectiveness of such actions and such information and recommendations, including legislative recommendations, as deemed appropriate by the Administrator; and
- (j) Preparing and submitting a detailed proposed budget to the legislature for appropriations from the Litter Control Program Fund to ensure proper funding for the Litter Control Program.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 40 Com. Reg. 40857 (July 28, 2018); Amdts Proposed 40 Com. Reg. 40748 (June 28, 2018); Adopted 12 Com. Reg. 7381 (Sept. 15, 1990); Proposed 12 Com. Reg. 7153 (July 15, 1990).

§ 65-60-105 Department of Public Works

The Department of Public Works, itself or through a private contractor, shall be responsible for the maintenance of litter containers and receptacles along the public roads and highways of the Commonwealth, and for the regular disposal of litter deposited in

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said containers and receptacles. Any garbage collected shall be disposed of at a designated public landfill site.

History: Amdts Adopted 40 Com. Reg. 40857 (July 28, 2018); Amdts Proposed 40 Com. Reg. 40748 (June 28, 2018); Adopted 12 Com. Reg. 7381 (Sept. 15, 1990); Proposed 12 Com. Reg. 7153 (July 15, 1990).

Commission Comment: [Historical comment removed.]

§ 65-60-110 Department of Public Safety

(a) The Department of Public Safety shall remove dead animals found on public roads or highways and place such carcasses on the side of the road away from traffic. The Department of Public Safety shall immediately inform the Office of the Mayor of the location of the carcass for its proper removal and disposal.

(b) At the request of the BECQ, the Department of Public Safety shall train apprehending officers in those law enforcement skills necessary to carry out the intent and purposes of this chapter and the Act, including, but not limited to, techniques for stopping, apprehending, and citing alleged violators of this chapter. BECQ and the Department of Public Safety shall ensure periodic law enforcement trainings are held to train apprehending officers and to coordinate and update information on applicable laws and procedures.

History: Amdts Adopted 40 Com. Reg. 40857 (July 28, 2018); Amdts Proposed 40 Com. Reg. 40748 (June 28, 2018); Adopted 12 Com. Reg. 7381 (Sept. 15, 1990); Proposed 12 Com. Reg. 7153 (July 15, 1990).

§ 65-60-115 Department of Lands and Natural Resources

The Department of Lands and Natural Resources, through the Division of Parks and Recreation or a private contractor, shall provide for the maintenance of litter containers and receptacles at the public parks, beaches, cemeteries, recreational sites, and major tourist sites of the Commonwealth, and for the regular disposal of litter deposited in said containers and receptacles, and shall cooperate and consult with the Marianas Visitors Authority, BECQ, the Mayor's Office, or other relevant agencies and entities to ensure the effective implementation of this chapter.

History: Adopted 40 Com. Reg. 40857 (July 28, 2018); Proposed 40 Com. Reg. 40748 (June 28, 2018).

§ 65-60-120 Office of the Mayor

The Office of the Mayor, itself or through a contractor, shall properly remove and dispose of animal carcasses on public roads or highways, or on the side of the road upon notification by DPS.

Modified, 1 CMC § 3806(g).

History: Adopted 40 Com. Reg. 40857 (July 28, 2018); Proposed 40 Com. Reg. 40748 (June 28, 2018).

Part 200 - Prohibited Activities

§ 65-60-201 Littering upon Public or Private Property

Littering upon property owned by another or upon the public property of the Commonwealth, including, but not limited to, any highway, street, alley, or road, is unlawful.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 40 Com. Reg. 40857 (July 28, 2018); Amdts Proposed 40 Com. Reg. 40748 (June 28, 2018); Adopted 12 Com. Reg. 7381 (Sept. 15, 1990); Proposed 12 Com. Reg. 7153 (July 15, 1990).

Commission Comment: [Historical comment removed.]

§ 65-60-205 Littering in the Waters of the Commonwealth

Littering in the waters of the Commonwealth, including, but not limited to, any bay, channel, harbor, reservoir, lagoon, lake, stream, or coastal waters, is unlawful.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 40 Com. Reg. 40857 (July 28, 2018); Amdts Proposed 40 Com. Reg. 40748 (June 28, 2018); Adopted 12 Com. Reg. 7381 (Sept. 15, 1990); Proposed 12 Com. Reg. 7153 (July 15, 1990).

Part 300 - Enforcement

§ 65-60-301 Apprehension and Citation for Littering in Officer's Presence

Any apprehending officer may apprehend and cite any person for littering in the apprehending officer's presence.

History: Amdts Adopted 40 Com. Reg. 40857 (July 28, 2018); Amdts Proposed 40 Com. Reg. 40748 (June 28, 2018); Adopted 12 Com. Reg. 7381 (Sept. 15, 1990); Proposed 12 Com. Reg. 7153 (July 15, 1990).

Commission Comment: [Historical comment removed.]

§ 65-60-305 Apprehension and Citation for Littering Based on Reasonable Belief

Any apprehending officer may apprehend and cite any person for littering if the apprehending officer has a reasonable belief, pursuant to § 65-60-310, that such person violated § 65-60-201 or § 65-60-205.

History: Amdts Adopted 40 Com. Reg. 40857 (July 28, 2018); Amdts Proposed 40 Com. Reg. 40748 (June 28, 2018); Adopted 12 Com. Reg. 7381 (Sept. 15, 1990); Proposed 12 Com. Reg. 7153 (July 15, 1990).

§ 65-60-310 Basis for Officer's Reasonable Belief

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For the purposes of this chapter, reasonable belief means the apprehending officer acted on personal knowledge of facts and circumstances that would justify a person of average caution to believe that the infraction has been committed. Any reasonable belief may be based upon a written or oral statement provided by a person who witnessed the littering or has personal knowledge regarding the littering, or by physical evidence found among the litter.

History: Amdts Adopted 40 Com. Reg. 40857 (July 28, 2018); Amdts Proposed 40 Com. Reg. 40748 (June 28, 2018); Adopted 12 Com. Reg. 7381 (Sept. 15, 1990); Proposed 12 Com. Reg. 7153 (July 15, 1990).

§ 65-60-315 Disposition of Citations

Any person apprehended for violation of this chapter shall be served with a citation by the apprehending officer and ordered to appear before the traffic division of the Commonwealth Superior Court for a disposition of the infraction. Citations shall be filed with the Attorney General's Office and the Clerk of the Superior Court.

History: Amdts Adopted 40 Com. Reg. 40857 (July 28, 2018); Amdts Proposed 40 Com. Reg. 40748 (June 28, 2018); Adopted 12 Com. Reg. 7381 (Sept. 15, 1990); Proposed 12 Com. Reg. 7153 (July 15, 1990).

Commission Comment: [Historical comment removed.]

§ 65-60-320 Penalties

(a) A person found to have committed the offense of littering, an infraction, shall be punished by a fine of not less than \$25 and not more than \$5,000, based on the weight and type of litter, and the location the littering took place (as provided in the fee matrix set forth in subsection (b)). Additionally, any person found to have committed the infraction of littering may be ordered to pick up and remove litter from a public place under the supervision of the Department of Public Safety or BECQ, or under the supervision of such agency as the court shall otherwise provide, for a period not exceeding eight hours for each offense. Further, any person found to have committed the infraction of littering shall be required to pay the costs of removing any litter they caused.

(b) The following fee schedule shall be used in determining the fee associated with each violation:

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Base Simple Violation – NMIAC 65-60-015(k)			
Weight	First	Second	Third +
≤ 3 pounds	25	200	500
> 3 pounds	75	350	800
Base Intentional Violation – NMIAC 65-60-015(g)			
Weight	First	Second	Third +
≤ 3 pounds	150	300	600
> 3 pounds	250	450	900
Base Gross Violation – NMIAC 65-60-015(f)			
Weight	First	Second	Third +
≤ 50 pounds	500	750	1000
> 50 pounds	750	1000	1500
Base Commercial Violation – NMIAC 65-60-015(d)			
Weight	First	Second	Third +
≤ 50 pounds	750	1000	1500
> 50 pounds	1250	1400	1650
Sensitive Area Multiplier			
Land	Water	Multiplier	
Wetland	Marine Sanctuary	Base x 3	
Well Field	Marine Water and Shoreline	Base x 2.5	
Wildlife Sanctuary	Lakes	Base x 2	
Storm Drains	Streams	Base x 1.5	

History: Amdts Adopted 40 Com. Reg. 40857 (July 28, 2018); Amdts Proposed 40 Com. Reg. 40748 (June 28, 2018); Adopted 12 Com. Reg. 7381 (Sept. 15, 1990); Proposed 12 Com. Reg. 7153 (July 15, 1990).

§ 65-60-325 Minors

Parents or legal guardians shall assume financial responsibility for payment of fines and costs of litter removal connected with violations of this chapter committed by any minors (less than 18 years old) under their care and custody.

History: Adopted 40 Com. Reg. 40857 (July 28, 2018); Proposed 40 Com. Reg. 40748 (June 28, 2018).

Part 400 - Miscellaneous Provisions

§ 65-60-401 Jurisdiction

TITLE 65: DIVISION OF ENVIRONMENTAL QUALITY

The Commonwealth Superior Court shall have jurisdiction over violations of this chapter and the Act and shall approve the form of the citation issued for violations. The Attorney General's Office shall be responsible for prosecuting any violators of this chapter.

History: Amdts Adopted 40 Com. Reg. 40857 (July 28, 2018); Amdts Proposed 40 Com. Reg. 40748 (June 28, 2018); Adopted 12 Com. Reg. 7381 (Sept. 15, 1990); Proposed 12 Com. Reg. 7153 (July 15, 1990).