

**CHAPTER 70-10
CUSTOMS SERVICE DIVISION**

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**SUBCHAPTER 70-10.1
CUSTOMS SERVICE REGULATIONS**

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Subchapter Authority: 1 CMC §§ 2553 and 2557; 4 CMC §§ 1402(e) and 1425.

Subchapter History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 34 Com. Reg. 32270 (Jan. 30, 2012); Amdts Proposed 33 Com. Reg. 32075 (Oct. 26, 2011); Amdts Adopted 27 Com. Reg. 24124 (Mar. 17, 2005); Amdts Emergency and Proposed 27 Com. Reg. 23917 (Feb. 17, 2005) (effective for 120 days from Jan. 28, 2005); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004); Amdts Adopted 25 Com. Reg. 21471 (Nov. 17, 2003); Amdts Proposed 25 Com. Reg. 20833 (Aug. 22, 2003); Amdts Adopted 23 Com. Reg. 17835 (Apr. 23, 2001); Amdts Emergency and Proposed 23 Com. Reg. 17621 (Jan. 19, 2001) (effective for 120 days from Jan. 16, 2001); Amdts Adopted 20 Com. Reg. 16262 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 15885 (Apr. 15, 1997); Amdts Adopted 19 Com. Reg. 15562 (Aug. 15, 1997); Amdts Proposed 19 Com. Reg. 15394 (June 15, 1997); Amdts Proposed 19 Com. Reg. 15357 (May 15, 1997); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Amdts Proposed 17 Com. Reg. 13562 (July 15, 1995);* Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

*A notice of adoption for the July 1995 proposed amendments was never published.

Commission Comment: With the exception of § 1302.33(e)(1) of the 1992 Customs Service Regulations No. 1300, the 1997 “Customs Service Regulations No. 4300,” superseded all rules and regulations issued by the Department of Finance and the Customs Service Division published prior to adoption of the 1997 regulations. See Customs Service Regulations No. 4300 § 4300.3, 18 Com. Reg. at 14753 (Dec. 15, 1996), codified at § 70-10.1-010. The 1997 regulations, as amended, are codified in this subchapter. The previous history of each section back to the 1995 Customs Service Regulations No. 3300 is provided in the section comments where applicable. The history of the Customs Service Regulations prior to 1995 is discussed in this comment.

Department of Finance Customs Authority:

1 CMC § 2551 creates the Department of Finance within the Commonwealth government. 1 CMC § 2553(i) authorizes the Department to be responsible for customs and baggage inspection and other related matters. The Department is authorized to adopt rules and regulations regarding those matters within its jurisdiction. See 1 CMC § 2557.

Title 4, division 1 of the Commonwealth Code, 4 CMC §§ 1101-1991, as amended by PL 14-35 (effective Oct. 12, 2004), contains the revenue and taxation laws applicable in the Commonwealth. 4 CMC §§ 1401-1427 specifically address the excise tax and user fee imposed on certain goods imported to and exported from the Commonwealth. Pursuant to 4 CMC §§ 1402(e) and 1425, the Secretary of Finance is authorized to promulgate regulations to implement the provisions of these tax laws.

PL 14-35 (effective Oct. 12, 2004) repealed and reenacted 4 CMC §§ 1103-1106, 4 CMC division 1, chapter 8 and 4 CMC division 1, chapter 9. PL 14-35 § 4 (§ 2001), to be codified at 4 CMC § 1901, grants the Secretary of Finance broad authority to prescribe necessary rules and regulations to implement the CNMI tax laws.

History of the Customs Service Regulations:

The Department of Finance, Division of Revenue and Taxation first promulgated Customs Regulations No. 7901 in 1979. The history of these regulations is as follows:

Amdts Proposed 2 Com. Reg. 931 (Nov. 17, 1980);* Amdts Emergency 2 Com. Reg. 894 (Nov. 17, 1980) (effective for 120 days from Oct. 1, 1980);* Adopted 1 Com. Reg. 389 (July 16, 1979) (retroactive to January 12, 1979); Proposed 1 Com. Reg. 248 (June 16, 1979).

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*The text of the November 1980 emergency amendments was not published with the notice of amendments. A notice of adoption for the November 1980 proposed amendments was never published.

In March 1983, the Department of Finance Division of Revenue and Taxation promulgated Revenue and Taxation Regulations No. 8301, which superseded all rules and regulations prior to January 31, 1983, including Custom Regulations No. 7901. See 5 Com. Reg. at 1809-10 (Feb. 28, 1983). Revenue and Taxation Regulations No. 8301 remained in effect, as amended, until February 1992. The history of Revenue and Taxation Regulations No. 8301 is as follows:

Emergency 13 Com. Reg. 8277 (Nov. 15, 1991) (effective for 120 days from Oct. 22, 1991) (adopting Mar. 31, 1983 Revenue and Taxation Regulations and all subsequent amendments as emergency regulations); Amdts Adopted 13 Com. Reg. 7642 (Feb. 15, 1991); Amdts Proposed 13 Com. Reg. 7566 (Jan. 15, 1991); Amdts Emergency and Proposed 12 Com. Reg. 7514 (Dec. 15, 1990) (effective for 120 days from Nov. 30, 1990);** Amdts Adopted 12 Com. Reg. 6890 (Apr. 15, 1990); Amdts Proposed 12 Com. Reg. 6838 (Mar. 15, 1990); Amdts Adopted 12 Com. Reg. 6898 (Apr. 15, 1990); Amdts Proposed 12 Com. Reg. 6857 (Mar. 15, 1990); Amdts Emergency 12 Com. Reg. 6790 (Jan. 15, 1990) (effective for 120 days from Dec. 29, 1989); Amdts Emergency 12 Com. Reg. 6785 (Jan. 15, 1990) (effective for 120 days from Dec. 22, 1989); Amdts Adopted 11 Com. Reg. 6270 (June 15, 1989); Amdts Proposed 11 Com. Reg. 6189 (May 15, 1989); Amdts Emergency 11 Com. Reg. 6169 (May 15, 1989) (effective for 120 days from May 15, 1989); Amdts Adopted 10 Com. Reg. 5714 (Oct. 15, 1988); Amdts Proposed 10 Com. Reg. 5700 (Sept. 15, 1988); Amdts Adopted 9 Com. Reg. 5292 (Dec. 15, 1987); Amdts Proposed 9 Com. Reg. 5285 (Nov. 15, 1987); Amdts Adopted 9 Com. Reg. 5250 (Oct. 15, 1987); Amdts Proposed 9 Com. Reg. 5239 (Sept. 15, 1987); Amdts Proposed 8 Com. Reg. 4701 (Oct. 22, 1986);** Amdts Adopted 8 Com. Reg. 4346 (June 3, 1986); Amdts Emergency 8 Com. Reg. 4335 (Apr. 18, 1986) (effective for 120 days from Apr. 7, 1986); Amdts Proposed 8 Com. Reg. 4225 (Apr. 18, 1986); Amdts Adopted 8 Com. Reg. 4344 (June 3, 1986); Amdts Emergency 8 Com. Reg. 4333 (Apr. 18, 1986) (effective for 120 days from Apr. 4, 1986); Amdts Proposed 8 Com. Reg. 4222 (Apr. 18, 1986); Amdts Adopted 8 Com. Reg. 4205 (Feb. 17, 1986); Amdts Emergency and Proposed 8 Com. Reg. 4198 (Jan. 17, 1986) (effective for 120 days from Jan. 2, 1986); Amdts Adopted 7 Com. Reg. 3610 (May 21, 1985) (retroactive to January 1, 1985); Amdts Proposed 7 Com. Reg. 3548 (Apr. 16, 1985); Amdts Proposed 7 Com. Reg. 3445 (Feb. 15, 1985);* Correction Adopted 8 Com. Reg. 4203 (Jan. 17, 1986); Amdts Adopted 6 Com. Reg. 2989 (July 16, 1984); Amdts Proposed 6 Com. Reg. 2867 (June 15, 1984); Amdts Adopted 6 Com. Reg. 2865 (June 15, 1984); Amdts Proposed 6 Com. Reg. 2793 (May 15, 1984); Public Notice 6 Com. Reg. 3354 (Nov. 15, 1984) (notification that March 1984 amendments will not be adopted); Amdts Proposed 6 Com. Reg. 2626 (Mar. 15, 1984); Amdts Adopted 6 Com. Reg. 2622 (Mar. 15, 1984); Amdts Emergency and Proposed 6 Com. Reg. 2579 (Feb. 15, 1984) (effective for 120 days from Feb. 15, 1984); Adopted 5 Com. Reg. 1959 (Mar. 31, 1983) (superseding all rules and regulations prior to Jan. 31, 1983); Emergency and Proposed 5 Com. Reg. 1794 (Feb. 28, 1983) (effective for 120 days from Feb. 4, 1983); Emergency 4 Com. Reg. 1617 (Oct. 15, 1982) (effective for 120 days from Sept. 30, 1982) (superseding all rules and regulations prior to June 1, 1982).

*The February 1985 proposed amendments were repealed without adoption. See 7 Com. Reg. at 3611 (May 21, 1985).

**Notices of adoption for the October 1986 and December 1990 amendments were never published.

The Division proposed completely revised Customs Service Regulations No. 1300, separate from the Revenue and Taxation Regulations in February 1992 and adopted the revised regulations on April 15, 1992. Customs Service Regulations No. 1300 superseded all rules and regulations published prior to January 31, 1983, including Revenue and Taxation Regulations No. 8301 and all amendments thereto to the extent made applicable to the Customs Service Division. See 14 Com. Reg. at 8867 (Feb. 15, 1992). The history of the 1992 Customs Service Regulations No. 1300 is as follows:

Amdts Proposed 17 Com. Reg. 13562 (July 15, 1995);* Amdts Certified 15 Com. Reg. 10507 (Apr. 15, 1993); Amdts Adopted 15 Com. Reg. 10501 (Mar. 15, 1993); Amdts Proposed 15 Com. Reg. 10381 (Jan. 15, 1993); Amdts Emergency 14 Com. Reg. 9777 (Oct. 15, 1992) (effective for 120 days from Oct. 7, 1992); Adopted 14 Com. Reg. 9199 (Apr. 15, 1992) (superseding all rules and regulations published prior

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to Jan. 31, 1983); Emergency 14 Com. Reg. 9007 (Mar. 15, 1992) (effective for 120 days from Feb. 18, 1992); Proposed 14 Com. Reg. 8860 (Feb. 15, 1992).

*A notice of adoption for the July 1995 proposed amendments was never published.

The notice of adoption for the April 1992 regulations stated: “The Director of Finance withdraws the Emergency Customs Service Regulations No. 9101 (effective February 18, 1992) at the time that Division of Customs Service Regulations No. 1300 becomes effective.”

Customs Service Regulations No. 1300 remained in effect until June 1995, when the Division promulgated completely revised Customs Service Regulations No. 3300. The history after 1995 is provided in the history sections of this subchapter.

On April 15, 1995, the Department of Finance, Division of Customs Service published Announcement No. CS95-01 regarding the implementation of certain provisions of PL 9-22 chapter 4. See 17 Com. Reg. 13084 (Apr. 15, 1995).

On September 15, 1986, the Department of Finance 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.

Part 001 - General Provisions

§ 70-10.1-001 Authority

The authority for the promulgation and issuance of Customs Service Regulations Chapter 70-10, codified in this subchapter, is by virtue of the authority and directions set forth in the Commonwealth Code including, but not limited to, 1 CMC § 2553, 1 CMC § 2557, 1 CMC § 25201, 4 CMC § 1104, 4 CMC § 1402, 4 CMC § 1425, and 4 CMC § 1820.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

Commission Comment: Former 4 CMC § 1402(d) is now codified as amended at 4 CMC § 1402(e).

PL 14-35 (effective Oct. 12, 2004) repealed and reenacted 4 CMC §§ 1103-1106, 4 CMC division 1, chapter 8 and 4 CMC division 1, chapter 9. PL 14-35 § 4 (§ 1820), to be codified at 4 CMC § 1820, grants the Secretary of Finance authority to prescribe adopt regulations issued under the U.S. Internal Revenue Code necessary for the proper administration and enforcement of Commonwealth tax laws. PL 14-35 § 4 (§ 2001), to be codified at 4 CMC § 1901, grants the Secretary of Finance broad authority to prescribe necessary rules and regulations to implement the CNMI tax laws.

§ 70-10.1-005 Purpose

The purpose of the Customs Service Regulations Chapter 70-10, codified in this subchapter, is to establish policy and procedures to implement and provide uniform enforcement of the laws of the Commonwealth of the Northern Mariana Islands

administered by the Division of Customs Service; to require complete customs service to control imports of all articles, wares, or merchandise for the assessment and collection of taxes; and for the interception of harmful elements and other contraband.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-010 Regulations Superseded

Except for 1302.33(e)(1) of Customs Service Regulations No. 1300, codified at 70-10.1-720, Customs Service Regulations Chapter 70-10, codified in this subchapter, supersede all rules and regulations issued by the CNMI Department of Finance and/or the CNMI Customs Service Division which were published prior to the adoption of Customs Service Regulations Chapter 70-10 which pertain to taxes, fees, and all other laws administered by the Customs Service Division including those rules and regulations issued under Customs Service Regulations No. 1300, Customs Service Regulations No. 9101, Customs Service Regulations No. 3300, Customs Service Regulations No. 4300, and all amendments thereto.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-015 Customs Service

(a) Administration and Enforcement. The Customs Service Division of the Commonwealth of the Northern Mariana Islands shall consist of trained men and women under the supervision of the Director of Customs Service Division. Almost all of the men and women under the supervision of the Director of Customs Service Division have been trained or are in the process of being trained at the Northern Marianas College Police Academy or have received equivalent training in the military, in college, police, or customs type academy. Men and women of the Customs Service are law enforcement officers who are engaged in the enforcement of the excise tax laws, the Commonwealth Controlled Substances Act, the Weapons Control Act, the Anti-Drug Abuse Act of 1991, and other local and federal laws enforced at the ports of entry, and in the interception of other contraband, such as items quarantined by law.

(b) Other Government Agencies. By agreement, the Director of Customs Service Division may utilize the personnel services and facilities of other agencies of the Commonwealth government of the Northern Mariana Islands or other government agencies including the federal government for proper enforcement of excise tax laws,

other laws enforced at the ports of entry, and the regulations in this subchapter and other related regulations.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-020 Function

The Customs Service Division of the Commonwealth of the Northern Mariana Islands shall administer and enforce all taxes and fees imposed by chapter 4, division 1, of title 4 of the Commonwealth Code and shall intercept illicit imports of narcotics, non-registered weapons, and other contraband at the ports of entry. The Customs Service Division is hereby authorized to develop procedures and policies, including procedures and policies for the purpose of conducting searches on individuals, not covered by the regulations in this subchapter, necessary for the proper functioning of the Customs Service. All monies due pursuant to chapter 4, division 1, of title 4 of the Commonwealth Code shall be collected by the Customs Service Division and be deposited with the Treasurer of the Commonwealth government.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-025 Uniforms and Identification

(a) **Badge.** Unless otherwise directed by the Director, all Customs Service personnel must wear metal badges during working hours, and while on official duty. Badges shall be issued by the Customs Service Division, upon assignment of personnel.

(b) **Uniform.** Unless otherwise directed by the Director, all Customs Service personnel are required to wear the official customs uniform during working hours and while on official duty. The color and design of the uniform shall be prescribed by the Director.

(c) **Plastic Identification Card.** All employees of the Customs Service Division must wear their plastic identification card during working hours, and while on official duty.

(d) **Interim Identification Card.** Upon initial assignment of new personnel or when an identification card is lost, an interim identification card shall be issued to employees. All bearers of the interim identification card are authorized access to all areas of operations in the central office, district offices, airports, and other ports of entry, except areas which are specifically restricted to certain employees.

(e) Requirements. Employees of the Customs Service Division are responsible for the safeguarding and proper use of uniform, badges, and plastic identification cards, and for surrendering them upon termination, or upon request of the Secretary or the Director. Any misuse, counterfeiting, alteration, or reproduction is a violation of law and the regulations in this subchapter. All employees must ensure that uniforms and badges are used only in the performance of their duties.

(f) In Case of Loss. All employees must promptly report in writing, the circumstances surrounding the loss of either a Customs Service badge or plastic identification card. Any employee losing his/her badge or plastic identification card will be responsible for compensating the Customs Service Division for the replacement cost if the loss was a result of employee negligence.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996).

§ 70-10.1-030 Restrictions

No person is authorized to make, duplicate, or alter any patches, badges, identification cards, passes, logos, symbols or emblems employed by the Customs Service Division. Only authorized employees and other authorized individuals may use, possess, or process any patch, badge, identification card, pass symbol, or emblem employed by the Customs Service Division.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996).

§ 70-10.1-035 Rank

(a) All personnel assigned to perform Customs Service duties shall be accorded ranking similar to that used in law enforcement or in the military, in their performance as Customs Service officials. Ranking employees assigned to Customs Service shall be in accordance with their supervisory ability, education, training, professionalism in the enforcement of Customs Service duties and responsibilities, satisfactory work performance, and dependability. Length of employment shall not be used as a determining factor in the ranking of personnel. Nothing in this section shall be construed as to relate to the employee's official title during his or her employment with the Division of Customs. "Official title" in this section shall mean title shown in the employee's current personnel action. In performing Customs Service activities, personnel assigned shall have the working title of a duly commissioned Customs Service Officer. "Working title" means the title and rank given to Customs Service officials. The Director shall hold a minimum rank of Colonel, but may be promoted in rank. The highest rank allowable shall be Four Star General.

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(b) All temporary or limited term personnel assigned to perform Customs Service must possess at least 80 hours of practical training and 120 hours of classroom instruction in Customs Service or other law or tax enforcement. However, the minimum qualifications in this subsection may be raised pursuant to a procedure established by the Division of Customs, and approved by the Secretary. In appointing supervisors, the appointee must meet at least the minimum requirements for supervisors as established by the Division of Customs. All permanent personnel assigned to perform Customs Service must have been trained at a police academy or have received equivalent training in the military, college, law enforcement or Customs Service.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996).

§ 70-10.1-040 Records

The Customs Service Division of the Commonwealth of the Northern Mariana Islands shall maintain all records and documents associated with the administration and enforcement of laws enforced and administered by the Customs Service Division. Only authorized employees of the Customs Service Division and other persons authorized by CNMI law shall have access to these records and documents. Except as authorized by law, employees of the Customs Service Division are not authorized to furnish any information to any person regarding another person's records maintained pursuant to law and the regulations in this subchapter and other related regulations.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-045 Rota and Tinian District Offices

The Customs Service Division shall have district offices in Rota and Tinian for its activities in these senatorial districts. The functions of the district operations shall be under the supervision of the Secretary of Finance or his or her designee. Personnel supervision of the district offices shall be under each respective Resident Director of Finance.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-050 Definitions

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- (a) Ad valorem: The value of goods, commodities, resources, or merchandise.
- (b) Alcoholic beverage: Beer or other malt beverage, distilled alcoholic beverage, wine or sake and any other beverage, which contains at least 0.5% of alcohol by volume and which is fit for human consumption.
- (c) Agricultural: The science and art of farming, work of cultivating the soil, producing crops and raising livestock.
- (d) Aircraft: Every description of craft or other contrivance used or capable of being used as a means of transportation for flight in the air.
- (e) Annual: Unless the context otherwise requires, means a calendar year.
- (f) Aviation Fuel: Aviation gas or other aviation material required in the operation of an aircraft or a machine or structure designed to travel through the air, whether heavier or lighter than air.
- (g) Beer and other malt beverage: Any beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human consumption.
- (h) Betelnut: The fruit of the betelnut palm, chewed together with lime and leaves of the betel pepper as a mild masticatory stimulant. Betelnut is not classified as a foodstuff, for purposes of 4 CMC § 1402(a)(2); it has no nutritional value nor is it necessary for the sustenance of life.
- (i) Bill of Lading or Air Waybill: Documents prepared by the operator or agent of a carrier or non-vessel operating common carrier (NVOCC) listing and describing the contents of the cargo carried on a vessel or aircraft consigned to a person. Bill of lading shall also mean air waybill.
- (j) Business: The term business shall have the same meaning as a trade or business as that term is applied under 162 of the Northern Marianas territorial income tax; thus, business normally means any regular and continuous activity carried on by a person for the purpose of earning income or profit. Except as otherwise provided, an employee shall not be considered as operating a business, and a partnership or a corporation shall be considered as operating a business.
- (k) Calendar Month: The period extending from the date in one month to the same date in the succeeding month.

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- (l) Carrier: Unless the context requires otherwise, means any description of craft or other contrivance used or capable of being used as a means of transportation on the water or in the air, including pleasure vessels, vessel and non-vessel operating common carriers, and private aircraft.
- (m) Cigarette: Any preparation of finely cut tobacco or other smokable substance, material, or product rolled in paper and enclosed and packed so that it is held together for smoking. The term “cigarette” shall not include cigars.
- (n) Cigarette Labeling: For purposes of 6 CMC § 2301(a)(7), the importation of contraband which provides that cigarettes, the package of which fails to bear any warning label which may be required by the United States federal law in relation to cigarettes for the sale or other distribution within the United States, only the following are acceptable labeling under United States federal law:
- (1) SURGEON GENERALS WARNING: Smoking Causes Lung Cancer, Heart Disease, Emphysema, And May Complicate Pregnancy;
 - (2) SURGEON GENERALS WARNING: Quitting Smoking Now Greatly Reduces Serious Risks to Your Health;
 - (3) SURGEON GENERALS WARNING: Smoking By Pregnant Women May Result in Fetal Injury, Premature Birth, And Low Birth Weight; and
 - (4) SURGEON GENERALS WARNING: Cigarette Smoke Contains Carbon Monoxide.
- (o) Consignee: Person to whom items subject to chapter 4, division 1, of title 4 of the Commonwealth Code are shipped for first sale, use, manufacture, lease, or rental.
- (p) Construction Equipment and Machinery: Goods used primarily in the construction of a building such as cement mixer, cement trucks, tower cranes, cement blower, and compactors. Construction equipment and machinery does not include equipment and machinery not used primarily in the construction of a building such as pick-up trucks, flat-bed trucks, office equipment, or office machinery.
- (q) Construction material: Any materials which are part of the basic components of a building structure. The basic components of a building structure include cement, gravel, lumber, nails, rebar, windows, doors, pipes, hollow blocks, electrical and plumbing supplies, door and window frames, doorknobs, ceramics, tiles, sinks, toilets, and paint.
- (r) Consumer: A person who receives, purchases, uses, conserves, dissipates or squanders goods and services.
- (s) Consumer goods: All products, goods and materials entering the CNMI, including but not limited to vehicles, retail products, garment material, construction material and all goods that have any form of packaging that will be disposed of or that has a limited useful life after which it will be disposed; provided that this definition shall not include foodstuffs and medicine for sale or otherwise, and goods, products, and materials identified in 4 CMC § 1402 (c)(2)–(4) and (d).

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- (t) **Cosmetics:** Includes all preparations used as applications to the hair or skin, lipsticks, eye shadows, mascara, pomades, powders, makeup, and other preparations not having medicinal properties or hygienic purposes. Cosmetics shall also include hair spray, hair gel, hair jellies, body lotion, tanning products, and body creams.
- (u) **Customs Agent:** Customs supervisor, customs officer, customs inspector, customs captain, customs lieutenant, customs major, and any person authorized or deputized after authorized to perform the duties of a customs agent including persons employed by another government agency.
- (v) **Customs Jurisdiction:** All compounds of all official ports of entry listed in subsection (mm) shall be under the jurisdiction of the Customs Service for clearance purposes in international travel. Customs jurisdiction shall also extend to all U.S. post offices located within the CNMI pursuant to agreement between the U.S. Postal Service and the Commonwealth.
- (w) **Customs Territory:** The islands and territorial waters which lie within the area north of 14 north latitude, south of 21 north latitude, west of 150 east longitude, and east of 144 east longitude, as extended by the Marine Sovereignty Act.
- (x) **Director:** The Director of the Customs Service Division. Any references to the term Chief as used within this subchapter or the laws administered by the Division of Customs is deemed to refer to the Director of the Division of Customs.
- (y) **Distilled Alcoholic Beverage:** Includes aggie, alcohol, brandy, whiskey, any liqueur, or any substance known as ethyl alcohol or ethanol, and every product of distillation or other process of any fermented liquid which is fit for human consumption.
- (z) **Domestic Travel:** Any travel originating from within the Commonwealth and terminating in the Commonwealth, without transiting or traveling by way of any port outside of the Commonwealth.
- (aa) **Foodstuff:** Any food which has nutritional value, or is necessary for the sustenance of life, and suitable for human consumption including dairy products, bottled drinking water, 100% fruit or vegetable juices, and any ingredient primarily used in the preparation of food. Foodstuff shall include animals only if such animals are imported into the CNMI for the primary purpose of human consumption.
- (bb) **Gross Vehicle Weight:** The value specified by the manufacturer as the loaded weight of a single vehicle.
- (cc) **Hygiene Products:** Any goods, merchandise or products necessary for the personal health, safety, and cleanliness of an individual except for child care products exempted under 4 CMC § 1402(c)(5). Hygiene products shall include toothpaste, shower soap, toilet tissue, shampoo, hair conditioner, deodorant, tooth brush, hair brush, dental

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floss, condoms, sunblock, sunscreen, mosquito repellants, women's sanitary napkins, and tampons. Hygiene products shall not include hair spray, hair gels and jellies, paper towels, or napkins.

(dd) International Travel: Any travel originating from within the Commonwealth and terminating at any port outside the Commonwealth, or terminating at a port in the Commonwealth by transiting or traveling by way of any port outside the Commonwealth, or any travel originating from outside of the Commonwealth and terminating at any port in the Commonwealth.

(ee) Jewelry: All articles made of precious metal or precious or semi-precious stones and capable of being worn for personal adornment. Watches containing precious metal or precious or semi-precious stones shall be considered jewelry.

(ff) Leather Goods or Related Products: Any and all articles made of fur on the hide, pelts, or any animal skin dressed for use or in which such article has as a component fur on the hide, pelts, or any animal skin. Leather goods or related products do not include footwear or watches.

(gg) Liquid Fuel: All liquids ordinarily, practically and commercially usable in internal combustion for the generation of power and shall include all distillates of, and condensates from, petroleum, natural gas, coal, coal tar, and vegetable or plant ferments, such distillates and condensates being ordinarily designated as gasoline, butane, naphtha, benzol, benzene, kerosene and alcohol so usable but not restricted to such designation.

(hh) Manifest: A summary list of passengers or cargo on board a carrier, unless the context requires otherwise.

(ii) Manufacture: The art of making raw material into a product suitable for use, sale, lease, or rental, and includes the technique and methods of converting finished merchandise into another product for use, sale, lease, or rental.

(jj) Merchandise: Goods, wares, and chattels of every description and includes merchandise the importation of which is prohibited or restricted.

(kk) Normal Working Hours/Days: Except as otherwise provided, the term normal working hours or normal working days means those established hours or days scheduled by the Director or Secretary, up to maximum of eight hours per day and forty hours per week.

(ll) NVOCC: Whenever this abbreviation is used in this subchapter, it means non-vessel operating common carrier.

(mm) Official Customs Port of Entry:

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(1) All vessels and aircraft on international travel and authorized entry into the customs territory of the Commonwealth must enter and obtain customs clearance from any of the following official customs ports of entry:

(i) Saipan. The primary official customs ports of entry on the island of Saipan are Tanapag Harbor (Charlie Dock) and Isley Field (Saipan International Airport) and U.S. Post Office or other Postal Service Facilities. The secondary official customs ports of entry on the island of Saipan are Sugar Dock, Baker Dock, Smiling Cove, and Garapan Fishing Complex. Secondary official customs ports of entry are authorized points of entry provided 24 hour advance notice of such use is made to the Customs Division.

(ii) Rota. The official customs ports of entry on the island of Rota are the Harbor (West Dock) and Rota International Airport and U.S. Post Office or other Postal Service Facilities.

(iii) Tinian. The official customs ports of entry on the island of Tinian are the Harbor and West Tinian Airport and U.S. Post Office or other Postal Service Facilities.

(2) A vessel or aircraft in distress may anchor or land at any port in the Commonwealth but shall immediately notify the nearest Customs Service office for immediate Customs clearance.

(nn) Person: Means any individual, firm, corporation, company, joint venture, association, partnership, receiver, club, syndicate, cooperative association, or any other entity.

(oo) Passenger vehicle: Any vehicle with four wheels or more: (1) which is manufactured primarily for use on public streets, roads, and highways; and (2) which is rated at 2.5 ton (or its metric equivalent) gross vehicle weight or less.

(pp) Precious Metals, Precious or Semi-Precious Stones, or Related Commodities: Includes any metal, stone, or related commodity valued for its rarity or appearance such as gold, silver, platinum, diamonds, emeralds, rubies, or sapphires not attached or mounted to any article. Precious metals, precious or semi-precious stones will be classified as jewelry if they are attached or mounted to any article.

(qq) Prescription Drug: A controlled substance, as identified at schedules I through V of 6 CMC §§ 2113–2122, that is obtained directly from, or pursuant to a valid prescription or order of a practitioner while acting in the course of his or her professional practice.

(rr) Public Utility: Any person that owns, controls, operates, or manages a business which supplies or furnishes the public with commodities, equipment, or services such as telephone, telegraph, electricity, airlines, and shipping lines.

(ss) Raw Material: An article or merchandise that is changed in form or substance or combined with other article(s) in a manufacturing process to become a part of a finished product or to form a new product which is produced in a factory.

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- (tt) Sake: Any alcoholic beverage of fermented rice which is not a beer and does not contain malt.
- (uu) Secretary: The Secretary of the Department of Finance of the Commonwealth government.
- (vv) Service: Unless the context otherwise requires, the Customs Service Division of the Commonwealth.
- (ww) Softdrink: Any readily drinkable carbonated or noncarbonated nonalcoholic beverage, other than water, milk, and 100% juice.
- (xx) Tobacco or Tobacco Substitute or Chewable Tobacco Product: Shall mean all tobacco products other than cigarettes, which includes any smokable, chewable, and snuffable tobacco substances.
- (yy) Vessel: The word vessel includes every description of craft or other contrivance used, or capable of being used, as a means of transportation on the water.
- (zz) Watches: A small timepiece designed to be carried in the pocket or worn on the wrist, as a pendant, etc. Watches brought in by arriving individuals into the CNMI, regardless of value, for personal use will not be taxed.
- (aaa) Wine: Means a beverage for human consumption consisting of the product of the normal alcoholic fermentation of the juice of any fruit or any natural produce and not containing more than 24% alcohol by volume. Wine shall not include any beverage which contains distilled alcohol such as liqueurs, cordials, and similar compounds. Wine shall include cooking wines to the extent such cooking wines fit within the above definition.
- (bbb) Working Days: The term working days includes holiday work, paid annual and sick leave, and administrative leave.

Modified, 1 CMC § 3806(f), (g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Amdts Proposed 17 Com. Reg. 13562 (July 15, 1995); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

Part 100 - Excise Taxes

§ 70-10.1-101 Taxing Provision

For the privilege of first sale, use, manufacture, lease or rental of goods, commodities, resources, or merchandise in the Commonwealth, there is imposed an excise tax under 4

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CMC § 1402(a), unless otherwise provided under 4 CMC § 1402(c), 4 CMC § 1402(d), or these Regulations.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-105 Rates

The excise tax rates currently imposed in accordance with 4 CMC § 1402(a), as amended by Public Law No. 9-57 on October 6, 1996 are as follows:

Commodities	Tax Rates
Agricultural Commodities	1% ad valorem
Aviation Fuel	3% ad valorem
Beer and Malt Beverage	\$0.02 per fluid ounces or fractional equivalent
Boats and Yachts in Excess of \$500,000	5.75% ad valorem
Cigarettes	\$2.75 per 20 cigarettes or fractional equivalent from September 16, 2014 through September 16, 2017, thereafter the rate will be \$3.75 per 20 cigarettes or fractional equivalent.
Construction Material, Equipment, and Machinery	3% ad valorem
Cosmetic	17.25% ad valorem
Distilled Alcoholic Beverages	\$0.18 per fluid ounces or fractional equivalent

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Foodstuff	1% ad valorem
Goods Derived Locally	1% ad valorem
Hygiene & Toiletries	1% ad valorem
Jewelry	5.75% ad valorem
Leather Goods	5.75% ad valorem
Liquid Fuel	\$0.15 per gallon
Passenger Vehicle Not Exceeding \$30,000 Per Unit	5% ad valorem
Passenger Vehicle In Excess of \$30,000 Per Unit	5.75% ad valorem
Perfumery	23% ad valorem
Precious Metals, Precious or Semi-precious Stones	5.75% ad valorem
Prescription Drugs or Medicines	1% ad valorem
Soft Drinks	\$0.005 per fluid ounce
Tobacco/Tobacco Substitute	60% ad valorem
Wine & Sake	\$0.05 per fluid ounce
All Others (not otherwise provided by law)	5% ad valorem

Modified, 1 CMC § 3806(f), (g).

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History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996).

Commission Comment: The Commission changed “.02 cents” to “\$0.02” for Beer and Malt Beverages, “.25 cents” to “\$.25” and “\$3.75 cents” to “\$3.75” for Cigarettes, “.18 cents” to “\$.18” for Distilled Alcoholic Beverages, “.15 cents” to “\$.15” for Liquid Fuel, and “.005 cents” to “\$.005” for Soft Drinks, and “.05 cents” to “\$.05” for Wine & Sake pursuant to 1 CMC § 3806(g). These revisions conform with 4 CMC § 1402(a) which this regulation cites.

§ 70-10.1-110 Exemptions

The following items shall not be subject to the excise tax of 4 CMC § 1402(a):

(a) Capital equipment and machinery. Capital equipment and machinery used in businesses primarily engaged in manufacturing in the CNMI for export outside the CNMI with a fair market value exceeding \$1,000 per unit and raw materials used in businesses primarily engaged in manufacturing in the CNMI for export. Customs Service will certify a qualifying business annually at the beginning of each calendar year during the months of January and February, upon application by the business through the issuance of a certificate to the qualifying business, which is engaged in the CNMI for export outside the CNMI. Application is made to the Director of Customs Service on a form provided by Customs Service. A new business not in existence at the beginning of the calendar year may make application at any time during the year, but must make application to the Director at least thirty days prior to the importation of capital equipment and machinery qualifying for this exemption. Failure to follow the application procedure may result in the disallowance of this exemption;

(b) Churches. Items brought into the CNMI by churches for the purpose of carrying on the religious functions of the church. Items under this exemption shall include items such as sacramental wine for use in religious rites of a religious organization, and chalice, habits, cassocks, vestments, and other items to be used by a religious order;

(c) Display and Promotion. Goods, commodities, resources, or merchandise, documents, educational and business seminar materials brought into the Commonwealth temporarily and solely for the purpose of display, demonstration or promotion and not primarily for the purpose of sale. Any goods, commodities, resources, merchandise documents or seminar materials temporarily imported under this subsection must be entered pursuant to a written application as follows:

(1) Any items temporarily imported under this section, in order to be free of tax, must be entered pursuant to and following a written application filed with the Secretary of Finance. The application filed with the Secretary should specify at the minimum, the following:

(i) The type and amount of goods, resources, merchandise, documents and materials to be temporarily imported;

(ii) The reason(s) for the temporary importation;

(iii) The expected date and method (air, sea, hand carry, etc.) of importation and the expected date and method of re-exportation of the items;

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- (iv) The name and address of the importer as well as that of the local contact person or firm(s); and
 - (v) The value of the goods, resources, merchandise, documents and materials and the location(s) of the display or demonstration sites for the items.
- (2) The Secretary of Finance will review any such written application for temporary importation for the purpose of display, demonstration, and promotion and will issue, if he finds it appropriate, a written permit for such temporary importation, which either shall be free of tax or defer taxes.
- (3) The Secretary of Finance may place restrictions on any temporary importation free of tax under this subsection, including a reasonable fee for customs inspection and supervision of the items. Upon review and approval of the application, the Secretary may defer taxes, waive penalties and interest for purposes of business promotion for a period of two years when it is in the best interest of the Commonwealth. This application may be renewed on one year increments upon resubmission and re-approval of the Secretary for a maximum total period of three years. In addition, he may require the posting of a bond to ensure the departure of the goods, impose appropriate security requirements, impose requirements for periodic customs inspection of the items at the site(s) of display, demonstration or promotion, and any other reasonable restrictions to ensure that all relevant items are in fact used only for temporary display, demonstration or promotion and are re-exported from the Commonwealth at the close of the display, promotion or demonstration period. The Secretary of Finance may delegate the responsibility for imposition of a bond and implementation procedures to the Director of Customs Service.
- (4) If it is later determined that the importation of any goods, commodities, resources or merchandise is taxable, the Department of Finance will impose such taxes at that time. The Secretary of Finance may waive interest and penalty upon imposition of tax.
- (5) A copy of any written permit issued by the Secretary of Finance under this subsection shall be filed with the Customs Service upon the entry of the items into the Commonwealth in order to exempt such items from tax.
- (6) As a general rule, applications under this subsection will not be approved from persons or firms already licensed to do business in the Commonwealth. The primary use of this subsection is intended for trade shows, business promotions, seminars, conventions, and regional sales meetings, and the like, held in the Commonwealth;
- (d) Educational Materials. Books, pamphlets and other educational materials purchased for non-business use by a public or private school or a library open to the public. This exemption includes only books, pamphlets and other educational materials purchased for non-business use directly by a public or private school, or a library open to the public and does not include books and other educational materials imported for the primary purpose of the resale of such items to a public school, private school, library open to the public, or any other person. Educational materials shall not include equipment and furniture such as video cassette recorder/player, audio cassette recorder/player, overhead projector, phonograph, movie projector, slide projector, and other instructional audio, video, and visual aids, chairs, desks, and other furniture;

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- (e) **Filming.** Merchandise or other commodities brought in by a filming or advertising company where its sole purpose is to film commercials, video, or other movies in the Commonwealth for a brief period of time;
- (f) **Films.** Rented or leased motion picture films and video tapes brought in by a commercial movie or television company for telecasting or public viewing in a theater. This exemption shall not apply to motion picture films and video tapes which are brought in for sale, lease or rental;
- (g) **Items for Use by Persons with Disabilities.** Merchandise, equipment, devices, and other items, including wheelchairs, hearing aids, braille material, canes, walkers, prosthetic devices, braces, crutches, or prescription lenses and eye glasses brought in by persons to be used by handicapped individuals who are either residing or visiting in the Commonwealth. This exemption shall not apply to merchandise, equipment, devices, and other gear brought in for sale, lease, or rent to the handicapped;
- (h) **Infant Items.** As determined by the Director, merchandise, equipment, devices, hygiene products, cribs, strollers, highchairs, diapers, lotions, creams, powders, baby foods, baby formulas, baby clothing, baby toys, and other products primarily intended for use in the daily and ordinary care of children aged 24 months or less;
- (i) **New Residents or Returning Residents.** Personal automobile(s), personal household goods, and other items imported or brought into the Commonwealth for the purpose of establishing a household. This exemption shall only apply to such items imported or brought from the state, territory, district or country in which the individual was most recently a bona fide resident. The new resident or returning resident, as referenced below, must bring in or arrange shipment of the above designated personal automobile(s), personal household goods, and other items within six months of first establishing a household in the Commonwealth. For purposes of this exemption, returning residents include only those persons who have resided outside the Commonwealth for at least one year from the time they last resided in the Commonwealth;
- (j) **Repair and In-flight Supplies.** Engines, parts, testing equipment, other navigational tools, equipment, and in-flight supplies brought in by an airline or shipping line, to repair, maintain, or supply its own vessel or aircraft are exempt. For purposes of this exemption, in-flight supplies shall include only those supplies brought into the CNMI by such airline or shipping line;
- (k) **Repairman Tools.** Tools of repairman brought in to repair or maintain equipment sold, leased, or rented to consumers in the Commonwealth. Tools shall only be exempt under this subsection if such tools are exported from the CNMI within a reasonable time after the equipment is repaired or maintained;
- (l) **Renewable Energy.** Equipment, machinery, merchandise, devices, and other items which produce, or are components of a system that produces, electric power from

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wind, solar, water, landfill gas, waste, geothermal sources, ocean thermal, ocean current or wave energy, biomass, municipal solid waste, biofuels, or fuels derived from organic sources, hydrogen fuels, or fuel cells where the fuel is derived from renewable sources;

(m) Energy Star Items. Refrigerators, stoves, ovens, and other devices for preserving or cooking food, which are certified ENERGY STAR by the U.S. Environmental Protection Agency and the U.S. Department of Energy;

(n) Disaster Relief. Non-commercial household appliances not intended for resale, including but not limited to the following: freezers, refrigerators, washers, dryers, and power generators, provided that each item is not more than \$6,000. Notwithstanding any provision of law, this exemption shall be applied once per household separate and apart for each item, for the duration of the declaration of disaster pursuant to 4 CMC § 5142(a) or within 30 days of said declaration, whichever period is longer;

(o) Tax Exempt Organizations. Items brought into the CNMI by an organization granted tax-exempt status by the CNMI Division of Revenue and Taxation, which are for use in furtherance of the organization's tax-exempt purpose. In order to qualify for this exemption, the organization must present to the Customs Division a copy of the letter issued by the CNMI Division of Revenue and Taxation granting the organization tax-exempt status. While an application for tax-exempt status is pending with the Division of Revenue and Taxation, the organization is not exempt from taxes imposed under chapter 4, division 1, of title 4 of the Commonwealth Code; however, if the organization is later determined by the Division of Revenue and Taxation to be exempt from taxation, the organization may apply pursuant to the procedures established by the Customs Division for a refund for all taxes imposed under chapter 4, division 1, of title 4 of the Commonwealth Code imposed after (but not before) the organization submitted its application to the Division of Revenue and Taxation;

(p) Visitors. Items brought into the Commonwealth by visitors if such items are for the visitor's personal use and consumption and are in a reasonable quantity; and

(q) U.S. and CNMI Government. Goods, commodities, resources or merchandise of the U.S. government or CNMI government, their agencies or instrumentalities. However, this exemption shall not extend to goods, commodities, resources, or merchandise of private parties with whom the U.S. government or CNMI government does business such as federal or CNMI contractors.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 19 Com. Reg. 15562 (Aug. 15, 1997); Amdts Proposed 19 Com. Reg. 15394 (June 15, 1997); Amdts Proposed 19 Com. Reg. 15357 (May 15, 1997); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-115 Non-business Use Exemption

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(a) **General Exemption.** Except as otherwise provided, any person may bring for personal use and consumption exempt from the excise tax the items specified in 4 CMC § 1402(d)(1). If the value or quantity of the non-business item exceeds that specified in 4 CMC § 1402(d)(1), the item will be subject to the excise tax only to the extent that the value or quantity of the items exceeds the value or quantity specified in 4 CMC § 1402(d)(1). For purposes of ascertaining which goods, commodities, resources or merchandise equal the first \$1,000 of exempted goods, commodities, resources or merchandise, the value of those goods, commodities, resources, or merchandise with the lowest excise rate shall be included first. For the purposes of 4 CMC § 1405(a) and (b), the exemption of 4 CMC § 1402(d)(1) for nonbusiness use applies.

(1) **Example No. 1:** John Doe, a resident, not a new or returning resident imports an automobile into the Commonwealth for personal use having a value of \$24,000. Mr. Doe will be subject to the excise tax under 4 CMC § 1402(a)(12). The excise tax calculation is as follows:

Vehicle Value:	\$24,000.00
Exemption of \$1,000.00 per § 1402(c)(1):	<u>(\$1,000.00)</u>
Tax Base:	\$23,000.00
Excise Tax at 5%:	\$1,150.00 (\$23,000.00 x 5%)

(b) **Cigarettes Nonbusiness Use.** Except as otherwise provided, any person may bring for personal use and consumption exempt from the excise tax, an amount of cigarettes that are commercially packaged and that do not exceed 30 packages of 20 cigarettes per package.

(1) The exemption specified under 4 CMC § 1402(d)(2), as modified by 6 CMC § 2301(a)(7) of the Cigarette Labeling and Advertising Act, shall only apply to individuals 18 years of age or older and any cigarettes in the possession of a minor will be confiscated and destroyed.

(2) Pursuant to 6 CMC § 2301(a)(7)(i) only 10 packs of cigarettes that do not comply with the Cigarette Labeling and Advertising Act or are not contained in the directory of cigarettes approved for sale under Public Law 14-10, section 3(b) [4 CMC § 50162] shall be exempt from excise tax. Any additional non-compliant packs of cigarettes will be confiscated and destroyed.

(c) **Tobacco, Tobacco Substitute, or Chewable Tobacco Product Nonbusiness Use.**

(1) Except as otherwise provided, any person may bring for personal use and consumption exempt from the excise tax, an amount of tobacco or tobacco substitute, or chewable tobacco product or other smokable or snuffable substance, material or product other than cigarettes, not to exceed one pound, provided that such substance, material or product is not contraband.

(2) The exemption specified under 4 CMC § 1402(d)(3), as modified by 6 CMC § 2301(a)(7) of the Cigarette Labeling and Advertising Act, shall only apply to individuals 18 years of age or older and any such products in the possession of a minor will be confiscated and destroyed.

(d) **Alcoholic Beverages Nonbusiness Use.**

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(1) Except as otherwise provided, any person may bring for personal use and consumption exempt from the excise tax:

- (i) An amount of distilled alcoholic beverages not to exceed 77 ounces;
- (ii) An amount of beer or other malt beverage not to exceed 288 fluid ounces; and
- (iii) An amount of wine and sake not to exceed 128 ounces.

(2) The exemptions specified under 4 CMC § 1402(d)(4)–(6) for beer and malt beverages, wine and sake, and alcoholic beverages, shall only apply to individuals 21 years of age or older and any such items in the possession of individuals under the age of 21 will be confiscated and destroyed. For the purposes of 4 CMC § 1405(a) and (b), the exemption of 4 CMC § 1402(d)(4)–(6) for nonbusiness use applies.

(e) **Renewable Energy Nonbusiness Use.** Any person may bring for personal use and consumption exempt from the excise tax, equipment, machinery, merchandise, devices, and other items which produce, or are components of a system that produces, electric power from wind, solar, water, landfill gas, waste, geothermal sources, ocean thermal, ocean current or wave energy, biomass, municipal solid waste, biofuels, or fuels derived from organic sources, hydrogen fuels, or fuel cells where the fuel is derived from renewable sources.

(f) **Energy Star Items Nonbusiness Use.** Any person may bring for personal use and consumption exempt from the excise tax, equipment, machinery, merchandise, devices, and other items which are certified ENERGY STAR by the U.S. Environmental Protection Agency and the U.S. Department of Energy.

Modified, 1 CMC § 3806(a), (f), (g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 27 Com. Reg. 24124 (Mar. 17, 2005); Amdts Emergency and Proposed 27 Com. Reg. 23917 (Feb. 17, 2005) (effective for 120 days from Jan. 28, 2005); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996).

§ 70-10.1-120 [Removed.]

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996).

§ 70-10.1-125 Wine and Sake for Religious Use

Wine and sake imported into the Commonwealth for use in a religious rite by a religious organization are not subject to excise taxes. The same treatment is accorded to wine and sake purchased in the Commonwealth or received by a religious organization for use in a religious rite. Wine and sake imported, purchased, or received by a religious organization for purposes other than a religious rite are not exempted from excise taxes.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996).

§ 70-10.1-130 Government Sale

All articles, goods, wares, or merchandise imported by a government agency for use by the government and later sold to a private person or imported by the government for sale to a private person are required to be assessed excise tax as provided in chapter 4, division 1, of title 4 of the Commonwealth Code and must be paid by the purchaser. The excise tax shall be assessed on the selling price of the article, good, ware, or merchandise. For purposes of this section, selling price excludes overhead charge or other administrative charges imposed by the government agency.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-135 Sale of Unclaimed Merchandise

All unclaimed articles, goods, wares, or merchandise not confiscated by the Service pursuant to § 70-10.1-540 and sold by the Service pursuant to part 600 which the Service allows to be sold by the terminal operator, operator of carrier, or shipping company, are required to be assessed excise tax as provided in chapter 4, division 1, of title 4 of the Commonwealth Code and must be paid by the seller. The excise tax shall be assessed on the selling price of the article, good, ware, or merchandise.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-140 Damage, Non-receipt, or Warrantied Items

(a) Non-receipt of Non-concealed Damages. Any merchandise subject to tax which is not received by the importer or which is received in damaged condition may be exempt from taxation upon presentation of a certificate of damage or non-receipt from the carrier or his agent; provided, however, that the carrier or his agent shall either deny the claim or furnish the certificate of damage or non-receipt within seven days after such damage or non-receipt is reported by the importer.

(b) Concealed Damages. Within the time prescribed by 4 CMC § 1809(a)(3), importers may apply for a refund of taxes paid to the extent of losses incurred on damaged merchandise, non-receipt, or manufacture defect where such damage was concealed. However, the damage shall be inspected by the customs agent, who, depending on his or her findings may recommend a tax refund.

(c) **Warranted Items.** Merchandise or goods that are repaired or replaced in accordance with the terms of warranties given by manufacturers or sales agents are exempt from excise tax.

(d) **Limitations Upon Refund.** No tax refund shall be authorized under subsections (a) or (b) for the following:

(1) Damage resulting from improper handling, inadequate or improper storage facility, prolonged storage, or other causes due to the importers failure to provide such security, proper handling, and storage;

(2) Merchandise or commodities wherein the date set by the manufacturer as to date for sale or use has expired or been exceeded; or

(3) Merchandise or commodities which were not used, sold, or distributed due to obsolescence.

(e) **No Duty to Inspect.** Terminal operators or the carrier of the imported merchandise shall not be required to open shipments for damage inspection.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-145 Payment of Taxes; Release of Goods

Customs Clearance. In case of goods, commodities, resources, or merchandise whose first use in the Commonwealth requires customs inspection and clearance, payment shall be made within 30 days after entry. Such goods, commodities, resources, or merchandise may be released prior to payment of excise tax as prescribed by 4 CMC § 1407(b) and (c) and provided the consignee has no delinquent taxes, fees, or charges due and owing the Commonwealth. Where the actual amount of tax cannot be determined within seven calendar days after the entry, an estimated tax shall be paid within 30 days after entry; any refund of excess estimated tax paid must be applied for within the time prescribed by 4 CMC § 1409.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-150 Procedure; Permanent Deposit

A permanent deposit may be authorized to permit the release and delivery of dutiable merchandise prior to making formal entry and paying the actual tax due when required. After 90 days from the date of first use in the Commonwealth of such goods,

commodities, resources, or merchandise, any and all unpaid taxes owed to the Service will be considered delinquent and sent to Customs Compliance for collections.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-155 Nonpayment of Excise Taxes When Due

Consignees owing the Commonwealth excise taxes which are not paid within 30 calendar days after the entry of the goods, commodities, or merchandise, shall be denied clearance and release on future imports of goods, commodities, or merchandise. The Customs Service shall require consignees to pay any outstanding excise taxes, penalties, and interest on imported goods, commodities, or merchandise prior to the release of such goods, commodities, or merchandise.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-160 [Removed.]

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-165 Liquid Fuel Tax

(a) For the privilege of first selling or distributing liquid fuel in the Commonwealth, there is imposed an excise tax in the amount of 15 cents per gallon under 4 CMC § 1403(a).

(b) By written application, the Secretary may waive or reduce the liquid fuel tax imposed under 4 CMC § 1403(a), on the sale of diesel fuel for use in a vessel's commercial use for operations that are primarily outside the territorial waters of the Commonwealth.

(c) For purposes of 4 CMC § 1403(c), the liquid fuel tax shall not apply to sales of liquid fuel to the Commonwealth Utilities Corporation for the purpose of power generation provided that Commonwealth Utilities Corporation complies with requirements of Public Law 10-36, as determined by the Public Auditor; in the event that the tax has been included in the liquid fuel sold to Commonwealth Utilities Corporation upon written application the Secretary or his designee may credit the tax in the amount paid to the utility.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996).

§ 70-10.1-170 Aviation Fuel Tax

(a) For the privilege of first selling or distributing aviation gas or other aviation fuel in the Commonwealth, there is imposed an excise tax at the rate of 3% ad valorem.

(b) By written application, the Secretary may waive or reduce the fuel tax imposed under 4 CMC § 1403(b) where the price of aviation fuel without the aviation fuel tax would be more competitive than the price of aviation fuel elsewhere and the airline would purchase the aviation fuel in the Commonwealth.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996).

§ 70-10.1-175 Beverage Container Tax

(a) A tax of five cents per container is imposed on all soft drink beverage containers; the exemption under 4 CMC § 1402(d)(1) may apply to this tax.

(b) A tax of five cents per container is imposed on each alcoholic beverage container; the exemptions under 4 CMC § 1402(d)(4)–(6) may apply to this tax.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 20 Com. Reg. 16262 (Oct. 15, 1998); Amdts Proposed 20 Com. Reg. 15885 (Apr. 15, 1997); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996).

§ 70-10.1-180 Environmental Beautification Tax

(a) Under 4 CMC § 1411, a tax at the rate of 0.42% ad valorem is assessed on all consumer goods as defined in 4 CMC § 1401(f). However, the tax assessed under 4 CMC § 1411 shall not apply to items exempted under 4 CMC § 1402(c)(2)–(4) and 4 CMC § 1402(d).

(b) Examples.

(1) Example No. 1: John Doe, a resident, not a new or returning resident imports an automobile into the Commonwealth for personal use having a value of \$24,000. Mr. Doe will be subject to the excise tax under 4 CMC § 1402(a)(12) and Environmental Beautification Tax under 4 CMC § 1411. The taxes are calculated as follows:

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Vehicle Value:	\$24,000.00
Exemption of \$1,000.00 per 1402(c)(1):	<u>(\$1,000.00)</u>
Tax Base:	\$23,000.00
Excise Tax at 5%:	\$1,150.00 (\$23,000.00 x 5%)
Environmental Beautification Tax at .42%:	\$96.60 (\$23,000 x .42%)
Total Tax:	\$1,246.60 (\$1,150.00 + \$96.60)

(2) Example No. 2: Mahi Fishing imports a boat into the Commonwealth for business purposes having a value of \$54,000. Mahi Fishing will be subject to the excise tax under 4 CMC § 1402(a)(21) and Environmental Beautification Tax under 4 CMC § 1411. The taxes are calculated as follows:

Boat Value:	\$54,000.00
Tax Base:	\$54,000.00
Excise tax at 5%:	\$2,700.00 (\$54,000.00 x 5%)
Environmental Beautification Tax at .42%:	\$226.80 (\$54,000 x .42%)
Total Tax:	\$2,926.80 (\$2,700.00 + \$226.80)

Modified, 1 CMC § 3806(g).

History: Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Proposed 39 Com. Reg. 39962 (Sept. 28, 2017).

Part 200 - Customs Entry Procedures; Freight/Cargo

§ 70-10.1-201 Freight; Entry and Declaration of Imports

(a) Entry of Imports - Requirement and Time. Except as otherwise provided, the consignee of imported merchandise shall make entry as provided by subsection (b) of the imported merchandise either in person or by an agent authorized by him at the Division of Customs Service within seven calendar days after the entry of the importing carrier.

(b) Entry Documents.

(1) Entry shall be made upon presentation to a customs agent of a nonnegotiable copy of the bill of lading or non-vessel operating common carrier's freight bill or bill of lading, and vendor's invoices covering all merchandise arriving on one carrier and consigned to a consignee. If proper documents are not available within seven calendar days after the arrival of the merchandise, the estimated tax shall be paid using the fair retail value in the Commonwealth for such commodities subject to adjustment when the documents arrive, provided that the invoice documents are submitted no later than 30 days from the date of arrival. If the invoice actual documents are not submitted within the 30 days from the date of arrival, any tax refund due to late adjustment may be forfeited under 4 CMC § 1409(a). However, no release shall be authorized if the consignee has a prior unpaid tax, fee, or charge.

(2) In addition to providing a copy of the nonnegotiable copy of the bill of lading or non-vessel operating common carrier's freight bill or bill of lading, and vendor's invoices, each importer or consignee shall sign an "entry certificate" stating under penalty of perjury that the vendor's invoices are true and correct and that no alterations or changes have been made thereto. The entry certificate shall be obtained from a customs agent and signed at the time of entry.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-205 Freight; Arrival of Cargo By

(a) In General. Cargo shall be retained at the place of unloading until permission is given by a customs agent for its release. Any cargo not released shall remain in the physical possession of the terminal operator or the operator of the carrier at the expense of the consignee but under technical customs custody until entry is made and the tax paid, or otherwise directed by customs. The appropriate action taken shall be indicated either on the container of the merchandise or on the bill of lading, or NVOCC's freight bill or bill of lading.

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HOLD

CONDITIONAL RELEASE

PASS

ORDER OF CUSTOMS
COMMONWEALTH OF THE NORTHERN MARIANA
ISLANDS

Agent	Badge No.	Date
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- (b) Release Procedure.
 - (1) Pass. If cargo is to be released to the consignee, the inspector shall circle or mark the word “PASS” and put his initials, badge number, and the date.
 - (2) Hold. If the cargo is to be retained, the word “HOLD” shall be circled or marked and the initials and the badge number of the agent and the date will be indicated.
 - (3) Conditional Release.
 - (i) Seaport. At the seaport, items may be conditionally released by a customs inspector to allow the items to be removed from the container yard to the consignee’s premises; however, such items may not be opened until final clearance by a customs agent.
 - (ii) Airport. At the airport, items may be conditionally released by a customs inspector to a consolidator; however, such items may not be released to the consignee until final clearance by a customs agent.
 - (iii) Partial Release. A partial release of cargo may be authorized by a customs officer making the following notation on the bill of lading or NVOCC’s freight bill and by initialing each line item to be released. Items not initialed shall not be released.

The merchandise identified by my initials on each line of this bill of lading may be released to the consignee.

Date	Customs Agent
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(iv) Inspections, clearance, and other services provided by the Division of Custom Services may be made without any charge to the consignee, agent, postal services, or operator of the carrier from 0730 hour to 1630 hour, Monday to Friday, except holidays, or any other time frame set by the Division of Customs. For assessment and payment of taxes and inspection and release of merchandise at any other time, individuals requiring such service must be assessed a customs service charge pursuant to the provisions of § 70-10.1-710 or § 70-10.1-715, as applicable, or charged by agreement with Customs Services.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15,

1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-210 Release of Perishable Merchandise

The customs agent is authorized to permit the release and delivery, prior to formal entry thereof, of perishable articles, and other merchandise, the immediate delivery of which is considered necessary, such as where adequate holding or storage facilities are not available. Such merchandise shall remain under technical customs custody and no disposition of such merchandise by the consignee is authorized until a formal entry is made, and the tax paid, if required.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-215 Release of Merchandise Without Customs Clearance

No carrier, agent, or terminal operator shall release or turn over to a consignee any merchandise or parcel without the prior approval of Customs. In the event a release was made by the carrier, agent, or terminal operator without prior clearance of Customs and the tax on the merchandise released cannot be paid by the consignee, the tax liability plus the penalty and interest imposed by division 1 of title 4 of the Commonwealth Code shall become the liability of the carrier, agent, or terminal operator and shall continue to accumulate such penalty and interest until the tax liability is paid in full. The Service shall notify the carrier, agent, or terminal operator of the consignee's inability to pay and the determination of the Service to transfer such liability from the consignee to the carrier, agent, or terminal operator.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

Part 300 - Customs Entry Procedures; Masters

§ 70-10.1-301 Master's Responsibilities; Arrivals

- (a) In General.
 - (1) Document Delivery.
 - (i) Immediately upon arrival, the master of a vessel or aircraft shall deliver to the customs agent one copy of the following:
 - (A) Passenger and cargo manifests;
 - (B) Bills of lading or NVOCC's freight bills or bills of lading and general declaration;
 - (C) A true and correct copy of any correction of such manifests, bills of lading, and/or NVOCC's freight bills; and

- (D) A general declaration filed on entry of his vessel or aircraft.
- (ii) If the master is aware of any error in the manifests, bills of lading, NVOCC's freight bills, or general declaration and does not make correction, he shall be guilty of perjury and shall also be subject to the penalty of subsection (a)(7). All fines and penalties assessed under part 300 are to be paid in U.S. dollars.
- (2) The master and his vessel or aircraft, passengers, and cargo aboard such vessel or aircraft may be denied customs clearance, at the discretion of the Customs Service, if the documents referenced in subsection (a)(1) are not presented to the Service upon arrival. Clearance may be granted provided the penalty of subsection (a)(7) is agreed upon by the master of the vessel or aircraft. The penalty is subject to collection when the actual assessment is made by the Service.
- (3) Advance copies of manifests and bills of lading required in subsection (a)(1) may be submitted to the Service; however, the official manifests and bills of lading shall be presented at the time of arrival. The Service will accept manifests and bills of lading only at the time of arrival of the carrier.
- (4) Passenger and Cargo Manifests. Vessels arriving in the Commonwealth from more than one port of departure shall deliver to the Service, immediately upon arrival, separate passenger and cargo manifests for all passengers and cargo boarded at each port of departure, regardless of whether passengers or cargo were boarded at any one particular port in the travel itinerary of the carrier.
- (5) Transiting. Passengers and cargo transiting on the same flight or voyage arriving in the Commonwealth must be clearly identified on the manifest by indicating in parenthesis the point of final destination immediately after the passenger's name or the consignee of the cargo.
- (6) Terminating. Passengers on a flight or a voyage which terminates in the Commonwealth and are discharged in the Commonwealth for the purposes of immediate connection on another flight or voyage for points outside of the Commonwealth shall be reported to the Customs Service, immediately upon arrival of the carrier, in one of the following methods:
- (i) File a separate manifest for each port of final destination of such passengers; or
- (ii) Identify on the manifest such passengers by enclosing in parenthesis the point of final destination and the connecting flight or voyage number immediately after the names of the passengers.
- (7) For each and every violation of subsections (a)(1), (4), (5), or (6), a penalty is imposed in the amount of the greater of \$500 for each violation or \$100 per hour or a fraction of an hour for each and every violation from the time of arrival until the appropriate documents are presented to the Service.
- (8) All cargo, including ship's stores and operator's pouch mail or cargo, or U.S. mail, carried on the vessel or aircraft entering the Commonwealth must be included in the manifests and related bills of lading. Willful failure to so include such cargo or mail or the presentation of a willfully falsified manifest shall be deemed to be a violation of this subchapter and is subject to the penalty provisions of subsection (a)(7), and/or a penalty of \$50 for each line item not so included in the manifest.
- (9) All passenger and crew member baggage must be transported directly from the carrier to the arrival area at the port. All cargo not part of any passenger or crew member

baggage must be transported directly from the carrier to the warehouse or place designated as the cargo storage area of the carrier.

(10) Upon arrival at the airport, all passenger exit doors, cargo compartment doors, and galley service doors of the aircraft shall remain closed. At the request of the Service, only one passenger exit door may be opened for the purpose of clearing the flight. All other doors may be opened for disembarkation of passengers and cargo only at the approval of the Service.

(11) Upon arrival at the pier, no passenger or crew members may disembark, nor may cargo be unloaded until approval to do so is granted by the Service.

(b) **Sealing of Stores.** Upon the arrival of a vessel from a port outside of the Commonwealth, or a vessel engaged in the foreign trade from a port within the Commonwealth, sea stores and ship's stores not required for immediate use or for the delivery of goods to be consumed on board while the vessel is in port and articles acquired abroad by officers and members of the crew for which no permit to land has been issued, shall be placed under seal, unless the customs agent is of the opinion that the circumstances do not require such action. Customs agents in charge of the vessel, from time to time, as in their judgment and necessity requires, may issue stores from under seal for consumption on board the vessel by its passengers and crew.

(c) **Boarding of Vessels and Aircraft.** The customs agent may board and examine any vessel or aircraft arriving in the Commonwealth when it is necessary to carry out the provisions of applicable laws of the Commonwealth, or any rule or regulation promulgated thereunder and require the master or captain thereof to exhibit for examination by the customs agent the manifest or any documents or papers, or any trunk, package or cargo on board, or any compartment, storage area, cabin, galley, cockpit, lavatory, or any section of the vessel or aircraft. The master or captain of the carrier shall ensure the safety of the customs employees from the time of boarding the vessel or aircraft until such employees disembark.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-305 Master's Responsibilities; Departure

(a) **Delivery of Documents.** Prior to departure, the master of a vessel or aircraft shall deliver to the customs agent the following documents:

- (1) One copy of the general declaration for the port of destination;
- (2) One copy of passenger and cargo manifests for the port of destination; and
- (3) If the flight or voyage has intermediate stops before reaching its final destination, one copy of the passenger and cargo manifests for each intermediate port.

(b) Official Customs Clearance Certificate. All vessels and aircraft destined for ports outside of the Commonwealth must obtain an “official customs clearance certificate” prior to departure. A customs clearance certificate must be requested at least twelve hours prior to expected departure.

(c) Violation. Vessels and aircraft not complying with this subsection may be denied future customs clearance upon arrival in the Commonwealth and may be subject to either one of the following penalties:

(1) The vessel or aircraft and all passengers, crew members and cargo on board may be returned to the point of origin or other port outside of the Commonwealth; or

(2) The master, owner, or operator of the vessel or aircraft may pay a fine of one thousand dollars per violation.

(d) Private Aircraft and Pleasure Vessels. The requirements of subsection (a) shall not apply to private aircraft and pleasure vessels.

(e) Domestic. Strictly domestic flights or voyages may be exempted from the requirement of this section.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

Part 400 - Customs Entry Procedures; Passengers and Crew Members

§ 70-10.1-401 Passengers and Crew Members Destination and Disembarkation

(a) Terminating Passengers and Crew Members. Upon arrival at the destination and upon approval to disembark, all passengers and terminating crew members must proceed directly from the carrier to the arrival area at the terminal, by way of passage designated for use by arriving passengers and crew members to gain access to the immigration inspection area and to the customs inspection area.

(b) Transit Passengers and Crew Members. Subject to Commonwealth Ports Authority (“CPA”) and the Federal Aviation Administration (“FAA”) regulations, all passengers and crew members transiting in the Commonwealth to points outside of the Commonwealth are permitted to:

(1) Remain on board;

(2) Disembark and proceed directly to the designated area at the terminal area for embarking passengers for re-boarding; or

(3) Disembark and proceed with terminating passengers to the customs inspection area and go through customs formalities which authorize them access to other facilities at the port.

(c) Transfer of Passengers' and Crew Members' Baggage and Hand Carried Articles. Subject to CPA and FAA regulations, passengers' and crew members' baggage and hand carried articles on international travel arriving in the Commonwealth and requiring immediate connection aboard another carrier to points outside of the Commonwealth may be waived customs inspections provided such baggage and hand carried articles are transferred to the connecting aircraft or vessel by the owner, agent, or operator of the carrier that brought such passengers' and crew members' baggage and under the supervision of the Customs Service.

(d) Northern Islands Destination. Carriers, crew members, passengers, baggage and cargo on international travel, as defined in this subchapter, destined for any islands north of Saipan are required to go through Customs Service inspection and clearance at the authorized and designated ports of entry, before continuing on the journey. After customs clearance in Saipan, the flight or voyage is classified domestic travel.

(e) International Travelers Boarding Domestic Flight or Voyage. All passengers and crew members, including their baggage and hand-carried parcels, in international travel, aboard a carrier destined to another point in the Commonwealth with a stop-over in Saipan, Rota, or Tinian are required to undergo customs inspection and clearance immediately upon arrival at the first port of entry in the Commonwealth in order to board any carrier cruising or flying a domestic itinerary. The first port of entry arrived at in the Commonwealth by passengers and crew members is considered the port of destination for such passengers and crew members.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-405 Passengers and Crew Members; Customs Entry and Declaration

(a) Customs Entry Form - Requirement.

(1) All passengers and crew members regardless of citizenship must make a customs entry and declaration, "customs entry and declaration," form CS-1350, upon arrival in the Commonwealth.

(2) All articles or merchandise acquired abroad and their value (price actually paid for or, if not purchased, fair retail value in the Commonwealth) must be declared in writing.

(3) Written declarations must be signed and presented to the customs agent on duty before examination pursuant to the inspection requirements of part 500.

(4) All information furnished by passengers, whether orally or in writing, shall be testimony provided under oath and subject to all applicable penalties including § 70-10.1-801(a).

(5) No passenger or crew member required by this section to make a customs entry and declaration may be cleared by a customs agent without completing the required form.

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(6) To facilitate inspection, the prescribed form for making customs entry and declaration may be printed in foreign languages in addition to English. However, all prescribed customs entry and declaration forms in foreign languages must be completed by the passengers and crew members in Roman characters only.

(7) Individuals unable to read or write are required to seek the assistance of an agent of the carrier in making a customs entry and declaration. Individuals unable to write may sign the prescribed customs entry and declaration form with an “X” mark, witnessed by a customs agent.

(b) Children Under 12 -- Accompanied. Children under the age of 12 traveling with friends or relatives may be claimed as immediate family members of the relatives or friends. The full name of the children must be written on the customs entry and declaration.

(c) Children Under 12 - Unaccompanied. Unaccompanied children under the age of 12 are required to make a customs entry and declaration. An agent of the carrier shall render necessary assistance to minor children in making a customs entry and declaration.

(d) Domestic Travelers. Passengers boarding international flights or voyages from Tinian or Rota destined for Saipan or vice versa, are not required to make a customs entry and declaration. Such passengers would be required to obtain customs departure clearance at the point of embarkation.

(e) Family Customs Entry and Declaration. A single “customs entry and declaration,” form CS-1350, may be filed with the customs officer upon arrival for immediate family members if traveling together. For purposes of this section, immediate family members are limited only to husband, wife, sons and daughters. Parents, brothers, sisters, grandparents, grandchildren, nephews, nieces, uncles, aunts, married daughters, married sons, and all other persons are not considered immediate family members for purposes of this subsection and, therefore, must make a separate customs entry and declaration.

(f) In Transit. All passengers and crew members on international travel boarding domestic carriers for continuation of their travel to other points in the Commonwealth must make a customs entry and declaration at the first port of entry in the Commonwealth.

(g) Terminating Crew Members. Terminating crew members are required to file a customs entry and declaration form CS-1350 when entering the Commonwealth.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-410 Carrier’s Duty to Supply Customs Entry and Declaration

(a) The customs entry and declaration form, a form prescribed by the Division of Customs Service and approved by the Director, shall be furnished to all carriers. The carriers shall print the forms, following the format and specifications established by the Division of Customs Service, and furnish them to their passengers for use upon arrival in the Commonwealth.

(b) It shall be the responsibility of the carriers to publish and maintain an adequate supply of the customs entry and declaration forms, without any cost to the passengers or the government of the Commonwealth.

(c) The logo and other notations of the carrier may be printed on the form provided that such logo and notations comply with the specifications of the Division of Customs.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-415 Prohibited Access

Transit passengers and crew members are prohibited access to areas at the port other than those designated for transit passengers and crew members. Transit passengers and crew members are strictly prohibited from leaving the airport or wharf compound for any length of time prior to their departure from the Commonwealth without going through customs formalities.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

Part 500 - Customs Inspection Procedures

§ 70-10.1-501

[Reserved.]

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-505 Inspection of Passengers and Other Individuals

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(a) International Flights. All individuals as well as their baggage and hand carried articles in international travel regardless of their point of embarkation, shall be inspected by the Service prior to leaving or being taken away from the port of entry. Passengers clearing customs and leaving the inspection area without their belongings shall be authorized to make a declaration and obtain customs inspection and clearance only after the processing of international passengers.

(b) International Transit. Those individuals who may be inspected under subsection (a) include all individuals on domestic travel, as defined, who enter or pass through customs jurisdiction at the ports during the process of clearing international travelers, are required to go through all customs formalities except the requirements of filing a customs entry and declaration.

(c) Violations of Law. The customs agent may inspect without warrant any person arriving in the Commonwealth to determine whether such person is violating the Controlled Substances Act, the Weapons Control Act, the Anti-drug Abuse Act of 1991 and/or other laws and regulations enforced at the ports of entry. A strip search may be performed if there is real or reasonable suspicion supported by objective and articulable facts that the passenger is concealing evidence of a crime or contraband upon his person. A customs agent may perform a body cavity search (intrude into a body cavity) if there is a clear indication or plain suggestion that there is contraband concealed within the body of the individual.

(d) Secured Areas.

(1) Any person who enters a secured area at the airport, wharf, a bonded warehouse, or ports of entry in the Commonwealth is subject to customs inspection as provided for in part 500.

(2) Prospective passengers who enter a secured area at the airport or wharf that do not depart are required to go through customs inspection and clearance in the same manner as arriving passengers traveling internationally.

(e) Foreign Diplomats. An inspection of a foreign diplomat may be waived if the diplomat is travelling on official diplomatic business with a valid and proper U.S. visa for entry into Commonwealth.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-510 Inspection of Baggage

A customs agent may inspect without warrant the baggage and hand carried parcels of persons arriving in the Commonwealth in order to ascertain what articles are contained therein and whether the articles are taxable, prohibited, or restricted.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-515 Inspection of Cargo

The customs agent may inspect without warrant any cargo, package, receptacle, aircraft, and vessel arriving in the Commonwealth, and may seize prohibited or restricted articles or merchandise including narcotics and other items of contraband.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-520 Postal Inspection

(a) Pursuant to applicable U.S. Postal Service Regulations and/or memorandum agreement between U.S. Postal Service and the Commonwealth, mail and parcels arriving at the post office may be inspected by the Customs Service in order to detect goods, merchandise, or other commodities and to assess excise taxes; and to detect and intercept contraband; and to enforce other laws and regulations enforced at the ports of entry.

(b) Customs Service will request addressees of mail or their designated representatives to open their mail and parcels for inspection.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996).

§ 70-10.1-525 Crew Members with Baggage

All crew members who have baggage and/or hand carried parcels must go through customs inspections with all their baggage and hand carried parcels.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-530 Penalty

The master of a carrier, other crew members, operator of the carrier or its agent, and all individuals who willfully aid any other individuals to conceal any item brought on board with the intention to violate any of the laws of the Commonwealth or the United States of

America, may be punished by a fine and/or imprisonment equal to the maximum penalty provided by the law which the individual(s) intended to violate.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-535 High Risk Area

(a) The Director shall have the authority to classify any place or port in any country or territory as a high risk area in order to ensure effective enforcement of chapter 4, division 1, of title 4 of the Commonwealth Code, the Controlled Substance Act, the Weapons Control Act, the Anti-Drug Enforcement Act of 1991, and other laws and regulations enforced at the ports of entry.

(b) Passengers and crew members, including their baggage and hand carried parcels, and all cargo from areas classified high risk shall undergo thorough inspections and examinations whenever appropriate.

(c) All cargo from high risk areas may be inspected with or without the presence of the consignee or his authorized agent.

(d) Perishable commodities from high risk areas may be imported into the Commonwealth if the consignee of such commodities agrees to make entry and claim the cargo immediately upon arrival in the Commonwealth. Perishable commodities from high risk areas which are not claimed immediately upon arrival in the Commonwealth shall not be inspected and/or released until they are claimed. The Service shall not be liable for spoilage or damage to perishable merchandise resulting from the consignee's failure to make entry and claim the cargo immediately upon arrival.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-540 Confiscation of Merchandise

(a) Merchandise – Prohibited. Pursuant to 4 CMC § 1412(c) and 6 CMC § 2150, prohibited or restricted merchandise imported into the Commonwealth and found during inspection shall be confiscated by the Service and turned over to an appropriate Commonwealth government agency within a reasonable time for proper disposition.

(b) Merchandise – Non-payment of Tax. Merchandise on which the tax is not collected shall also be confiscated. Merchandise confiscated by the Service due to

nonpayment of tax must be claimed and the tax paid by the owner or consignee within ten days from the date the merchandise was confiscated.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 34 Com. Reg. 32270 (Jan. 30, 2012); Proposed 33 Com. Reg. 32075 (Oct. 26, 2011); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-545 Unclaimed Baggage

(a) Unclaimed Baggage. Passenger or crew member's baggage not claimed at the customs inspection area shall be retained by the carrier and secured in a safe place within the inspection area at the port. Unclaimed baggage which is required to be stored in another location due to inadequate storage facilities within the inspection area at the port may be transferred by an authorized representative of the carrier liable for the security of the unclaimed baggage; provided, however, the representative of the carrier obtains the approval of the Customs Service and the shipper accepts the condition that spoilage and/or damage to the cargo is the liability of the shipper. Cargo released to the carrier or terminal operator for storage and/or security shall not be opened by the carrier or terminal operator. The Customs Service shall have the right to take into custody any part of or all unclaimed baggage when such officer has probable cause to believe that the baggage contains dutiable, prohibited, or restricted merchandise. The Customs Service may open and inspect such baggage in the presence of a representative of the carrier, even if the passenger or crew member is not present.

(b) Storage Charge.

(1) Unclaimed baggage not properly stored by the carrier liable for the security of the same may be taken into custody, and shall be released to the carrier only upon the carrier's payment to the Service of a storage charge of five dollars per day or a fraction of a day, for each piece stored. Unclaimed baggage in the custody of the Service may be claimed by the carrier during regular working hours only, from 0730 hours to 1130 hours and from 1230 hours to 1630 hours, Monday through Friday. Passengers or crew members shall not be authorized to claim any unclaimed baggage in the custody of the Service, except as provided in subsection (b)(2). The Service shall not be liable for damages to the container or damages to and/or loss of the contents.

(2) Unclaimed baggage in the custody of the carrier may be released to the passenger or crew member only after inspection and clearance by the customs agent.

(3) Unclaimed baggage in the custody of the carrier, or the Service, which is not claimed within ten days, shall be opened and inspected by a customs agent and released to the carrier for storage at another location, provided the storage charge in subsection (b)(1) is paid.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

Part 600 - Customs Procedures; Confiscated and Unclaimed Merchandise

§ 70-10.1-601 Unclaimed Merchandise

Merchandise confiscated by the Service due to nonpayment of the tax due may be sold at auction if no claim was made pursuant to § 70-10.1-540(b), provided, however, that:

- (a) The Service notified the owner or consignee in writing that the provisions of § 70-10.1-540(b) for making a claim expired and the owner or consignee was given an additional ten days to claim the merchandise and pay the tax due plus related penalty and interest;
- (b) If the merchandise was not claimed and the tax liability not paid at the end of the period allowed in subsection (a), the Service shall send a final written notice to the owner or consignee of the merchandise advising that the merchandise will be sold at auction if not claimed in ten days commencing from the date of the final written notice;
- (c) After the expiration of the final notice, if the merchandise is still unclaimed and the tax liability unpaid, the owner or consignee shall not be allowed to claim the merchandise once the merchandise has been processed and advertised for auction.

Modified, 1 CMC § 3806(a), (g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

Commission Comment: The Commission changed “subsection (c)” to “subsection (a)” in (b) pursuant to 1 CMC § 3806(g), and renumbered (d) to (c) pursuant to 1 CMC § 3806(a).

§ 70-10.1-605 Auction

The Service shall advertise to the public in a local newspaper once per week for three consecutive weeks that merchandise on which excise taxes remain unpaid will be sold at auction. Proceeds from the sale shall be distributed and applied as follows:

- (a) To reimburse the Service for advertising, storage and other related expenses.
- (b) To pay the excise tax liability.

(c) To pay applicable penalty and interest charges imposed by law and this subchapter.

(d) To pay part, or all of any other outstanding tax liabilities, fees, penalties, or interest.

(e) To pay the owner or consignee any amount remaining which is over five dollars. Amounts of five dollars or less may be paid to the owner or consignee only upon written request by the owner or consignee.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

Part 700 - Request for Customs Service; CIQ Overtime Charges

§ 70-10.1-701 Request Cancellation, Delay and Charges

(a) Request Requirement. All air and sea carriers and other persons whose operations require the service of customs agent of the Commonwealth are required to make a request for such service. The request must be made on a form prescribed by the Customs Service.

(b) Blanket Request. All carriers and other persons operating on a planned schedule must make a request to the Customs Service at least 30 days before the effective date of their schedule of operation. A single request will be sufficient for the duration of one set of schedules. Any unforeseen changes in a set of schedules require a special request to the Service at least 24 hours before the occurrence of such changes. If such change is to occur during weekends and holidays, the request must be made 24 hours in advance of the last normal working day. All carriers and other individuals making a permanent change in their schedule are required to submit a new blanket request at least 30 days before the effective date of the new schedule.

(c) Special Request. All carriers and other persons operating unscheduled flights or operating a charter, technical stop, or extra flight or voyage are required to make a special request at least 24 hours in advance of the last normal working day before arrival. All sea carriers are required to submit a special request for customs clearance.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-705 Failure to Make Request

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When a carrier, its master, operator, owner, or authorized agent fails to make a request as required by § 70-10.1-701, upon arrival of such carrier, one or all of the following shall apply:

(a) During the normal working hours, the Service will arrange for clearance based on the availability of personnel and the number of blanket and special requests for the day. If customs service cannot be rendered during normal working hours, clearance will be furnished after regular working hours provided the carrier agrees and pays customs charges as provided for in § 70-10.1-710 prior to rendering such service, or by agreement with Customs Service.

(b) All vessels, including pleasure boats, on international travel arriving after regular working hours are prohibited to anchor at the pier until cleared by the Service. They must remain out in the harbor until the next regular working day except for emergencies as determined by the Customs Service. While anchored out in the harbor, crew members, and passengers are prohibited from disembarking. All baggage and cargo are prohibited from unloading or removal from the vessel until cleared by the Service.

(c) Air carriers arriving after normal working hours may be denied customs clearance unless adequate customs personnel are readily available and the carriers pay the necessary customs overtime charge. Passengers and crew members including their baggage and hand carried articles and all cargo on board are prohibited to disembark or to be unloaded until cleared by the Service.

(d) Cancellation and/or Delay of Arrivals. The operator of a carrier or its agent shall notify the Service of all the cancellations and/or delays of arrivals at least four hours before the end of a normal working day concerning the initial schedule of the arrival being canceled or delayed. In the absence or delay of such notification, the charge to be imposed shall be in accordance with § 70-10.1-710 or § 70-10.1-715, as applicable, or by agreement with Customs Service.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-710

[Reserved.]

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-715

[Reserved.]

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Amdts Proposed 17 Com. Reg. 13562 (July 15, 1995); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-720 Customs and Quarantine (CQ) Charges

(a)(1) General Rule for Charges After Normal Working Hours. For purposes of application, a standard rate in lieu of overtime charges of the Customs Division will be included and billed using a flat rate that also includes the overtime charges of the Quarantine Division. This rate will be applied to the following flight particulars for work performed after normal working hours:

- | | | |
|-------|--------------------------------------------------------------|---------|
| (i) | Per flight over 20 tons gross weight | \$35.00 |
| (ii) | Per flight under 20 tons gross weight | \$17.50 |
| (iii) | Per arriving passenger for planes over 20 tons gross weight | \$7.00 |
| (iv) | Per arriving passenger for planes under 20 tons gross weight | \$7.00 |
| (v) | Per cargo lb. | \$.035 |
- (2) After normal working hours is work performed:
- (i) For flights and passengers:
- (A) Weekdays – work performed between the hours of 4:30 p.m. through 7:30 a.m. the next day, Monday through Friday, excluding holidays.
- (B) Holidays – work performed during the 24 hour period of a holiday.
- (C) Weekends – work performed after 4:30 p.m. Friday through 7:30 a.m. Monday.
- (ii) For cargo:
- (A) Weekdays – cargo arriving between 4:30 p.m. through 8:00 p.m.
- (B) Holidays – cargo arriving after 4:30 p.m. the day preceding a holiday up to 8:00 p.m. the day of the holiday.
- (I) If the holiday falls on Friday, the chargeable hours shall start after 4:30 p.m. Thursday and continue through 8:00 p.m. Sunday.
- (II) If the holiday falls on a Monday, the weekend chargeable hours shall continue through the weekend up to 8:00 p.m. Monday.
- (C) Weekends - cargo arriving after 4:30 p.m. Friday up to 8:00 p.m. Sunday.
- (D) No service - no cargo service will be provided from 8:00 p.m. through 7:30 a.m. the following morning.

(b) Application of Overtime Pay. All air and sea carriers and other persons whose operations require the service of a customs agent of the Commonwealth government of the Northern Mariana Islands after normal working hours shall be charged with the overtime pay of the customs agent(s) rendering the service as follows:

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(1) Unscheduled flights and any arrival at the seaport. Service of less than two hours for each arrival shall be charged with the minimum of two hours overtime. Any fraction of an hour in excess of the two hours minimum is charged a full hour. The charge shall commence upon arrival of the customs officer(s) at the post of duty.

(2) Sea carriers, individuals, non-scheduled aircraft and others for which overtime services can be specifically assigned shall be charged for the actual overtime incurred by the customs quarantine agent(s) providing such services. There shall be a minimum two hour charge as provided in subsection (b)(1).

(3) Said overtime charges and holiday charges shall be waived when services are rendered to a carrier operating under emergency conditions or for emergency purposes.

(c) Cargo Originating Outside of the CNMI. All cargo which originates outside of the CNMI and which is being transported from the first point of entry in the CNMI shall be inspected at the final point of entry. All cargo inspections, regardless of the location of the inspection shall be subject to the CQ rules of this section.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 23 Com. Reg. 17835 (Apr. 23, 2001); Amdts Emergency and Proposed 23 Com. Reg. 17621 (Jan. 19, 2001) (effective for 120 days from Jan. 16, 2001); Amdts Proposed 17 Com. Reg. 13562 (July 15, 1995); Amdts Certified 15 Com. Reg. 10507 (Apr. 15, 1993); Amdts Adopted 15 Com. Reg. 10501 (Mar. 15, 1993); Amdts Proposed 15 Com. Reg. 10381 (Jan. 15, 1993); Amdts Emergency 14 Com. Reg. 9777 (Oct. 15, 1992) (effective for 120 days from Oct. 7, 1992); Adopted 14 Com. Reg. 9199 (Apr. 15, 1992) (superseding all rules and regulations published prior to Jan. 31, 1983); Emergency 14 Com. Reg. 9007 (Mar. 15, 1992) (effective for 120 days from Feb. 18, 1992); Proposed 14 Com. Reg. 8860 (Feb. 15, 1992).

Part 800 - Administrative

§ 70-10.1-801 Production of Records of Taxpayers Pursuant to CNMI Tax Laws

(a) For the purposes of ascertaining the correctness of any declaration, determining the liability of any person in respect of any tax or fee, or collection of any such liability, the Director or his delegate is authorized to:

(1) Examination of Records. Examine or request any books, papers, records, substantiating documents, and other data with or without the taxpayer's consent from any person which may be relevant or material to such inquiry. The required records shall be made available not later than 30 days beginning with the date when the request is received;

(2) Summons. Summon the person liable for the tax or fee, or the person required to perform the act, or any officer or employee of such person, or any person having possession, custody, or care of books of account containing entries relating to the business of the person liable for the tax or the fee, or the person required to perform the act, or any other person the Director or his designee may deem proper to appear before the Director or his delegate at the time and place named in the summons and to produce such books, papers, records, substantiating documents, and other data, and to give such testimony, under oath, as may be relevant or material to such inquiry;

(3) Testimony. Take such testimony of the person concerned under oath, as may be relevant or material to such inquiry.

(b) English Requirement. All invoices accompanying merchandise subject to the provisions of chapter 4, division 1, of title 4 of the Commonwealth Code shall be written in English and prepared prior to arrival in the CNMI and presentation to custom officials.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-805 Record Maintenance

All books and records of all business transactions necessary to determine fees and taxes imposed by the Commonwealth government under chapter 4, division 1, of title 4 of the Commonwealth Code are to be maintained within the Commonwealth at the central office of the business operation and shall be made available for examination not later than 30 days beginning with the date when the request is received. Accurate records of all business transactions necessary to determine taxes and fees must be maintained for a minimum of three years after the date of such transaction.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-810 Time for Performance of Acts Where Last Day Falls on Saturday, Sunday, or Legal Holiday

When the last day prescribed under authority of chapter 4, division 1, of title 4 of the Commonwealth Code for performing any act falls on Saturday, Sunday, a legal holiday, or days authorized by the Governor for government offices to be closed, the performance of such act shall be considered timely if it is performed on the next succeeding day which is not a Saturday, Sunday, a legal holiday, or a day authorized by the Governor for government offices to be closed. For purposes of this section, the last day for the performance of any act shall be determined by including any authorized extension of time. The term “legal holiday” means a legal holiday in the Commonwealth.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-815 Oaths

The customs supervisor and all other authorized customs agents are empowered to administer any oaths required or authorized by this subchapter in respect of any matter coming before such officers in the performance of their official duties. No compensation or fee shall be demanded or accepted for administering any oaths under the provisions of this section.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-820 Payments

All taxes, fees, and charges, except where other provisions of this subchapter govern, shall immediately become due and must be paid in cash, or by U.S. postal money order, or check drawn at a bank in the Commonwealth, or a bank in any of the states in the United States of America. Any check returned by the bank due to insufficient funds or any other reason must be replaced by either cash, U.S. postal money order, or certified check. Any tax, fee, or charge paid by a check and returned by the bank due to insufficient funds is construed to have not been paid when due and the owner or consignee shall be assessed penalties and interest, in addition to all charges arising as a result of the check being returned, including those charges authorized pursuant to 7 CMC § 2442, and bank services charges for returned checks. The Division of Customs shall have the right to reject any or all personal checks and demand payment in the form of cash, U.S. postal money order, or certified checks.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-825 Spectators

Only individuals directly associated with the enforcement of the laws of the Commonwealth or applicable laws of the federal government which are administered at the ports of entry in the Commonwealth, and individuals who provide maintenance and service of a carrier, and arriving passengers or arriving crew members shall be permitted entry into any area between the carrier and the customs inspection area including all ramps, aprons, gangplanks, escalators, elevators, stairways, walkways, and all passageways and lavatories accessible and used by arriving passengers and crew members; and all areas accessible and used by the operator of a carrier for transporting cargo from the carrier to the operator's warehouse or storage facility, except to the extent that any area is also shared with enplaning passenger, crew members and other authorized airline personnel. Such enplaning passengers and authorized airline personnel shall not be deemed to be in violation of this subchapter in those shared areas. Unauthorized

individuals found in any of these areas shall be deemed to be in violation of this subchapter and shall be punished accordingly.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-830 Bribery of Customs Officials or Employees

If, upon investigation, it is determined that money or anything of value was given, offered, or promised to a customs agent or any other employee of the Division of Customs with the intent to control or influence such officer or employee in the performance of his official duties, the matter shall be referred to the Attorney General of the Commonwealth for prosecution as provided by law.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-835 Informer's Name Confidential

An informer's name and address shall be kept confidential. No files or information concerning an informer shall be disclosed to unauthorized individuals. No information shall be revealed which might aid the offenders in identifying the informer.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-840 [Removed.]

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-845 Penalties Imposed in Chapter 4, Division 1, 4 CMC

(a) Reasonable Cause Waiver. The Secretary has the authority to waive the civil penalties imposed under 4 CMC §§ 1407(d), 1412(a), 1424, or this subchapter on the basis of reasonable cause.

(b) Section 1412(a) Penalty Calculation. The penalty imposed under 4 CMC § 1412(a) shall be equal to 100% of the value of the goods, commodities, resources, or merchandise but only to the extent of the value of such items which is under declared or undeclared, as applicable.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

§ 70-10.1-850 Additional Penalties

(a) Any person who knowingly shall swear to or verify under oath, any false or fraudulent statement with the intent to evade any tax imposed under chapter 4, division 1, of title 4 of the Commonwealth Code shall be guilty of a felony, punishable by a fine of not more than ten thousand dollars or imprisonment for not more than two years or both.

(b) Any person who willfully intends to evade or otherwise violate this subchapter and any other regulations and procedures governing inspection and clearance of crew, passengers, baggage, cargo, or other goods, shall be guilty of a felony, punishable by a fine of not more than ten thousand dollars or imprisonment for not more than two years or both.

(c) Any person who negligently fails to follow this subchapter or any other regulations and procedures governing the inspection and clearance of crew, passenger, baggage, cargo or other goods shall be subject to a civil penalty in an amount not to exceed two thousand dollars per violation.

(d) Articles Held by Customs. Persons shall be liable for a fine of \$5 per day per article held by Customs for violation(s) of the Commonwealth Code or the Northern Marianas Administrative Code.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

Part 900 - Rules and Regulations Governing the Importation of Cut Fabric Panels into the CNMI

§ 70-10.1-901 Authority

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The authority for the promulgation and issuance of this part is derived from the Commonwealth Code, including, but not limited to, the following sections: 1 CMC § 2553; 1 CMC § 2557; 4 CMC § 1402(a)(21); 4 CMC § 1402(b)(9); 4 CMC § 1425; 4 CMC § 1426; 4 CMC § 1818.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 25 Com. Reg. 21471 (Nov. 17, 2003); Amdts Proposed 25 Com. Reg. 20833 (Aug. 22, 2003).

§ 70-10.1-905 Purpose

The purpose of this part is:

- (a) To assist, increase, and continue the competitiveness of the CNMI's garment industry by encouraging the use of cut fabric in the local manufacturing process;
- (b) To facilitate compliance with United States Customs Headnote 3(a) requirements;
- (c) To reduce the amount of fabric waste generated by the garment industry; and
- (d) To ensure the integrity of the CNMI excise tax system by identifying fabric shipments which do not comply with United States Customs Headnote 3(a).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 25 Com. Reg. 21471 (Nov. 17, 2003); Amdts Proposed 25 Com. Reg. 20833 (Aug. 22, 2003).

§ 70-10.1-910 Scope and Disclaimer

The regulations in this part apply only to cut fabric shipments from a foreign country into the CNMI, where the fully assembled garment is intended to be shipped directly to the customs territory of the United States of America ("U.S."). At all times the final determination of clearance of garments in the U.S., assembled in the CNMI as manufactured in compliance with these regulations, will be determined by U.S. Customs. Compliance with these regulations does not ensure that the shipment will meet the criteria and specifications of Headnote 3(a), and at all times, the risk of non-clearance, or seizure of goods by U.S. Customs is on the garment company or buyer.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 25 Com. Reg. 21471 (Nov. 17, 2003); Amdts Proposed 25 Com. Reg. 20833 (Aug. 22, 2003).

§ 70-10.1-915 Definitions

- (a) "Added value components" mean a minor attachment or minor embellishment to "cut fabric," not appreciably affecting the identity of the finished garment. Examples of added value components include, but are not limited to, appliques, beads, spangles, embroidery, buttons, zippers, silk screen printing, rhinestones, labels, button holes, and

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partially assembled fabric components like pockets sewn on panels, detached hoods, detached collars, plackets, cuffs, fabric stripes sewn on panel, and belt loops.

(b) “Cut fabric” means:

- (1) An unassembled garment component cut to shape;
- (2) Of foreign origin; and
- (3) Imported into the CNMI for the purpose of being assembled with at least one other unassembled garment component to form an assembled garment for export.

(c) “Cut fabric set” means a group consisting of at least two “cut fabric” components packaged together, and will be assembled to form one complete garment. A cut fabric set may include added value components.

(d) “Export value” means the value of the finished garments as determined by any of the valuation methods contained in 19 U.S.C. § 1401a, any subsequent amendments thereto, and any regulations passed thereunder.

(e) “Garment Section Chief” means the Chief of the Garment Section, for the Division of Customs, in the Department of Finance.

(f) “Garment style” refers to the specific size, shape, and color of the components of a fully assembled garment, including any “added value components.”

(g) “Headnote 3(a)” refers to the provisions of General Note 3(a)(iv), Harmonized Tariff Schedule of the United States (HTSUS).

(h) “Foreign cost” means actual cost for the foreign materials, including, but not limited to, the cost of the “cut fabric set,” accessories, packing material and cost of transporting those materials to the CNMI, but excluding any duties or taxes assessed on the materials by the CNMI, and any charges which may accrue after landing.

(i) “Local value” means that portion of the “export value” attributable to value added in the CNMI, and shall not be comprised of any “foreign cost.”

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 25 Com. Reg. 21471 (Nov. 17, 2003); Amdts Proposed 25 Com. Reg. 20833 (Aug. 22, 2003).

§ 70-10.1-920 Excise Tax & Added Value Fee

(a) Amount of Excise Tax

All “cut fabric” and “added value components” which are imported into the CNMI for first sale, use, and manufacture, for business purposes or for personal use exceeding the value specified in 4 CMC § 1402(c), shall be imposed an excise tax in the amount of 5% ad valorem, payable upon arrival into the CNMI.

(b) Added Value Fee on “Added Value Components”

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Notwithstanding the provisions of subsection (a) herein, “added value components” which are imported into the CNMI for the purpose of being incorporated into a garment for export to the United States will be exempt from excise tax, provided that the “added value components” are not resold in the CNMI. If not resold in the CNMI, such “added value components” shall be assessed an added value fee in the amount of 5% ad valorem, payable upon arrival into the CNMI.

(c) Exemption for Certain “Cut Fabric”

Notwithstanding subsection (a) herein, “cut fabric” which is imported into the CNMI for the purpose of being exported to the United States shall be exempt from excise tax, provided:

- (1) The “cut fabric” is packaged in a “cut fabric set,” in accordance with the regulations in this part;
- (2) The “cut fabric” is not intended to be resold in the CNMI; and
- (3) The finished garment has a “local value” to be added which complies with United States Customs Headnote 3(a).

Modified, 1 CMC §3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 25 Com. Reg. 21471 (Nov. 17, 2003); Amdts Proposed 25 Com. Reg. 20833 (Aug. 22, 2003).

§ 70-10.1-925 Required Pre-arrival Documentation

(a) Application to Import Cut Fabric

- (1) Ten days prior to the arrival of a “cut fabric” shipment into the CNMI, the importer shall provide the “Garment Section Chief” with an application to import cut fabric (hereafter “application”) into the CNMI.
- (2) One application must be submitted for each “garment style” to be imported into the CNMI. If a single shipment contains multiple “garment styles,” then a separate application must be submitted for each “garment style.”
- (3) Such application will contain the following information:
 - (i) Date of application;
 - (ii) Name of CNMI garment company assembling cut fabric;
 - (iii) Location of facility in CNMI;
 - (iv) Contact person and title at garment company;
 - (v) Telephone number of contact person;
 - (vi) Name and address of importer in the United States;
 - (vii) Name of label (if known);
 - (viii) Requested date of importation into CNMI;
 - (ix) Anticipated date of export of assembled garment from CNMI;
 - (x) Production schedule for garment factory assembling “cut fabric sets”;
 - (xi) Description of garment or picture of finished garment;
 - (xii) Description of fabric material;
 - (xiii) Number of “cut fabric sets” to be imported;
 - (xiv) Total estimated cost of “cut fabric”;

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- (xv) Total estimated cost of “added value components”;
 - (xvi) Total value “landed cost”;
 - (xvii) Percentage of total “export value” of “landed cost”;
 - (xviii) Total “local value”;
 - (xix) Percentage of total “export value” of “local value”;
 - (xx) Total “export value”; and
 - (xxi) Price FOB SAIPAN, if different than subsection (a)(3)(xx).
- (4) Upon payment of application fees, the Garment Section Chief will certify the shipment for importation and assembly in the CNMI and mark the application approved.

(b) Ruling Letter From United States Customs Service Required

(1) Prior to the importation of any cut fabric shipment into the CNMI, a ruling letter shall be submitted with each application from the United States Customs Service in accordance with the procedures set forth in 19 CFR § 177.9, and any amendments, thereto. The ruling letter must contain a country of origin determination for the intended shipment and duty status, if any.

(2) For purposes of subsection (b)(1), a ruling letter from prior shipments, or from a different “garment style” within the same, or prior, shipment, may be supplied with an application, provided that the facts and rationale for the ruling are, or remain, substantially the same. If there are any substantial changes in the facts, then a new ruling letter must be supplied. Without limitation, an importer shall submit a new ruling letter for the following reasons:

- (i) Any appreciable modification to the assembly process; or
- (ii) A change in number of cut fabric components comprising the fully assembled garment.

(3) The ruling letter shall be attached to the application, or the application shall reference a United States Customs ruling number of a prior shipment, as provided for in subsection (b)(2). By indicating a reference number, the importer certifies that the facts and rationale in the ruling apply to the “garment style” being shipped.

(c) Production Details and Bill of Material Attached to Application

(1) Attached to the application the importer shall include:

- (i) Production details (written in English) providing a description of the cut fabric sets per style, or drawing of pieces, to be imported listing each cut piece, number of pieces, brief description of each piece, or drawings, sketch, diagram, picture or artwork of final assembled garment and its components;
- (ii) Description of any assembly or production operations to “cut fabric set” in country sourcing foreign material and those assembly sets to be undertaken or completed in CNMI; and
- (iii) Bill of material listing the “foreign material” for each “garment style” including but not limited to fabric cost, cutting cost, artwork, added value components, accessories, packing material and transportation to CNMI.

(2) Sample of the “cut fabric set” to be imported can be supplied to the Garment Section Chief in lieu of production details per subsection (c)(1)(i). Each sample will have the garment style clearly marked and referencing the application. These actual samples of cut fabric sets will not be returned.

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(d) Copy of Original Commercial Invoice

(1) The importer, shall also attach to the application a copy of the commercial invoice covering each shipment of “cut fabric sets.” If the original invoice is not available, a proforma commercial invoice may be submitted in lieu of a copy of the original invoice prior to arrival (hereinafter, “invoice”).

(2) The invoice supplied pursuant to subsection (d)(1) shall contain the following information:

- (i) A style number listing each “garment style” to be produced;
- (ii) The number of “cut fabric sets” for each “garment style”;
- (iii) The price per “cut fabric set”;
- (iv) The total price of each “garment style”;
- (v) The total number and value of “cut fabric sets” for all “garment styles” on each invoice;
- (vi) The total price on invoice for all other foreign material in a “garment style,” if different than subsection (d)(2)(iii);
- (vii) The unit of measurement (weight, length or units), price per unit and total value of any ancillary materials necessary for assembly of the “cut fabric sets.” Examples include, but are not limited to, ribbon, thread, labels, tape, eyelets, buttons, snaps, zippers, beads, embroidered patches, hang tags, packing material; and
- (viii) The total price of all foreign material used in all “garment styles.”

(e) Copy of Original Added Value Commercial Invoice

(1) If an exported garment is to contain “added value components,” there must be attached to the application an added value commercial invoice.

(2) A proforma added value commercial invoice may be submitted in lieu of an actual added value commercial invoice if an actual added value commercial invoice is unavailable (hereinafter “added value invoice”).

(3) The added value invoice supplied shall contain the following information:

- (i) A style number corresponding to a particular “garment style” to be produced as detailed in the application;
- (ii) The total number of “added value components” per “garment style”;
- (iii) A brief description of the “added value component” (examples include but are not limited to silk screen printing, embroidery, beads, zippers, buttons, pockets);
- (iv) The price per “added value component”; and
- (v) The total price of all “added value component” orders in the shipment.

(f) Format of Required Documentation

The Garment Section Chief shall prescribe the format, and make available forms which shall contain the information mandated in subsections (a)–(d).

Modified, 1 CMC §3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 25 Com. Reg. 21471 (Nov. 17, 2003); Amdts Proposed 25 Com. Reg. 20833 (Aug. 22, 2003).

§ 70-10.1-930 Processing of Application

(a) Location

The documents described in § 70-10.1-925 shall be submitted to the Garment Section Chief's office located at the seaport facility.

(b) Fees

(1) There shall be a processing and inspection fee in the amount of \$150 for each application submitted.

(2) If an application is submitted less than ten days prior to arrival of a shipment, a \$75 late filing penalty shall be assessed.

(c) Denial of Application

(1) Within 2 business days after receipt of an application, the applicant shall receive notice as to whether the application is denied.

(2) The following are prima facie grounds for denial of an application:

(i) The application was submitted to the Garment Section Chief less than five days (120 hours) prior to arrival of shipment;

(ii) The applicant fails to supply all information and documentation required above;

(iii) The facts described in the ruling letter materially deviate from the information supplied pursuant to § 70-10.1-925(c); or

(iv) From the face of the application, it appears to the Garment Section Chief that the finished garments will not meet the requirements for duty free entry into the United States under Headnote 3(a).

(3) If an application is denied for the reasons detailed in subsection (c)(2)(i)–(c)(2)(iii), then the cut fabric shipment will be assessed a penalty payment equal to 1.5% of the total value of the shipment.

(4) If an application is denied for the reasons detailed in subsection (c)(2)(iv), then the cut fabric shipment will be assessed an excise tax of 5% ad valorem.

(5) If foreign material imported under the application is later exported either to the United States or other countries, the excise tax collected will be applied to any user fee assessed and due upon shipment of completed garments.

Modified, 1 CMC §3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 25 Com. Reg. 21471 (Nov. 17, 2003); Amdts Proposed 25 Com. Reg. 20833 (Aug. 22, 2003).

§ 70-10.1-935 Inspection of Cut Fabric

(a) Inspection

Upon arrival, all shipments of “cut fabric” shall be inspected by a customs officer prior to clearance and release.

(b) Packing Requirements

(1) All cut fabric shall be packaged in “cut fabric sets.”

(2) All “cut fabric sets” and “added value components” shall be shipped in clear polybags. No polybag may contain more than one “garment style.”

(3) All polybags shall have a label affixed to it, describing the contents therein by style number which shall correspond to the style number(s) on the invoice and added value invoice. The label will show the polybag number, number of “cut fabric sets,” and “added value components” contained therein.

(c) Documents

The following documents shall be submitted to the customs officer upon arrival of “cut fabric” shipment:

(1) Originals of the invoice and added value invoice;

(2) Copy of the bill of lading for shipment;

(3) A copy of a packing list which shall identify:

(i) All polybag’s numbers by style number corresponding to the style number on the invoice and added value invoice; and

(ii) Number of “cut fabric sets” contained within each polybag by style number;

(4) Copies of all documents submitted with the application.

(d) Denial of Clearance

“Cut fabric” will be denied clearance into the CNMI for any of the following reasons:

(1) Complete set of documents are not provided at time of arrival;

(2) “Cut fabric sets” are not packed in clear polybags and marked to verify each “cut fabric set” or “added value component” against packing list; or

(3) The shipment described in the application and the actual shipment are not the same such that the actual shipment appears not to comply with Headnote 3(a) requirements or the ruling letter from United States Customs Service.

(e) Effects of Denial of Clearance

(1) Shipments denied customs clearance pursuant to subsections (d)(1) and (d)(2) will be subject to the provisions of § 70-10.1-205, and shall only be released upon the consignee’s cure of defect(s).

(2) Shipments denied clearance under subsection (d)(3) shall be released upon consignee’s payment of an excise tax equal to 5% ad valorem.

(3) Consignee or importer can apply to Garment Section Chief to apply the excise tax collected under subsection (e)(2) to a user fee assessment on exported garments if “cut fabric sets” are later found to be exported into the United States in compliance with Headnote 3(a).

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 25 Com. Reg. 21471 (Nov. 17, 2003); Amdts Proposed 25 Com. Reg. 20833 (Aug. 22, 2003).

§ 70-10.1-940 On-site Inspections

(a) Consent to Inspection

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By submitting the application information pursuant to § 70-10.1-925, the importer of “cut fabric” consents to an on-site verification of the assembly process by the Garment Section Chief or any duly authorized customs officer.

(b) Time of Inspection

Such inspection(s) shall only occur on the dates and times specified for production on the application.

(c) Discretion of Garment Section Chief

Such inspection(s) shall be undertaken at the sole discretion of the Garment Section Chief.

(d) Site of Inspection

Such inspection(s) shall be confined to the area(s) of the manufacturing facility where:

- (1) Cut fabric sets are assembled; and
- (2) Where production records are kept.

(e) Content of Inspection

(1) Such inspection(s) will be for the sole purpose of determining whether or not the importer of “cut fabric” is complying with

- (i) The assembly process submitted pursuant to § 70-10.1-925(c), and
- (ii) Comports with the production description in the United States Customs Ruling Letter.

(2) Such inspection shall consist of the following verification measures:

- (i) Visual confirmation that the specified “cut fabric sets” are being assembled together into finished garments;
- (ii) Inspection of production records for the purpose of determining:
 - (A) How many finished garments are assembled per day;
 - (B) Total/amount of garments finished;
 - (C) How many garments have been packed; and
 - (D) Whether any deviations from the production schedule have occurred;
- (iii) Comparison of final garments to visual depiction at time of application;
- (iv) Comparison of actual production process to description pursuant to § 70-10.1-925(c), and to the United States Customs Ruling Letter; and
- (v) Comparison of inventory records for actual production and shipment against the information supplied in the application to determine whether the import and export of the finished garments are consistent with inventory counts.

(f) Penalties at Time of Inspection

If the manufacturer is not in compliance under the regulations in this part, has faulty or incomplete record keeping, or is not performing under the guidelines of Headnote 3(a), the Garment Section Chief may impose penalties as sanctioned under § 70-10.1-945(c).

(g) Refusal to Allow Inspection

If the Garment Section Chief, or any duly authorized customs officer, is denied admittance by the garment manufacturer to inspect pursuant to this section, the importer

of “cut fabric,” in addition to being subject to penalties sanctioned under § 70-10.1-945(c):

- (1) Shall be denied export clearance for all finished garments covered under the application; and
- (2) An excise tax of 5% ad valorem shall be imposed upon the entire shipment.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 25 Com. Reg. 21471 (Nov. 17, 2003); Amdts Proposed 25 Com. Reg. 20833 (Aug. 22, 2003).

§ 70-10.1-945 Verification of Garment Export

(a) Verification

Upon export clearance of fully assembled garments, a customs officer shall verify that the export shipment matches the projections and information on the application. The customs officer shall verify that:

- (1) The export invoice shows the quantity of finished garments exported to be the same as the number of “cut fabric sets” imported;
- (2) The export value and FOB price is equal to the original projections on the application; and
- (3) The fully assembled garments match the visual depictions in the applications.

(b) Excise Tax upon Shortfall

(1) Subject to the Garment Section Chief’s approval, reasonable allowances will be made in the verification calculation, required under subsection (a) to account for any defects in the manufacturing process.

(2) However, if the number of “cut fabric sets” imported into the CNMI under any application exceeds the number of exported finished garments attributable to that application, an excise tax of 5% ad valorem shall be imposed upon the difference in “foreign cost” between the number of imported “cut fabric sets” and the number of finished garments actually exported.

(c) Penalties

The following penalties will be assessed under the following conditions:

(1) False declaration or submission of false documents not conforming to the regulations in this part or Headnote 3(a) requirements will result in NO CERTIFICATE OF ORIGIN being issued for that shipment from the Garment Section Chief;

(2) Three shipments in violation of these regulations within a one-year period, or one willful violation of these regulations, will result in a nine-month suspension of a garment manufacturer from obtaining permission on future approval of applications to import cut fabric. Such violations shall be determined by the Garment Section Chief with the concurrence of the Director of Customs;

(3) Any garment manufacturer who is placed on such suspension shall have the right to an administrative hearing pursuant to the procedures established under the

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Commonwealth Administrative Procedures Act, 1 CMC § 9108 - § 9115, upon the filing of a request for such hearing with the Department of Finance, Customs Division.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 25 Com. Reg. 21471 (Nov. 17, 2003); Amdts Proposed 25 Com. Reg. 20833 (Aug. 22, 2003).

Part 1000 - Custom Bonded Warehouses

Subpart A - Introduction

§ 70-10.1-1001 Authority

The authority for the promulgation and issuance of this part is derived from the Commonwealth Code, including, but not limited to, the following sections: 1 CMC § 2553; 1 CMC § 2557; 4 CMC § 1104; 4 CMC § 1402(b); 4 CMC § 1818; 6 CMC § 2304; and 6 CMC § 2305.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1002 Purpose

(a) To defer the payment of excise tax on goods prior to their formal entry into the local stream of commerce, thus reducing administrative costs in processing excise tax refunds, and increasing business cash flow.

(b) To exempt from excise tax imported goods that will eventually be either exported in the same condition or used, consumed, or expended in the processing of other goods for export.

(c) To regulate the authorized removal of suspicious cargo from official points of entry to other locations prior to inspection and clearance, thus providing more thorough and complete customs inspection of incoming freight and enhancing homeland security.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1004 Definitions

(a) “Applicant” means a person or corporation with a business license who applies to operate as a licensed customs bonded warehouse.

(b) “Customs bonded warehouse” or “bonded warehouse” is a building or other secured area, licensed as a bonded warehouse by the Director of Customs, or Secretary of

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Finance, in which dutiable goods may be stored, manipulated, or undergo manufacturing operations without payment of excise tax prior to such time as the goods are withdrawn from the warehouse for local consumption. Any such area will be considered an extension of the points of entry for purposes of customs jurisdiction.

(c) “CNMI” means the government of the Commonwealth of the Northern Marianas Islands with jurisdiction over its own customs territory.

(d) “Director” means the director of the Division of Customs in the CNMI Department of Finance.

(e) “Department” means the CNMI Department of Finance.

(f) “Secretary” means the Secretary of Finance.

(g) “Permit” means a permit to operate a place as a bonded warehouse.

(h) “Permittee” means a person, or corporation, who is the operator of a bonded warehouse.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

Subpart B - Bonded Warehouses; Designation; Bonding Requirements; Supervision; Preconditions

§ 70-10.1-1006 Establishment of Bonded Warehouse

Buildings or parts of buildings and other enclosures may be designated by the Director as a bonded warehouse, upon submission of an application and granting of a license. Any such area will be considered an extension of the points of entry for purposes of customs’ jurisdiction.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1008 Classes of Bonded Warehouses

The following classes of bonded warehouses are hereby created:

(a) Class A. A “class A” bonded warehouse is a private bonded warehouse used by an importer for the storage of merchandise exclusively belonging or consigned to the proprietor thereof.

(b) Class B. A “class B” bonded warehouse is a public bonded warehouse used exclusively for the inspection and storage of merchandise from different importers, or for

inspection and storage by the Department of incompletely cleared merchandise, or suspicious merchandise as authorized by 6 CMC § 2304.

(c) Class C. A “class C” bonded warehouse is an in-bond manufacturing warehouse used solely for production of articles made in whole or in part of imported materials. Class C warehouses may not be used to manufacture or assemble garments. The Director shall issue CNMI country of origin certificates when necessary and proper.

(d) Class D. A “class D” bonded warehouse is a bonded warehouse established for the cleaning, sorting, re-packing, or otherwise changing the condition of, but not the manufacturing of, imported merchandise, under Customs supervision, and at the expense of the proprietor. Such class D designation may be in conjunction with any of the above designations.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1010 Bonding Requirement

Before any imported merchandise, not finally released from the Department’s custody, shall be stored in any such bonded warehouse the owner or permittee thereof shall give a bond in such sum and with such sureties as may be approved by the Director of Customs to secure the government against any loss of excise tax or expense connected with or arising from the deposit, storage, or manipulation of merchandise in such warehouse. Such bond shall conform to the requirements of subpart D.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1012 Staffing Requirement

(a) CNMI Customs Officer. Except as otherwise provided in the regulations in this part, bonded warehouses shall be used solely for the storage of imported merchandise and shall be placed in the charge of a CNMI customs officer, who, together with the proprietor thereof, shall have joint custody of all merchandise stored in the warehouse. The customs officer assigned to a bonded warehouse shall have total access to, without limitation, such licensee’s books, records and receipts relating to the entry and withdrawal of merchandise from such customs bonded warehouse. The compensation of such customs officer and other customs employees appointed to supervise the receipt of merchandise into any such warehouse and deliveries therefrom shall be reimbursed to the government by the proprietor of such warehouse. Each bonded warehouse shall be assigned a customs officer by the Director.

(b) Private Staff. A licensed bonded warehouse shall provide all labor and management on the merchandise so stored by hiring private staff. Such licensee shall also maintain all records necessary for the customs officer assigned to that customs bonded

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warehouse to assess inventory levels and whether merchandise is withdrawn and excise taxes payable thereon. The customs officer assigned to that bonded warehouse may enter the premises at any time to inspect operations and records.

(c) Compensation of Private Staff. Permittees of a class A and B customs bonded warehouse shall pay their employees, agents, and contractors a wage at least equal to the federal minimum wage currently prevailing in the United States.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

Commission Comment: In subsection (c), the Commission corrected the spelling of “permittees.”

§ 70-10.1-1014 Accounting Forms

The Director of Customs shall from time to time prescribe such forms as may be necessary to account for the deposit and withdrawal of merchandise in bonded warehouses.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1016 Permitting of Bonded Warehouse

The Director of Customs, or Secretary may issue a permit to an applicant who:

- (a) Completes an application in accordance with subpart C;
- (b) Provides such security or bond as may be required under § 70-10.1-1010 and in accordance with subpart D; and
- (c) Pays any fee required to be paid under subpart E.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1018 Cap on Authorized Permits

The following number of bonded warehouse permits are hereby authorized:

	SENATORIAL DISTRICT		
	#1	#2	#3
CLASS A	4	4	12
CLASS B	4	4	12
CLASS C	5	5	15

CLASS D

5

5

15

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1020 Prohibition on Owning Cartage Company

No license shall be issued to any applicant involved directly or indirectly, or through third parties in cartage, common carrier, inland trucking, unloading, or transportation of the merchandise from importation point.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

Subpart C - Application to Conduct Business as a Bonded Warehouse

§ 70-10.1-1022 Application Requirements

Any applicant who wishes to apply for a license to operate a bonded warehouse shall submit a completed application on a form to be prescribed by the Director, together with a detailed plan of the proposed bonded warehouse, to the Director.

(a) Such plan shall detail the following information:

- (1) Whether the place proposed to be operated as a bonded warehouse exists or is to be constructed;
- (2) The type of construction of the facility regardless of whether or not it already exists;
- (3) The area, within the facility, that is to be used for the storage of goods;
- (4) The amount and policy holder of fire and general liability insurance covering the value of the merchandise to be stored;
- (5) Whether or not the applicant intends to store any hazardous materials, and what type;
- (6) Affidavit that applicant has no ownership, directly, indirectly or through related third parties of cartage per § 70-10.1-1020.

(b) The Director shall not issue a license to an applicant unless:

- (1) The applicant is of good character and has not been convicted, found guilty or pled guilty to any criminal act;
- (2) The site of the proposed bonded warehouse is within an area served by a customs office;
- (3) The applicant has sufficient financial resources to lease or purchase the facility;
- (4) The applicant will provide conditions suitable for the safekeeping of goods, including any hazardous materials;
- (5) The Department is able to provide customs services with respect to the proposed bonded warehouse;

(6) The terms and conditions under which a license may be issued are included, such as the extent and circumstances to which, in accordance with § 70-10.1-1070 goods may be manipulated, unpacked, packed, altered, or combined with other goods while in bonded warehouse; and

(7) The applicant certifies that he or she shall comply with the federal minimum wage law requirements of § 70-10.1-1012 for class A and B customs bonded warehouses.

(c) All bonded warehouse facilities operating for the storage, treatment or handling of hazardous waste shall also attach a copy of their permit to operate such a facility as required by the Department of Environmental Quality (DEQ) regulations, 6 Com. Reg. 2830 (June 15, 1984), section VII, as amended, and otherwise be in compliance with all applicable Department of Environmental Quality, Coastal Resource Management, Department of Fish and Wildlife, and federal Environmental Protection Agency laws and regulations.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

Subpart D - Bonds and Other Security

§ 70-10.1-1024 Requirement of Bond

The Director may require such bonds or other security as s/he, or the Secretary, may deem necessary for the protection of the revenue or to assure compliance with any provision of law, regulation, or instruction which the Secretary or the Department may be authorized to enforce.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1026 Conditions and Form of Bond

Whenever a bond is required under the regulations in this part, the Secretary may require:

(a) Cash or cash equivalent in lieu of bond. The Secretary is authorized to permit the deposit of money or obligation of the United States, in such amount and upon such conditions as he may prescribe, in lieu of sureties on any bond required or authorized by regulation or instruction which the Director of Customs is authorized to enforce;

(b) Letter of credit issued yearly, or otherwise, by an acceptable banking institution;

(c) Personal guarantees in a form acceptable to the Director;

(d) A bond issued by a company that is licensed or otherwise authorized under the laws of the CNMI or United States to carry on the fidelity or surety class of insurance business and that the Director and the Secretary recommended in writing as acceptable as an institution whose bonds may be accepted by the CNMI;

(e) Except as otherwise specifically provided by law, prescribe the conditions and form of such bond and the manner in which the bond may be filed, and fix the amount of penalty thereof, whether for the payment of liquidated damages or of a penal sum;

(f) The approval of the sureties on such bond, without regard to any general provision of law;

(g) Authorization, to the extent that s/he may deem necessary, for the taking of a consolidated bond (single entry or term), in lieu of separate bonds to assure compliance.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1028 Cancellation of Bond

The Secretary may authorize the cancellation of any bond provided for in this subpart, or any charge that may have been made against such bond, in the event of a breach of any condition of the bond, upon the payment of such lesser amount of penalty or upon such other terms and conditions as he may deem sufficient. In order to assure uniform, reasonable, and equitable decisions, the Secretary shall publish guidelines establishing standards for setting the terms and conditions for cancellation of bonds or charges thereunder.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

Subpart E - License and Fees

§ 70-10.1-1030 License Requirement

All bonded warehouses shall be licensed by the Department prior to engaging in such business.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1032 License Fee

(a) Every licensee shall pay to the Department an annual fee for the license, for the period beginning on the day on which the license is issued and ending on September

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30th. Annual fees will be prorated on the portions of the year remaining after the license is issued. The annual fee will be determined on the basis of the amount of security deposit under subpart D, in accordance with the table to this section.

TABLE

<u>Amount of Security Deposited</u>	<u>Amount of Fee Payable Per Fiscal Year</u>
Up to \$10,000	\$1,000
\$10,001 to \$50,000	\$1,500
\$50,001 to \$200,000	\$2,000
\$200,001 to \$500,000	\$3,000
More than \$500,000	\$5,000

(b) The fee for each subsequent year will be paid by October 1st and no license will be issued without the fee being paid.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1034 Amendment of License

The Director may amend a license only where the name of the licensee has changed legally, or change of ownership requiring new owner to meet the terms and conditions of subpart D.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1036 Cancellation or Suspension of Licenses

- (a) The Director may cancel a license where the licensee:
- (1) No longer owns or leases the place that is licensed as a bonded warehouse;
 - (2) Requests the Director in writing to cancel the license; or
 - (3) Declares bankruptcy.
- (b) Subject to § 70-10.1-1038 the Director may suspend or cancel a license where the licensee:
- (1) Is the subject of a receivership in respect of the licensee's debts;
 - (2) Fails to comply with any laws enacted by the CNMI to prohibit, control, or regulate the importation or exportation of goods;
 - (3) Has, in the course of operating the bonded warehouse, acted dishonestly in business dealings with customs brokers, importers, carriers, and other appointed officials;
 - (4) Has been incompetent in the operation of the bonded warehouse;
 - (5) The volume of goods being received in the bonded warehouse is no longer sufficient to warrant the continued operation of the bonded warehouse;

- (6) There is no longer a need for a bonded warehouse in the area in which the bonded warehouse is located;
- (7) The Department is no longer able to provide customs services with respect to the bonded warehouse;
- (8) The licensee manipulates, unpacks, packs, alters, or combines the goods with other goods while in the bonded warehouse other than in accordance with the terms and conditions set out in the license.
- (c) Following the suspension or cancellation of a license:
- (1) An officer may lock and seal the bonded warehouse and keep it locked and sealed during the period of suspension.
- (2) The Director shall immediately after suspending a license, give to the licensee a notice confirming the suspension and providing all relevant information concerning the grounds on which the Director has suspended the license.
- (3) The licensee may, within ninety days after the day on which the license is suspended, make representation to the Director regarding why the license should be reinstated.
- (4) Director shall, before canceling a license under this section, give the licensee ninety days notice of the proposed cancellation and provide the licensee with all relevant information concerning the grounds on which the Director proposes to cancel the license.
- (5) The licensee may, within 90 days after the day on which the notice referred to in subsection (c)(4) is given, make representation to the Director regarding why the license should not be cancelled.
- (6) A decision to cancel or suspend a license by the Director shall be subject to review pursuant to the Administrative Procedure Act, 1 CMC §§ 9101, et seq.
- (7) Upon a final determination by the Director to cancel a license, all excise tax on taxable merchandise stored in a bonded warehouse shall become immediately payable.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1038 Reinstatement of Suspended Licenses

The Director may reinstate a suspended license where the cause for the suspension no longer exists. In no event shall a license be suspended for longer than ninety days from the date of final determination to suspend by the Director.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

Subpart F - Bonded Warehouse Operations and Facilities

§ 70-10.1-1040 Security

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Every licensee shall provide at the bonded warehouse such facilities, equipment, and personnel as are sufficient to control access to the bonded warehouse premises and provide secure storage of the goods in it including:

- (a) Doors and other building components of sturdy construction;
- (b) Secure locks on doors and windows;
- (c) Signs that indicate the security requirements applicable to the premises; and
- (d) Where the bonded warehouse will be used for the storage of designated goods, such additional facilities and equipment as may be required by the Director to ensure the secure storage of those goods.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1042 Facilities

Every licensee shall provide at the bonded warehouse such facilities to provide:

- (a) Adequate space for the examination of goods by officers; and
- (b) Where a bonded warehouse forms only part of a building, the licensee shall, if so requested by the Director, keep the bonded warehouse separate from the remainder of the building by a partition or other structure.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1044 Personnel and Equipment

Every licensee shall provide at the bonded warehouse:

- (a) The personnel and equipment necessary to ensure that the goods to be examined by a customs officer are made available to the customs officer for examination; and
- (b) The personnel necessary to furnish information, for audit purposes, to a customs officer with respect to the bonded warehouse operations and inventory system.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1046 Operation and Maintenance Standards

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- (a) Every licensee shall ensure that the goods received in the bonded warehouse are:
- (1) Stored safely and securely in the area designated for that purpose in the plan referred to in § 70-10.1-1022; and
 - (2) Identified in such a manner so as to enable a customs officer to locate the goods and check them against the appropriate documentation.

(b) No person, other than the licensee, an employee of the licensee, or an employee of a carrier engaged in the delivery of goods to, or the removal of goods from, the bonded warehouse shall enter any place in it where goods are stored, without the written authorization or the attendance of a customs officer.

- (c) Every licensee of a bonded warehouse shall have in place:
- (1) Procedures to maintain the security of, and restriction of access to, the bonded warehouse; and
 - (2) Procedures to ensure that personnel working in the bonded warehouse are aware of and follow the procedures referred to in this section.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1048 Penalty for Non-compliance with this Subpart

A bonded warehouse may be locked and sealed by a customs officer where the Director requested that the bonded warehouse be locked and sealed, for the purpose of verifying that the licensee is in compliance with this subpart.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

Subpart G - Entry and Withdrawal of Merchandise

§ 70-10.1-1050 Receipt of Goods

All containers shall remain under seal until they arrive at the bonded warehouse. A customs officer shall be present to break the container seal. Every licensee shall acknowledge receipt of imported goods into the bonded warehouse in respect of which their license was issued by:

- (a) Endorsing the transportation document(s) presented to the licensee by the carrier (including invoices and bills of lading);
- (b) Recording on a form to be prescribed by the Director, the quantity, description, value, and estimated tax of the imported goods.

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History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1052 Incomplete Entry

(a) Customs shall notify the bonded warehouse of unentered merchandise whenever the entry of any imported merchandise is not made within the time provided by law because:

(1) In the opinion of the Department, the entry of imported merchandise cannot be made for want of proper documents or other cause;

(2) Customs Service discovers or has probable cause to believe that contraband has entered the Commonwealth; or

(3) The Department believes that any merchandise is not correctly and legally invoiced.

(b) If the merchandise is not intended to be stored at any particular bonded warehouse, such unentered, suspicious, or contraband merchandise may be stored and inspected at a class B bonded warehouse.

(c) After notification under subsection (a), the bonded warehouse shall arrange for the transportation and storage of the merchandise at the risk and expense of the consignee. The merchandise shall remain in the bonded warehouse until entry is made or completed and the proper documents are produced, or disposed of in accordance with § 70-10.1-1062. Such merchandise shall accrue interest on excise taxes owed and storage fees.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1054 Withdrawal of Merchandise; Time; Payment of Charges

(a) Any merchandise subject to excise tax (including international travel merchandise), with the exception of perishable articles and explosive substances, may be entered for warehousing and be deposited in a bonded warehouse at the expense and risk of the owner, purchaser, importer, or consignee. Such merchandise may be withdrawn, at any time within 5 years from the date of importation, for consumption upon payment of the excise tax and storage fees.

(b) Any merchandise so deposited may be withdrawn from a bonded warehouse for exportation or for transportation and exportation to a foreign country, or the shipment or for transportation and shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or the island of Guam, without the payment of excise tax thereon, or for transportation and re-warehousing at another port or elsewhere, or for transfer to another bonded warehouse at the same port; except that the

total period of time for which such merchandise may remain in bonded warehouse shall not exceed 5 years from the date of importation.

(c) Except as provided in subsection (b), payment of excise tax and storage fees are paid to the Department at the time the merchandise is withdrawn from the bonded warehouse. Duties shall be paid directly to the customs officer assigned to that bonded warehouse. The bonded warehouse shall contact the designated customs officer prior to withdrawal.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1056 Destruction of Merchandise at Request of Consignee

Merchandise entered under bond, under any provision of law, may, upon payment of all charges other than excise tax on the merchandise, be destroyed, at the request and at the expense of the consignee, within the bonded period under customs supervision, in lieu of exportation, and upon such destruction the entry of such merchandise shall be liquidated without payment of excise tax shall be refunded.*

*So in original.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1058 Transfer and Removal of Goods

(a) Where there is a transfer of ownership of goods stored in a bonded warehouse, the importer or owner of the goods shall submit a transfer document in the prescribed form to an officer at the customs office where the goods were entered.

(b) Where the importer or owner of goods stored in a bonded warehouse wants the goods removed from the bonded warehouse in smaller units, the importer or owner shall submit to the Director:

(1) Where the goods are to be released, an amended accounting in a form to be prescribed by the Director; or

(2) Where the goods are not to be released, an amended description in the prescribed form.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

Subpart H - Warehouse Goods Deemed Abandoned or Unclaimed

§ 70-10.1-1060 Abandoned Merchandise

(a) Merchandise upon which any excise tax or storage fees are unpaid, remaining in a bonded warehouse beyond five years from the date of importation, shall be regarded as abandoned. Title in abandoned merchandise shall automatically vest in the CNMI. The Director may sell or destroy such merchandise pursuant to law. If the Director elects to sell the merchandise, the proceeds of sale shall be paid according to § 70-10.1-1064.

(b) Merchandise upon which all excise tax and charges have been paid remaining in a bonded warehouse beyond five years from the date of importation, shall be considered unclaimed and treated in accordance with § 70-10.1-1062.

Modified, 1 CMC § 3806(g).

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1062 Unclaimed Merchandise

(a) Any unentered merchandise which shall remain in a bonded warehouse, pursuant to § 70-10.1-1052, for 6 months, but less than 5 years, from the date of importation thereof, without all estimated taxes, fees and interest thereon having been paid, shall be considered unclaimed and subject to divestiture of title to the CNMI, and subject to sale by the Director free and clear of any liens or encumbrances.

(b) Once merchandise is deemed unclaimed, the Department shall provide 30 days notice to all known interested parties that the title to such merchandise is subject to divestiture, either by operation of law to the CNMI or by subsequent sale to a third party, on the 30th day after the date of the notice. If no interested party is known, such notice shall, at a minimum, include publication in one local newspaper of general circulation once per week for three consecutive weeks, the notice period running 30 days from the first date of publication. Notice shall contain the date, time, and location of any sale.

(c) Unclaimed merchandise may be reclaimed during the notice period provided that:

- (1) Prior to the 30th day of the notice period the consignee or owner pays the Department a reclamation penalty equal to 5% of the fair market value for such merchandise as determined by the invoice value; and
- (2) Immediate payment of any excise taxes, storage fees, and interest thereon. No unclaimed merchandise may be entered or exported or withdrawn by the owner or consignee until such payment is made.

(d) For purposes of this section, the computation of excise taxes, storage fees, and interest thereon shall be subject to rates applicable at the time the merchandise is reclaimed or sold.

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History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1064 Proceeds of Sale

The surplus of the proceeds of sales under § 70-10.1-1062(a), if any, after the payment of excise tax, storage fees, and interest thereon, and the satisfaction of any lien or freight, charges, or contribution in general average, shall be deposited in the general fund of the CNMI, if claim therefore shall not be filed with the Director within ten days from the date of sale, and the sale of such merchandise shall exonerate the master of any vessel in which the merchandise was imported from all claims of the owner thereof, who shall, nevertheless, on due proof of his interest, be entitled to receive from the Department the amount of any surplus of the proceeds of sale.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1066 Redemption

Whenever any party having lost a substantial interest in merchandise by virtue of title vesting in the CNMI under § 70-10.1-1062(a), can establish such title or interest to the satisfaction of the Secretary within 30 days after the day on which title vests in the CNMI, or can establish to the satisfaction of the Secretary that the party did not receive notice of sale as provided herein, the Secretary may, upon receipt of a timely and proper petition and upon finding that the facts and circumstances warrant, pay such party out of the Department the amount the Secretary believes the party would have received under* had the merchandise been properly noticed and sold. The decision of the Secretary shall be final and conclusive with respect to all parties.

*So in original.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

Subpart I - Manipulation in Public or Private Warehouse

§ 70-10.1-1068 Original Packaging Requirement

Unless by special authority of the Director, no merchandise shall be withdrawn from a bonded warehouse in less quantity than an entire bale, cask, box, or other package. All merchandise so withdrawn shall be withdrawn in the original packages in which imported.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1070 Manipulation Allowed for Class D Bonded Warehouses

Every licensee shall ensure that goods are not manipulated, altered, or combined with other goods while in a bonded warehouse, except for class D bonded warehouses for the purpose of, or in the course of:

- (a) Disassembling or reassembling goods that have been assembled or disassembled for packing, handling, or transportation;
- (b) Displaying;
- (c) Inspecting;
- (d) Marking, labeling, tagging, or ticketing;
- (e) Packing, unpacking, packaging, or re-packing;
- (f) Removing from the warehouse, for the sole purpose of soliciting order for goods or services, a small quantity, or a portion, a piece or an individual object, that represents the goods;
- (g) Storing;
- (h) Testing; or
- (i) Any of the following that do not materially alter the characteristics of the goods:
 - (1) Cleaning;
 - (2) Diluting;
 - (3) Normal maintenance and servicing;
 - (4) Preserving;
 - (5) Separating defective goods from prime quality goods,
 - (6) Sorting or grading; and
 - (7) Trimming, filing, slitting, or cutting.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

Subpart J - Allowance for Loss; Liens; Hearings

§ 70-10.1-1072 Allowance for Loss, Abandonment

In no case shall there be any abatement or allowance made in the excise tax for any injury, deterioration, loss, or damage sustained by any merchandise while remaining in Department custody, except that the Secretary is so authorized, upon production of proof satisfactory to him or her of the loss or theft of any merchandise while in the

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Department's custody. The decision of the Secretary as to the abatement or refund of duties on any such merchandise shall be final and conclusive upon all persons.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1074 Liens

Whenever a customs officer shall be notified in writing of the existence of a lien for freight, charges upon any imported merchandise sent to the bonded warehouse, or taken possession by the Department, he shall refuse to permit delivery thereof from the bonded warehouse until proof shall be produced that the said lien has been satisfied or discharged. The rights of the CNMI shall not be prejudiced nor affected by the filing of such lien, nor shall the Department or its officers be liable for losses of damages consequently upon such refusal to permit delivery.* If merchandise, regarding which such notice of lien has been filed, shall be forfeited or abandoned and sold, the freight, charges, or contribution in general average due thereon shall be paid from the proceeds of such sale in the same manner as other lawful charges and expenses are paid therefrom.

* So in original,

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1076 Procedures for Hearing

Unless a provision of the regulations in this part specifies that the decision of the Director shall be final and conclusive, any person aggrieved under these regulations may request a hearing. Procedures for hearings shall be conducted in accordance with the Administrative Procedure Act (APA), 1 CMC §§ 9101, et seq., and shall be conducted in front of the Director, unless such grievance concerns a decision by the Director, in which case the hearings shall be conducted in front of the Secretary.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

Subpart K - Cartage

§ 70-10.1-1078 Licensed and Bonded Cartage

- (a) The cartage of merchandise entered for warehouse shall be done by
 - (1) Cartmen appointed and licensed by the Director; and
 - (2) Carriers designated to carry bonded merchandise.

- (b) Such cartmen and carriers shall give bond, in a penal sum to be fixed by the Department, for the protection of the CNMI against any loss of, or damage to, the

merchandise while being so carted and necessary for the protection of the CNMI revenue or to assure compliance with any provision of law, regulation, or instruction which the Secretary or the Department may be authorized to enforce. Such cartmen and carriers shall also be in compliance with all applicable environmental laws and regulations concerning the transport of hazardous materials.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

§ 70-10.1-1080 Prohibition on Operating Bonded Warehouses

Persons engaged in the cartage, inland freight trucking, common carrier, unloading, or transportation of merchandise from importation are prohibited from being licensed bonded warehouse operators, either directly or indirectly.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004).

Part 1100 - Miscellaneous Provisions

§ 70-10.1-1101 Severability

If any provision of the regulations in this subchapter shall be held invalid by a court of competent jurisdiction, the validity of the remainder of the regulations shall not be affected thereby.

History: Amdts Adopted 39 Com. Reg. 40374 (Nov. 28, 2017); Amdts Proposed 39 Com. Reg. 39962 (Sept. 28, 2017); Amdts Adopted 26 Com. Reg. 23009 (Oct. 26, 2004); Amdts Proposed 26 Com. Reg. 23010 (Aug. 26, 2004); Amdts Adopted 25 Com. Reg. 21471 (Nov. 17, 2003); Amdts Proposed 25 Com. Reg. 20833 (Aug. 22, 2003); Adopted 19 Com. Reg. 15155 (Feb. 15, 1997) (superseding all rules and regulations prior to adoption); Proposed 18 Com. Reg. 14745 (Dec. 15, 1996); Adopted 17 Com. Reg. 13538 (June 15, 1995) (superseding all rules and regulations prior to adoption); Proposed 17 Com. Reg. 13456 (May 15, 1995).

SUBCHAPTER 70-10.2
REGULATIONS PROVIDING FOR DISTRIBUTION OF
HEADNOTE 3(A) PRODUCTION UNDER THE LIMITED WAIVER
PROVIDED BY ADMINISTRATIVE AGREEMENT

Part 001	General Provisions	§ 70-10.2-130 Allocation of Shares
§ 70-10.2-001	Purpose	
§ 70-10.2-005	Findings	
Part 100	Waiver Certificate	Part 200 Certification Process
§ 70-10.2-101	Waiver Certificate	§ 70-10.2-201 Commonwealth Imports
§ 70-10.2-105	Eligibility for Certificate	§ 70-10.2-205 Commonwealth Exports
§ 70-10.2-110	Duration of Certificate	§ 70-10.2-210 Perjury
§ 70-10.2-115	Non-assignable Certificates	Part 300 Customs Records
§ 70-10.2-120	Change in Pro Rata Shares	§ 70-10.2-301 Signature Authority
§ 70-10.2-125	Retroactive Effect	§ 70-10.2-305 Certification Stamp
		§ 70-10.2-310 Records
		§ 70-10.2-315 Inspection of Premises
		§ 70-10.2-320 Audit

Subchapter Authority: 1 CMC §§ 2553 and 2557.

Subchapter History: Public Notice 12 Com. Reg. 6905 (Apr. 15, 1990) (determination not to adopt October 1989 proposed amendments); Public Notice 12 Com. Reg. 6815 (Feb. 15, 1990) (determination not to adopt October 1989 proposed amendments); Amdts Proposed 11 Com. Reg. 6597 (Oct. 15, 1989); Amdts Emergency 10 Com. Reg. 5552 (May 15, 1988) (effective for 120 days from Apr. 8, 1988); Amdts Proposed 8 Com. Reg. 4394 (June 3, 1986);* Amdts Adopted 8 Com. Reg. 4216 (Feb. 17, 1986); Amdts Proposed 8 Com. Reg. 4187 (Jan. 17, 1986); Adopted 7 Com. Reg. 3727 (July 22, 1985); Emergency and Proposed 7 Com. Reg. 3728 (July 22, 1985) (effective for 120 days from June 6, 1985); Emergency and Proposed 7 Com. Reg. 3613 (May 21, 1985) (effective for 120 days from May 20, 1985).

*A notice of adoption for the June 1986 proposed amendments was never published.

Commission Comment: 1 CMC § 2551 creates the Department of Finance within the Commonwealth government. 1 CMC § 2553 authorizes the Department to be responsible for customs and baggage inspection and other related matters. The Department is authorized to adopt rules and regulations regarding those matters within its jurisdiction. See 1 CMC § 2557.

Part 001 - General Provisions

§ 70-10.2-001 Purpose

The regulations in this subchapter shall provide for a division among CNMI sweater manufacturers of the import limit placed by the United States upon cotton, wool and man-made fiber sweaters in categories 345, 445, 446, 645 and 646 assembled in the CNMI from a minimum of four major sweater parcels which originate in a country whose sweater exports to the United States are subject to quota.

Modified, 1 CMC § 3806(d), (f).

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History: Adopted 7 Com. Reg. 3727 (July 22, 1985); Emergency and Proposed 7 Com. Reg. 3728 (July 22, 1985) (effective for 120 days from June 6, 1985); Emergency and Proposed 7 Com. Reg. 3613 (May 21, 1985) (effective for 120 days from May 20, 1985).

§ 70-10.2-005 Findings

The following administrative findings constitute the basis for the regulations in this subchapter:

(a) On January 9, 1978 upon the inception of the government of the Commonwealth of the Northern Mariana Islands General Headnote 3(a) to the Tariff Schedules of the United States, 19 U.S.C. § 1202, provided a country of origin rule specifically for insular possessions of the United States. That rule provides that an article is a product of the insular possessions if it does not contain foreign materials exceeding 50% of the total appraisal value of the product. There are no quota restrictions or duties applicable to insular possessions.

(b) On February 22, 1983, the United States Customs Service recognized that Headnote 3(a) applied to the Commonwealth of the Northern Mariana Islands under § 603(c) of the Covenant which provides the same treatment for imports from the Northern Mariana Islands into the United States as imports from Guam into the United States.

(c) Based upon that decision, certain corporations located sweater factories in the Commonwealth and began assembly operations under Headnote 3(a).

(d) On August 3, 1984, the Customs Service published interim regulations governing the importation of textiles and textile products into the United States (T.D. 84-171). These regulations, which applied to insular possessions, provide that articles which consist of materials which originated in a foreign country shall be considered as products of an insular possession only if the article has been substantially transformed by means of a substantial manufacturing or processing operation into a new and different article of commerce with a name, character or use distinct from the article or material from which it was so transferred. Essentially, assembly operations which contribute 50% to the final appraisal value of an article will no longer qualify the article as originating in the Commonwealth of the Northern Mariana Islands.

(e) As a result of the interim regulations, the sweater manufacturers have been unable to import sweaters into the United States Customs Territory, thereby threatening the existence of such an industry in the Commonwealth.

(f) On April 4, 1985, the Customs Service adopted the interim regulations, with minor amendments, as a final rule (T.D. 85-38).

(g) As a result of many months of discussion with the Committee for the Implementation of Textile Agreements (CITA) and the Office of the United States Trade Representative an administrative arrangement for the waiver of the regulations for 70,000 dozen sweaters annually was agreed to by the United States government and the

government of the Northern Mariana Islands on January 30, 1985. A directive from the Chairman of CITA to the Commissioner of Customs establishes an import limit and certification requirements to be effective on April 15, 1985. However, the annual period commenced on November 1, 1984.

(h) The amount of the annual waiver was established by the United States as the annual production capacity of the sweater manufacturers which were engaged in manufacturing under Headnote 3(a) in the CNMI.

(i) It is necessary to establish a system for the distribution of the waiver among those factories.

Modified, 1 CMC § 3806(d), (g).

History: Adopted 7 Com. Reg. 3727 (July 22, 1985); Emergency and Proposed 7 Com. Reg. 3728 (July 22, 1985) (effective for 120 days from June 6, 1985); Emergency and Proposed 7 Com. Reg. 3613 (May 21, 1985) (effective for 120 days from May 20, 1985).

Commission Comment: In subsections (b), (d) and (f), the Commission inserted a comma after the dates to correct manifest errors.

Part 100 - Waiver Certificate

§ 70-10.2-101 Waiver Certificate

The Chief of the Division of Customs shall issue a waiver certificate to applicants who meet the criteria set forth in § 70-10.2-105 which will entitle the holder to a pro rata share of the waiver. The certificate shall specify the number of sweaters in the share.

Modified, 1 CMC § 3806(c).

History: Public Notice 12 Com. Reg. 6905 (Apr. 15, 1990) (determination not to adopt October 1989 proposed amendments); Public Notice 12 Com. Reg. 6815 (Feb. 15, 1990) (determination not to adopt October 1989 proposed amendments); Amdts Proposed 11 Com. Reg. 6597 (Oct. 15, 1989); Adopted 7 Com. Reg. 3727 (July 22, 1985); Emergency and Proposed 7 Com. Reg. 3728 (July 22, 1985) (effective for 120 days from June 6, 1985); Emergency and Proposed 7 Com. Reg. 3613 (May 21, 1985) (effective for 120 days from May 20, 1985).

§ 70-10.2-105 Eligibility for Certificate

- (a) An applicant is eligible for a waiver certificate upon proof of:
- (1) Incorporation in the Commonwealth of the Northern Mariana Islands prior to January 30, 1985;
 - (2) A valid license to conduct a sweater manufacturing business prior to January 30, 1985;
 - (3) Full time employment of at least twenty workers employed in the operation of the garment factory, at the time the application is submitted;
 - (4) Full time employment (40 hours per week) of workers in garment manufacturing operation who are either United States citizens, certificate of identity holders, Public Law

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5-11 permanent residents, or Trust Territory citizens who comprise the following percentages of the company's labor force:

- (i) After January 1, 1986 - 30%; and
- (ii) Before January 1, 1987 - 40%.

(b) Beginning in 1986, all applications for waiver certificates must be made by October 15 of each year.

(c) Failure to maintain the minimum requirements of subsections (a)(3) and (a)(4) any time during the year shall cause a certificate to be suspended until proof of compliance.

Modified, 1 CMC § 3806(c), (e), (f).

History: Public Notice 12 Com. Reg. 6905 (Apr. 15, 1990) (determination not to adopt October 1989 proposed amendments); Public Notice 12 Com. Reg. 6815 (Feb. 15, 1990) (determination not to adopt October 1989 proposed amendments); Amdts Proposed 11 Com. Reg. 6597 (Oct. 15, 1989); Amdts Proposed 8 Com. Reg. 4394 (June 3, 1986); Amdts Adopted 8 Com. Reg. 4216 (Feb. 17, 1986); Amdts Proposed 8 Com. Reg. 4187 (Jan. 17, 1986); Adopted 7 Com. Reg. 3727 (July 22, 1985); Emergency and Proposed 7 Com. Reg. 3728 (July 22, 1985) (effective for 120 days from June 6, 1985); Emergency and Proposed 7 Com. Reg. 3613 (May 21, 1985) (effective for 120 days from May 20, 1985).

Commission Comment: The February 1986 amendments deleted former subsections (a)(3), (a)(4)(i) and (ii), and (c), added a new subsection (a)(3), re-designated the remaining subsections accordingly and amended subsections (a)(4), (a)(4)(i), (b) and (c).

A notice of adoption for the June 1986 proposed amendment was never published and, therefore, the Commission has not incorporated the proposed changes. The 1989 amendments proposed numerous amendments to this section and proposed to add a new § 203, entitled "Division of Quota Shares." The 1989 amendments were not adopted.

In subsection (a)(3), the Commission replaced the final period with a semi-colon to make the punctuation consistent.

§ 70-10.2-110 Duration of Certificate

A waiver certificate shall be valid until modified by the issuance of a new waiver certificate pursuant to the allocation in § 70-30.3-130.

Modified, 1 CMC § 3806(c).

History: Public Notice 12 Com. Reg. 6905 (Apr. 15, 1990) (determination not to adopt October 1989 proposed amendments); Public Notice 12 Com. Reg. 6815 (Feb. 15, 1990) (determination not to adopt October 1989 proposed amendments); Amdts Proposed 11 Com. Reg. 6597 (Oct. 15, 1989); Amdts Adopted 8 Com. Reg. 4216 (Feb. 17, 1986); Amdts Proposed 8 Com. Reg. 4187 (Jan. 17, 1986); Adopted 7 Com. Reg. 3727 (July 22, 1985); Emergency and Proposed 7 Com. Reg. 3728 (July 22, 1985) (effective for 120 days from June 6, 1985); Emergency and Proposed 7 Com. Reg. 3613 (May 21, 1985) (effective for 120 days from May 20, 1985).

§ 70-10.2-115 Non-assignable Certificates

Waiver certificates cannot be assigned, sold, or transferred by the holder to any other person or entity.

History: Public Notice 12 Com. Reg. 6905 (Apr. 15, 1990) (determination not to adopt October 1989 proposed amendments); Public Notice 12 Com. Reg. 6815 (Feb. 15, 1990) (determination not to adopt October 1989 proposed amendments); Amdts Proposed 11 Com. Reg. 6597 (Oct. 15, 1989); Adopted 7 Com. Reg. 3727 (July 22, 1985); Emergency and Proposed 7 Com. Reg. 3728 (July 22, 1985) (effective for 120 days from June 6, 1985); Emergency and Proposed 7 Com. Reg. 3613 (May 21, 1985) (effective for 120 days from May 20, 1985).

§ 70-10.2-120 Change in Pro Rata Shares

(a) Upon any decrease in the amount of the waiver by the United States, the effect of the decrease shall be shared equally among each of the holders of waiver certificates, to the maximum extent practicable.

(b) If the Chief determines upon a hearing that a company cannot be reasonably expected to utilize its entire waiver within the year, the share of the company may be re-assigned in equal shares to the remaining companies which can reasonably be expected to utilize the remainder.

(c) If it appears to any certificate holder that the manufacturer will be unable to produce a sufficient number of sweaters in order to utilize its entire waiver within the year, the holder shall surrender to the Chief the expected remainder prior to August 1. If a company fails to utilize more than 10% of its waiver in a year, the unused portion shall be deducted from its share for the next year. Any surrendered remainders or deductions from shares shall be distributed pro rata among other certificate holders who can be reasonably expected to utilize the increase in their share.

History: Public Notice 12 Com. Reg. 6905 (Apr. 15, 1990) (determination not to adopt October 1989 proposed amendments); Public Notice 12 Com. Reg. 6815 (Feb. 15, 1990) (determination not to adopt October 1989 proposed amendments); Amdts Proposed 11 Com. Reg. 6597 (Oct. 15, 1989); Amdts Emergency 10 Com. Reg. 5552 (May 15, 1988) (effective for 120 days from Apr. 8, 1988); Amdts Proposed 8 Com. Reg. 4394 (June 3, 1986); Adopted 7 Com. Reg. 3727 (July 22, 1985); Emergency and Proposed 7 Com. Reg. 3728 (July 22, 1985) (effective for 120 days from June 6, 1985); Emergency and Proposed 7 Com. Reg. 3613 (May 21, 1985) (effective for 120 days from May 20, 1985).

Commission Comment: The June 1986 amendments proposed to amend subsection (c). A notice of adoption for the June 1986 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes.

The 1989 amendments proposed to amend subsections (a), (b) and (c). The 1989 amendments were not adopted.

§ 70-10.2-125 Retroactive Effect

The waiver certificates issued in June of 1985 shall be retroactive to November 1, 1984 and shall expire on October 31, 1985. All shipments already documented by certificates of origin which entered the United States as part of the 70,000 dozen waiver shall be debited against the amounts of the certificate holders.

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History: Public Notice 12 Com. Reg. 6905 (Apr. 15, 1990) (determination not to adopt October 1989 proposed amendments); Public Notice 12 Com. Reg. 6815 (Feb. 15, 1990) (determination not to adopt October 1989 proposed amendments); Amdts Proposed 11 Com. Reg. 6597 (Oct. 15, 1989); Amdts Proposed 8 Com. Reg. 4394 (June 3, 1986); Adopted 7 Com. Reg. 3727 (July 22, 1985); Emergency and Proposed 7 Com. Reg. 3728 (July 22, 1985) (effective for 120 days from June 6, 1985); Emergency and Proposed 7 Com. Reg. 3613 (May 21, 1985) (effective for 120 days from May 20, 1985).

Commission Comment: A notice of adoption for the June 1986 amendments was never published.

§ 70-10.2-130 Allocation of Shares

(a) Rationale. The division of shares of the waiver provides an incentive for each manufacturer to employ local workers and to produce sweaters that will maximize the Commonwealth's tax collection. The division also recognizes the manufacturer's past production and its tax revenue contribution.

(b) Each of the three sweater manufacturers shall be allocated a base share of 10,000 dozen. The three categories upon which the allocations above this 10,000 figure shall be based are set forth in this subsection. The waiver shares in each category shall be awarded based upon the applicant's proportionate share of each category. For the allocation of 1986 shares, the period of reference for all three categories below shall be for calendar year 1985.

- | | |
|--------------------------------------------------------------------------------------------------------------|-----|
| (1) Total payroll paid to non-aliens as defined in Public Law No. 3-105 (during the preceding calendar year) | 60% |
| (2) Past sweater production level by assembly and knitting (number of dozens exported in 1985) | 20% |
| (3) Total export sales dollar
(From Nov. 1 to Oct. 31 in the preceding year.) | 20% |

(c) The sources for the figures used to ascertain shares pursuant to subsection (b) shall be the following:

- (1) For figures used in subsection (b)(1) - an employer's created form reconciled with employer's income tax quarterly withholding return (form OS-3705, Rev. 3/85).
- (2) For figures used in subsection (b)(2) - the certificate of origin for all sweaters exported.
- (3) For figures used in subsection (b)(3) - quarterly gross revenue tax forms.

(d) The division of shares of any waiver in excess of the 73,500 dozen agreement, and the division of any increase, bonus or additional amount authorized by the federal government, shall be by the formula in this section.

(e) No salary amount in excess of \$50,000 will be counted toward the total figure in subsection (b)(1).

(f) Each manufacturer shall be notified within 20 days from the effective date of the regulations in this subchapter as to his allocation of shares for 1986. Any waiver certificate already issued in 1986 will be modified by this notification.

Modified, 1 CMC § 3806(d), (f), (g).

History: Public Notice 12 Com. Reg. 6905 (Apr. 15, 1990) (determination not to adopt October 1989 proposed amendments); Public Notice 12 Com. Reg. 6815 (Feb. 15, 1990) (determination not to adopt October 1989 proposed amendments); Amdts Proposed 11 Com. Reg. 6597 (Oct. 15, 1989); Amdts Proposed 8 Com. Reg. 4394 (June 3, 1986); Amdts Adopted 8 Com. Reg. 4216 (Feb. 17, 1986); Amdts Proposed 8 Com. Reg. 4187 (Jan. 17, 1986); Adopted 7 Com. Reg. 3727 (July 22, 1985); Emergency and Proposed 7 Com. Reg. 3728 (July 22, 1985) (effective for 120 days from June 6, 1985); Emergency and Proposed 7 Com. Reg. 3613 (May 21, 1985) (effective for 120 days from May 20, 1985).

Commission Comment: The February 1986 amendments deleted former § 207, entitled “Increase of Waiver,” and replaced it with this section. See 7 Com. Reg. at 3733 (July 22, 1985).

The June 1986 amendments proposed to delete the new § 207 and reinstate former § 207, entitled “Increase of Waiver.” A notice of adoption for the June 1986 proposed amendments was never published and, therefore, the Commission has not incorporated the proposed changes. The 1989 regulations proposed to amend subsection (a) and delete subsections (b) through (f). The 1989 amendments also proposed to add a new § 209, entitled “Previous Regulations.” The 1989 amendments were not adopted.

In subsection (b), the Commission changed “manufacturer’s” to “manufacturers” to correct a manifest error. The Commission corrected the spelling of “preceding” in subsection (b)(1) pursuant to 1 CMC § 3806(g).

Part 200 - Certification Process

§ 70-10.2-201 Commonwealth Imports

- (a) Imports of any component parts which come under the administrative agreement must be identified as such to Customs upon inspection.
- (b) A company with a waiver certificate shall identify upon inspection the style of sweater to be assembled and shall provide the customs inspector with a copy of a customs ruling for assembly of that style or a similar style.
- (c) The customs inspector shall inspect the component parts of each shipment and compare them with the components called for by the ruling. If the component is a more finished product than specified, the customs inspector shall notify the Chief of Customs. The Chief shall not issue a certificate of origin or a sweater quota exemption certification for any sweater utilizing the nonconforming component piece.
- (d) All completed sweater samples shall be clearly and individually marked as samples. In addition, their container shall clearly indicate that samples are enclosed.
- (e) The Chief of Customs shall cause records to be kept to identify imported component parts in exported finished sweaters.

Modified, 1 CMC § 3806(f).

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History: Adopted 7 Com. Reg. 3727 (July 22, 1985); Emergency and Proposed 7 Com. Reg. 3728 (July 22, 1985) (effective for 120 days from June 6, 1985); Emergency and Proposed 7 Com. Reg. 3613 (May 21, 1985) (effective for 120 days from May 20, 1985).

§ 70-10.2-205 Commonwealth Exports

(a) A company seeking a sweater quota exemption certification shall apply to Customs by executing under penalty of perjury an affidavit which states:

- (1) The quantity of sweaters;
- (2) The MFA category;
- (3) The style number;
- (4) The country of origin of the component part; and
- (5) That each of the sweaters was assembled in the Northern Mariana Islands from a minimum of four separate major sweater panels.

(b) The customs inspector shall check the shipment against the record of importation and shall stamp the front of the original commercial invoice in blue ink only if he reasonably believes the shipment qualifies under the certification agreement.

(c) The affidavit shall be kept in a file for that company with a deduction made from the company's share of the waiver.

Modified, 1 CMC § 3806(f).

History: Adopted 7 Com. Reg. 3727 (July 22, 1985); Emergency and Proposed 7 Com. Reg. 3728 (July 22, 1985) (effective for 120 days from June 6, 1985); Emergency and Proposed 7 Com. Reg. 3613 (May 21, 1985) (effective for 120 days from May 20, 1985).

§ 70-10.2-210 Perjury

In addition to criminal prosecution, the Chief of Customs may revoke a portion of a company's present or future quota if he finds, after an administrative hearing, proof by a preponderance of the evidence of perjury in the affidavit submitted under § 70-10.2-205.

Modified, 1 CMC § 3806(c).

History: Adopted 7 Com. Reg. 3727 (July 22, 1985); Emergency and Proposed 7 Com. Reg. 3728 (July 22, 1985) (effective for 120 days from June 6, 1985); Emergency and Proposed 7 Com. Reg. 3613 (May 21, 1985) (effective for 120 days from May 20, 1985).

Part 300 - Customs Records

§ 70-10.2-301 Signature Authority

The Chief of Customs shall designate by letter to the Director of Finance four officials, including himself, authorized to issue and sign the certificates.

History: Adopted 7 Com. Reg. 3727 (July 22, 1985); Emergency and Proposed 7 Com. Reg. 3728 (July 22, 1985) (effective for 120 days from June 6, 1985); Emergency and Proposed 7 Com. Reg. 3613 (May 21, 1985) (effective for 120 days from May 20, 1985).

§ 70-10.2-305 Certification Stamp

The Chief of Customs shall be responsible for the security of the sweater quota exemption certification stamp.

History: Adopted 7 Com. Reg. 3727 (July 22, 1985); Emergency and Proposed 7 Com. Reg. 3728 (July 22, 1985) (effective for 120 days from June 6, 1985); Emergency and Proposed 7 Com. Reg. 3613 (May 21, 1985) (effective for 120 days from May 20, 1985).

§ 70-10.2-310 Records

At the minimum, the following records must be maintained by the Customs Division:

- (a) Importation of component parts listing quantities, style numbers, countries of origin, fiber, and recipient;
- (b) Affidavits upon exportation under the waiver;
- (c) Certificates of origin; and
- (d) A current account of the remaining share of each company.

Modified, 1 CMC § 3806(f).

History: Adopted 7 Com. Reg. 3727 (July 22, 1985); Emergency and Proposed 7 Com. Reg. 3728 (July 22, 1985) (effective for 120 days from June 6, 1985); Emergency and Proposed 7 Com. Reg. 3613 (May 21, 1985) (effective for 120 days from May 20, 1985).

§ 70-10.2-315 Inspection of Premises

Customs inspectors shall make periodic inspections of business premises, paying particular attention to:

- (a) The processes of manufacturing;
- (b) The component parts utilized;
- (c) The number of resident workers and the types of tasks assigned; and
- (d) The presence of any training programs for resident workers.

Modified, 1 CMC § 3806(f).

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History: Adopted 7 Com. Reg. 3727 (July 22, 1985); Emergency and Proposed 7 Com. Reg. 3728 (July 22, 1985) (effective for 120 days from June 6, 1985); Emergency and Proposed 7 Com. Reg. 3613 (May 21, 1985) (effective for 120 days from May 20, 1985).

§ 70-10.2-320 Audit

As a condition of accepting a waiver certificate, a company consents to provide the Public Auditor of the Commonwealth of the Northern Mariana Islands with access to and the right to examine and copy any records, data, or papers relevant to the manufacturing process in the Commonwealth.

History: Adopted 7 Com. Reg. 3727 (July 22, 1985); Emergency and Proposed 7 Com. Reg. 3728 (July 22, 1985) (effective for 120 days from June 6, 1985); Emergency and Proposed 7 Com. Reg. 3613 (May 21, 1985) (effective for 120 days from May 20, 1985).