

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
SAIPAN, TINIAN, ROTA and NORTHERN ISLANDS



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**COMMONWEALTH REGISTER**

**VOLUME 35  
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# COMMONWEALTH REGISTER

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## TABLE OF CONTENTS

### EXECUTIVE ORDERS

**Number:** 2013-01  
**Subject:** Declaration of Health Emergency  
**Office of the Governor** ..... 033133

**Number:** 2013-02  
**Subject:** Declaration of a State Disaster Emergency: Commonwealth Utilities Corporation's Imminent Failure and the Need to Provide Reliable Power, Water, and Wastewater Services.  
**Office of the Governor** ..... 033135

### LEGAL OPINIONS

**Number:** 2012-04  
**Issues Presented:**  
1. Did the Governor possess the authority, pursuant to Executive Order No. 2012-07 to enter into the Power Purchase Agreement ("PPA") with Saipan Development, LLC?  
2. Is the Governor liable for signing the PPA when the Attorney General had certified that the PPA was proper as to form and capacity?  
**Office of the Attorney General** ..... 033140

### PROPOSED REGULATIONS

Public Notice of Proposed Amendments  
to the Regulations of the  
**Department of Environmental Quality** ..... 033145

**ADOPTION OF REGULATIONS**

Public Notice of Certification and Adoption  
Of SPED Regulations of the  
**Commonwealth State Board of Education** ..... **033258**

Public Notice of Certification and Adoption of the  
Early Intervention Program Rules and Regulations of the  
**Commonwealth State Board of Education** ..... **033260**

Public Notice of Certification and Adoption of the  
Restraint and Seclusions of Students Rules and Regulations of the  
**Commonwealth State Board of Education** ..... **033262**

**EMERGENCY REGULATIONS**

Public Notice of Emergency Regulations Which are  
Amendments to the Rules and Regulations of the  
**Civil Service Commission** ..... **033264**



## COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

**Benigno R. Fitial**  
Governor

**Eloy S. Inos**  
Lieutenant Governor

### EXECUTIVE ORDER No. 2013-01

#### DECLARATION OF HEALTH EMERGENCY

**WHEREAS**, the Commonwealth Healthcare Corporation ("CHC") provides the bulk of necessary healthcare in the Commonwealth, as well as providing all emergency medical services; and

**WHEREAS**, the disruption of the provision of medical services by the CHC poses a direct threat to the health and safety of the people of the Northern Mariana Islands; and

**WHEREAS**, the CHC is currently in arrears to payments to vendors providing vital services and equipment and is in arrears in regards to salary payments to necessary employees; and

**WHEREAS**, CHC deteriorating financial condition affects its ability to maintain adequate infrastructure, equipment and personnel such that it is jeopardizing CHC's federal funding; and

**WHEREAS**, CHC, has been notified by federal authorities that, due to deficiencies in CHC operations and infrastructure, CHC will cease to be eligible for Medicare/Medicaid payments along with other penalties if the deficiencies are not promptly remediated.

**WHEREAS**, Article III §10 of the Constitution of the Commonwealth and section 5101 *et seq.* of Title Three of the Commonwealth Code provide that the Governor has the authority and duty to take the necessary steps to respond to impending disasters;

**NOW THEREFORE**, a State of Emergency for the Commonwealth of the Northern Mariana Islands is declared due to the imminent threat of the disruption of critical medical services in the Commonwealth and the danger that such a condition poses to the public because of the great increase in otherwise preventable deaths that would result.

In order to meet this imminent threat, the Constitutional authority provided under Article III §10 is invoked, including, but not limited to, the authority to:

1. Suspend all statutory or regulatory provisions as required; and
2. The reprogramming of funds necessary to meet this emergency.

To ensure that the suspension of regulatory provisions does not lead to financial abuse, this emergency declaration incorporates the March 19, 2012 Memorandum of Understanding (MOU) between CHC and the Department of Finance, Office Management and Budget, and Office of the Attorney General. In addition, any financial reports submitted by the CHC pursuant to the MOU must be submitted with a certification of the person submitting them stating that the reports are a full and accurate under penalty of perjury.

Done this 18<sup>th</sup> day of January, 2013



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Benigno R. Fitial  
Governor



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

**Benigno R. Fitial**  
Governor

**Eloy S. Inos**  
Lieutenant Governor

**EXECUTIVE ORDER NO. 2013-02**

**SUBJECT:** DECLARATION OF A STATE OF DISASTER EMERGENCY: COMMONWEALTH UTILITIES CORPORATION'S IMMINENT FAILURE AND THE NEED TO PROVIDE IMMEDIATE RELIABLE POWER, WATER, AND WASTEWATER SERVICES.

**AUTHORITY:** I, BENIGNO R. FITIAL, pursuant to the authority vested in me as Governor of the Commonwealth of the Northern Mariana Islands by Article III, § 10 of the Commonwealth Constitution and 3 CMC § 5121 of the Commonwealth Disaster Relief Act of 1979, do hereby declare a State of Disaster Emergency for the Commonwealth of the Northern Mariana Islands due to the imminent threat of the inability of the Commonwealth Utilities Corporation ("CUC") to provide critical power generation, water, and wastewater services to the CNMI and considering the harm such condition would pose to the Commonwealth of the Northern Mariana Islands.

**WHEREAS,** ON MAY 18, 2012, THROUGH EXECUTIVE ORDER 2012-05, I issued a Declaration of a State of Disaster Emergency regarding the Commonwealth Utilities Corporation's imminent failure and the need to provide immediate reliable power, water, and wastewater services.

**WHEREAS,** CUC IS THE SOLE ELECTRICITY SUPPLIER to the Government of the CNMI, including all public safety activities, the schools, and the only hospital. CUC also supplies electricity to most of the CNMI's businesses and homes. While some businesses and agencies own backup generators, they are not generally organized to use the backups as permanent power sources and the diesel oil purchased to run these generators is substantially more expensive than that used for CUC power.

**WHEREAS,** WITHOUT CUC ELECTRICITY:

- (1) Most CNMI economic activity would come to a halt, much refrigeration and air conditioning would end, and the airports and ports would be forced to rely on emergency generation on the limited, expensive oil supply for it;
- (2) The CNMI's health and safety would immediately be at risk because traffic signals and street lighting would cease to function; emergency, fire, police facilities and their communications systems, and the hospital and island clinics would have to rely on limited oil supplies for emergency generation and then cease functioning; and much refrigeration of food and medicines would end, as would air conditioning for the elderly and sick;

- (3) The public schools and the Northern Marianas College would close. Other educational institutions would close as their backup oil supplies for emergency generators were exhausted; and
- (4) Water and sewage treatment would soon end. One of CUC's largest electric customers is the combined CUC Water and Wastewater Divisions. CUC is the sole supplier of electricity for these systems. CUC's water system relies on electricity to maintain the system pressure needed to prevent the backflow of pathogens, to chlorinate, and to pump, store, and distribute water supplies. CUC's wastewater system requires electricity to collect, pump, process, treat, and discharge sewage. The lack of electricity could result in sewage overflows, contaminating land and water.

**WHEREAS, THERE EXISTS A FINANCIAL CRISIS:**

- (1) CUC is owed approximately \$14 million by the public school system ("PSS") and the Commonwealth Healthcare Corporation ("CHC") and is owed over millions more by residential users;
- (2) There is conflict and potential conflict between CUC and government agencies over money owed and other issues. Such conflict drains resources especially if it results in the parties going to court. Interagency cooperation and oversight is vital to ensure that government agencies can continue its operations without draining CUC's remaining resources.
- (3) The people of the Commonwealth and its government are going through severe economically distressed times. This has put a severe strain on the government to meet its obligation.
- (4) CUC often only has days' worth of purchased diesel fuel to power its system because it lacks the funds to buy oil from its sole, cash-only supplier. CUC has no credit or other means to buy fuel than the revenue it collects from its customers;
- (5) A unified government approach is necessary to reconcile and resolve the fiscal crises of the government with the fiscal crises of CUC. This can only be achieved through an emergency declaration.

**WHEREAS, THERE EXISTS A TECHNICAL WORKER CRISIS:**

- (1) CUC faces a manpower crisis. Skilled workers and a responsive support system are key to the success of the operation, particularly for preventative maintenance. At present, CNMI law at 3 CMC §§ 4531 and 4532 prohibits CUC from hiring any more non-U.S. technical workers;
- (2) CUC bears a substantial obligation to deliver highly technical work on time to the satisfaction of the U.S. District Court and the U.S. Environmental

Protection Agency ("EPA"), pursuant to two sets of consent, or "Stipulated Orders." Failure to meet the requirements of the federal court orders could subject CUC and the CNMI to substantial fines and charges and, in the extreme, to a federal takeover of their finances;

- (3) CUC requires employees with specialized training. There are many non-U.S. citizens whom CUC needs to retain on technical and professional contracts. Without these positions filled, CUC operations would be severely compromised;
- (4) The legislature, through P.L. 17-1 (Mar. 22, 2010), has limited CUC's ability to hire technical staff, eliminating prior statutory permission to hire up to nineteen foreign workers and reinstating a moratorium on the government's hiring of foreign nationals, even if needed for highly technical positions for which no local or mainland citizens are available. The CUC Act, as subsequently reenacted by P.L. 16-17 (Oct. 1, 2008), provides that CUC shall hire such persons as are necessary for operations, *except as otherwise limited by other law.* 4 CMC § 8123(h);
- (5) There are not enough U.S. citizen or U.S. resident technical specialists at CUC to perform the power generation work, particularly specialists with experience in the type of engines that CUC uses. U.S. citizens with the necessary skills are not readily available in the CNMI and it is costly to recruit from the United States. CUC believes that the vast majority of skill sets, considering its cash restrictions, must come from non-U.S. personnel. CUC has tried to hire diesel mechanics in the CNMI, but has been unsuccessful in finding enough qualified candidates;
- (6) The impact of an inadequate workforce is substantial. First, there would be a direct deterioration of service to existing customers. There would be brownouts or area blackouts with the above-mentioned loss of service. Second, the power plants would again degrade, producing more of these outages. Third, if CUC fails to meet federal court deadlines for the Stipulated Orders, the Court could appoint a federal receiver and its consulting team, with all expenses charged to CUC customers.
- (7) CUC's renewal of contracts and hiring of foreign expert workers is necessary to sustain the integrity of CUC's systems. Thus, continued relief from the legislative prohibition on hiring foreign national workers is necessary to ensure the delivery of uninterrupted power services to the people of the Commonwealth.

**WHEREAS, A BOARD OF DIRECTORS DOES NOT EXIST:**

- (1) There is no Board of Directors. CUC has functioned without a Board because it has had to. While CUC's enabling act, reenacted as P.L. 16-17, as amended, authorizes a Board, there is no CUC Board yet because, while the staff of the Governor's Office have diligently tried to find Board volunteers who meet the

complex statutory qualifications, they have been unable to do so. Nonetheless, CUC must continue to function.

- (2) Without a Board in place, I still must provide for the continued operations of CUC. The Director needs to be able to negotiate with federal and other agencies.

**WHEREAS, BY THIS RENEWAL OF THE DISASTER EMERGENCY DECLARATION,** I intend to enable CUC to continue to provide necessary services to the people of the Commonwealth. This Declaration is necessary to protect the health and safety of our children, our senior citizens, businesses, and all other CNMI residents and visitors.

**NOW, THEREFORE,** I hereby invoke my authority under Article III, § 10 of the Commonwealth Constitution and 3 CMC § 5121(f) to take all necessary measures to address the imminent threats facing the Commonwealth of the Northern Mariana Islands including, but not limited to, the authority to:

1. Suspend all statutory or regulatory provisions as required; and
2. The reprogramming of funds necessary to meet this emergency.

It is hereby **ORDERED** that:

This Declaration of a State of Disaster shall take effect immediately and all memoranda, directives, and other measures taken in accordance with this Declaration shall remain in effect for thirty (30) days from the date of this Executive Order unless I, prior to the end of the thirty (30)-day period, notify the presiding officers of the Legislature that the state of emergency has been lifted or has been extended for an additional period of thirty (30) days. 1 CMC § 7403(a); 3 CMC § 5121(c).

Under authority of this Declaration and with the goal of mitigating or ameliorating the above described crises, I immediately direct the following:

**DIRECTIVE 1:** I hereby assume all of the executive power of the CUC which shall include any and all powers vested in the board of Directors and the Executive Director. This executive authority shall be exercised either by me or by my designated Executive Director.

**DIRECTIVE 2:** All provisions in Title 4 of the Commonwealth Code and P.L. 17-34 that concern PUC regulation of CUC and its actions are suspended under this Order.

**DIRECTIVE 3:** Section 4531 of Title 3 of the Commonwealth Code is hereby suspended as to CUC as follows:

The following strike-out formatted language of the quoted provisions of the following statute regulating government employment is, as indicated, suspended immediately:

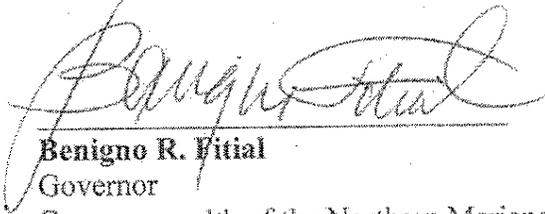
**3 CMC §4531. Restrictions on Government Employment**

~~Employment by departments, agencies, and all other instrumentalities of the Commonwealth government is limited to citizens and permanent residents; provided that the government may enter into contracts with foreign nationals for services performed outside of the Commonwealth.~~

As a result of my suspension of 3 CMC § 4531, CUC shall have the full power and authority to retain staff which may include employees other than citizens and permanent residents of the United States.

The above described Directives are in no way meant as the limits of my actions or authority under this Emergency Declaration. Accordingly, I reserve the right under this Emergency Declaration to issue any and all directives necessary to prevent, mitigate or ameliorate the adverse effects of the emergency.

SIGNED AND PROMULGATED on this 18<sup>TH</sup> day of January 2013.



**Benigno R. Fitial**

Governor

Commonwealth of the Northern Mariana Islands



# Commonwealth of the Northern Mariana Islands Office of the Attorney General

2nd Floor Hon. Juan A. Sablan Memorial Bldg.  
Caller Box 10007, Capital Hill  
Saipan, MP 96950-8907

## Attorney General Opinion 2012-04

**Civil Division**  
Tel: (670) 664-2341  
Fax: (670) 664-2349

**Criminal Division**  
Tel: (670) 664-2366/67168  
Fax: (670) 234-7016

**Passport Office**  
Tel: (670) 664-4761  
Fax: (670) 664-4764

**Domestic Violence  
Intervention Center**  
Tel: (670) 664-4883/4  
Fax: (670) 234-4589

### I. ISSUES PRESENTED

1. Did the Governor possess the authority, pursuant to Executive Order No. 2012-07, to enter into the Power Purchase Agreement ("PPA") with Saipan Development, LLC?
2. Is the Governor liable for signing the PPA when the Attorney General had certified that the PPA was proper as to form and capacity?

### II. SHORT ANSWER

1. No. Executive Order No. 2012-07 did not vest the Governor with the authority to enter into the disputed PPA with Saipan Development, LLC. The PPA will not address any of the specified grounds for finding that CUC was faced with an immediate disaster. Furthermore, suspending CUC's procurement regulations was not necessary for CUC to enter a PPA that will neither take effect nor show results for a number of years.
2. No. The Governor is not liable for any cause of action related to his signing of the PPA because he reasonably relied on the Attorney General's certification. The Governor should be able to reasonably rely on the opinion of the highest legal officer of the Commonwealth.

### III. ANALYSIS

#### A. Emergency Powers in Commonwealth Law

There are two sources of emergency power in Commonwealth law: Commonwealth Constitution Article III, § 10 and the Disaster Relief Act (3 CMC §§ 5101-5143). Article III, § 10 states, in full: "The governor may declare a state of emergency in the case of invasion, civil disturbance, natural disaster, or other calamity as provided by law, and may mobilize available resources to respond to that emergency." NMI Const. art. III, § 10. Importantly, this constitutional language differs from the original constitution, having been amended by the Second Constitutional Convention to provide that any "other calamity" must be "provided by law." See SECOND NORTHERN MARIANAS CONSTITUTIONAL CONVENTION, COMMITTEE ON GOVERNMENTAL INSTITUTIONS, COMMITTEE REPORT NO. 44. The "other calamity" language was added to "permit the legislature to extend the conditions under which the Governor could use his emergency powers" in order to give the Governor the flexibility to address emergencies that fell outside the scope of "invasion, civil disturbance [or] national disaster." *Id.* The

Second Constitutional Convention found that the language “as provided by law” was necessary because “[w]ith skillful use of language, almost anything can be considered a ‘calamity’ or a potential calamity justifying use of emergency power.” *Id.* The amendment therefore balanced the Governor’s need for flexibility with the legislature’s interest in ensuring that the Governor’s emergency powers were not abused.

The Disaster Relief Act (the “Act”) was enacted to, among other things, specify the Governor’s emergency powers.<sup>1</sup> See 3 CMC § 5112(b). Pursuant to the Act, the Governor is authorized to issue executive orders which have “the force and effect of law when promulgated in accordance with the procedures set forth in the [Disaster Relief Act].” 3 CMC § 5121(b). The Governor is authorized to declare a disaster emergency by executive order “if the Governor finds a disaster has occurred or that occurrence or the threat thereof is imminent.” 3 CMC § 5121(c). The Act defines “disaster” as the:

occurrence or imminent threat of a widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause . . . occurring in any part of the Commonwealth which, in the determination of the Governor is of sufficient severity and magnitude to warrant assistance by the Commonwealth to supplement the efforts and available resources of the political subdivisions thereof and relief organizations in alleviating the damage, loss, hardship or suffering caused thereby.

3 CMC § 5114(a).

Once the Governor declares an emergency, he has certain specific powers to allow him to address the disaster. 3 CMC § 5121(f)(1)–(9). Executive Order No. 2012-07 relied on three specific provisions:

- (f) In addition to any other powers conferred upon the Governor by law, the Governor may, during a state of disaster emergency:
- (1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of the Commonwealth’s business, or the orders, rules, or regulations of any Commonwealth activity or agency, if strict compliance with the provision of any such statute, order, rule or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;
  - (2) Utilize all available resources of the Commonwealth as reasonably necessary to cope with the disaster emergency of the Commonwealth;
  - (3) Transfer the direction, personnel, or functions of the Commonwealth departments and agencies or units thereof for the purpose of performing or facilitating emergency services;

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<sup>1</sup> Importantly, the Disaster Relief Act was enacted by the First Legislature in 1979, before Article III, § 10 was amended. Therefore, the Disaster Relief Act was *not* intended to provide for the “other calamity” set forth in the current version of Article III, § 10.

3 CMC § 5121(f)(1)–(3). In this case, the Governor’s authority to enter into the PPA would necessarily be based in § 5121(f)(1), as it would require suspending CUC’s procurement regulations.

B. Executive Order No. 2012-07

Executive Order No. 2012-07 (the “Order”) identified an “imminent threat of the inability of the Commonwealth Utilities Corporation to provide critical power generation, water, and wastewater services to the CNMI.” Exec. Order No. 2012-07, at 1 (July 16, 2012). The Order found that the imminent threat had four primary sources: (1) CUC’s cash shortage and resulting inability to purchase fuel; (2) the need for renewable energy projects; (3) the need for CUC to retain “specialized technical employees who are not U.S. citizens”; and (4) the lack of a CUC Board of Directors. *Id.* at 2. The first three causes of the immediate threat clearly do not relate the PPA. The sole source of authority for entering the PPA would therefore need to result from the lack of a Board of Directors.

IV. APPLICATION

A. Governor’s Authority

Executive Order No. 2012-07 and Commonwealth law did not authorize the Governor to enter into the PPA because the sources and circumstances of the imminent disaster did not justify suspending CUC’s procurement regulations for the purposes of entering into the PPA. The power to suspend laws or regulations to address a disaster is extremely narrow. *See* 3 CMC § 5121(f)(1). Stated in the concise form relevant here, § 5121(f)(1) provides that the Governor may, during a state of disaster emergency: “Suspend the . . . regulations of any Commonwealth . . . agency, if strict compliance with the provision of any such . . . regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency.” Therefore, to enter into the PPA in the manner it was so entered, the Governor would need to show that (1) entering into the PPA was necessary to cope with the imminent disaster, and (2) that complying with CUC’s procurement regulations would “prevent, hinder, or delay” this necessary action.

There is a strong argument that the PPA is not necessary to cope with the disaster. As explained above, Executive Order No. 2012-07 identified “imminent threat of the inability of the Commonwealth Utilities Corporation to provide critical power generation, water, and wastewater services to the CNMI” and the harm that would cause the public. Executive Order No. 2012-07 further identified four sources of the disaster: (1) the cash crisis, (2) the need for renewable energy projects, (3) the need to employ noncitizen technical workers, and (4) the lack of a board of directors. The PPA’s applicability to each of these sources will be addressed in turn.

First, the PPA agreement is not necessary to remedy the cash crisis. The cash crisis is very immediate. Courts outside the Commonwealth have established that an “emergency” is not necessarily of short duration, but rather that “[t]here is an emergency so long as the situation that gave rise to the remedial legislation remains unabated.” *Territory v. Akase*, 43 Haw. 84, 1958 WL 9951 (Haw. 1958). Nevertheless, the cash crisis is rather short term, and will last only as long as CUC is in dire financial straits.

Furthermore, even if the PPA is in the Commonwealth's best interest (which is not at issue here), the PPA has not been shown to generate the kind of income needed to address the cash crisis. Furthermore, the PPA will not show results until a few years' time. Second, the PPA will not provide renewable energy, as the PPA is for a diesel plant, and diesel is not a renewable resource. Third, the PPA will not provide technical workers. Fourth and finally, the PPA will not solve the lack of a Board of Directors. Executive Order No. 2012-07 empowers the Governor to exercise the Board's functions or designate an agent to exercise those functions. However, the Governor or his agent are still bound by the laws and regulations applicable to CUC and its Board of Directors. In other words, the Governor or his agent are still bound by CUC's procurement regulations.

There is also a strong argument that CUC's procurement regulations will not "prevent, hinder, or delay" the PPA in the sense intended by the Disaster Relief Act. Following CUC's procurement regulations will take time, but as illustrated above, the PPA will not solve any of the sources of the emergency. Furthermore, since the PPA will not take effect and bear fruit for a number of years, it is not a pressing need requiring the suspension of CUC's procurement regulations. There is ample time to follow the procurement process.

#### B. Effect of Attorney General's Certification

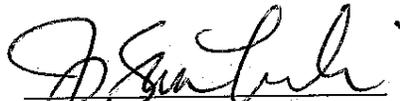
The question remains as to the effect of the Attorney General's certification that the PPA was proper as to form and capacity. The Attorney General did indeed certify that the PPA was proper as to form and capacity, and Governor Fitial signed the PPA in reliance of the Attorney General's certification. Simply stated, the Attorney General was mistaken.

The Governor is not liable for actions taken in good faith reliance on the Attorney General's representations. The Commonwealth Supreme Court has found that a Governor's actions are reasonable, and the Governor is entitled to qualified immunity, "insofar as he followed the advice of the Attorney General, without regard to whether the Attorney General was ultimately correct." *Rayphand v. Tenorio*, 2003 MP 12 ¶ 80. Other State Supreme Courts agree with this analysis. The Nevada Supreme Court has stated that "where government officials are entitled to rely on opinions of the state's Attorney General, and do rely in good faith, they are not responsible in damages to the governmental body they serve if the Attorney General is mistaken." *Cannon v. Taylor*, 493 P.2d 1313, 1315 (Nev. 1972). The Washington Supreme Court has held that "State officials who take official action in accordance with the advice of the Attorney General are protected from liability in connection therewith." *Washington v. Martin*, 392 P.2d 435, 441 (Wash. 1964). Similarly, the Oregon Supreme Court has held that "[w]hile the secretary of state was not bound to follow [the Attorney General's] opinion, he had the right to do so and is protected while acting in good faith even though it is assumed the same was erroneous." *Oregon v. Mott*, 97 P.2d 950, 954 (Or. 1940). The Attorney General has a duty to provide competent legal advice to the Governor and Executive Branch. NMI Const. art. III, § 11. The Governor, as a layman, cannot be faulted for the Attorney General's mistakes of law.

#### V. CONCLUSION

Executive Order No. 2012-07 and Disaster Relief Act did not empower the Governor to suspend CUC's procurement regulations to enter the PPA. Executive Order No. 2012-07 certainly empowered the Governor or his designated agent to exercise the CUC Board of Directors' powers. However, although the Governor has the power to exercise the Board's powers and duties, the Governor is still obligated to follow CUC's procurement regulations to the same extent as the Board would be so obligated. Entering the PPA is not necessary to address any of the specified reasons for the CUC emergency. Furthermore, suspending CUC's procurement regulations is not necessary to enter the PPA, as there is ample time to enter the PPA or a similar agreement through the procurement process.

Although the Governor lacked the authority to enter the PPA, the Governor is not liable for any cause of action arising out of the PPA because the Governor reasonably relied on the Attorney General's certification that the PPA was proper as to form and capacity. The Governor should be able to rely on the advice of the Commonwealth's highest legal officer, and cannot be faulted when the Attorney General is mistaken.

  
JOEY P. SAN NICOLAS  
Attorney General

12/31/12  
DATE

**Commonwealth of the Northern Mariana Islands  
Office of the Governor, Division of Environmental Quality**

Frank M. Rabaulman, Director  
Gualo Rai Center, Chalan Pale Arnold (Middle Road, across from "Subway")  
P O Box 501204 Saipan MP 96950  
Tel 670.664.8500; Fax: 670.664.8540  
storagetankspesticides@deq.gov.mp

**PUBLIC NOTICE OF PROPOSED REGULATIONS**

**INTENDED ACTION TO ADOPT THESE PROPOSED REGULATIONS:** The Commonwealth of the Northern Mariana Islands, Office of the Governor, Division of Environmental Quality intends to adopt as permanent regulations the attached Proposed Pesticide Management Regulations and to repeal the current Pesticide Regulations, codified at NMIAC Chapter 65-70, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Regulations would become effective 10 days after compliance with 1 CMC §§ 9102 and 9104 (a). (1 CMC § 9105(b))

**AUTHORITY:** The Director of DEQ is authorized by the Legislature to adopt rules and regulations for the administration and enforcement of the Commonwealth Environmental Protection Act. 2 CMC § 3122.

**THE TERMS AND SUBSTANCE:** The proposed regulations are designed to ensure the proper management of pesticide use, sale and other matters to meet federal standards and practices applicable to the CNMI, and further define and expand the prohibited acts and exceptions in accordance with applicable federal law, Federal Insecticide Fungicide, Rodenticide Act (FIFRA). The proposed regulations, once adopted, shall repeal the existing Pesticide Regulations, which were adopted in 1994.

**THE SUBJECTS AND ISSUES INVOLVED:**

1. The regulations reduce the fee associated with obtaining pesticide applicator certification and clarify the requirements relating to use of pesticides, including requirements for storage and transportation; and
2. The regulations redefine conditions under which DEQ must be notified regarding the importation of pesticide and pesticide devices. Notice shall only be required for 1) all restricted use pesticides coming into the CNMI; (2) any pesticide or pesticide device manufactured in or shipped by or through a foreign country; (3) any termiticide, including those used for crack, crevice, and spot treatment; (4) any pesticide used to control pests on fruit and/or vegetable crops or other agricultural products; and (5) pesticides used for fumigation, hospital grade disinfection and commercial purposes. Previously, notice to DEQ was required for all pesticides imported into the CNMI.
3. A lengthier explanation of the changes to pesticide regulation proposed is contained in the summary attached hereto.

DIRECTIONS FOR FILING AND PUBLICATION: These Proposed Regulations shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district, both in English and in the principal vernacular. (1 CMC § 9104(a)(1))

TO PROVIDE COMMENTS: Send or deliver your comments to Reina C. Camacho, Pesticide & Storage Tank Branch Manager, *Re: Pesticide Management Regulations*, at the above address or to the above fax number. Comments are due within 30 days from the date of publication of this notice. Please submit your data, views or arguments. (1 CMC § 9104(a)(2))

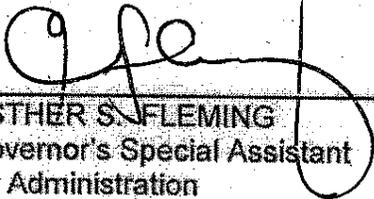
These proposed regulations were approved by the Director on December 04, 2012.

Submitted by:

  
Frank M. Rabauliman  
Director, CNMI Division of  
Environmental Quality

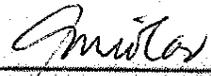
12-04-12  
Date

Received by:

  
ESTHER S. FLEMING  
Governor's Special Assistant  
for Administration

01/24/13  
Date

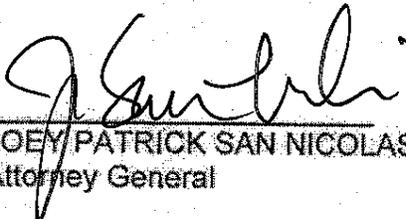
Filed and  
Recorded by:

  
ESTHER M. SAN NICOLAS  
Commonwealth Register

01-25-2013  
Date

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published, 1 CMC § 2153(f) (publication of rules and regulations).

Dated the 29<sup>th</sup> January, 2013  
day of December      2012.

  
JOEY PATRICK SAN NICOLAS  
Attorney General

## **TABLE OF CONTENTS**

**Part 1 General Provisions**

**Part 2 Purpose**

**Part 3 Definitions**

**Part 4 Administration of the CNMI Pesticide Regulations**

**Part 5 Unlawful Acts**

5.1 – General

5.2 – Exemptions

**Part 6 Importation**

6.1 – Shipments Requiring Advance Notice

6.2 – Shipments Arriving Without Notice

6.3 – Inspection

6.4 – Detained, Denied, and Impounded Shipments

6.5 – Fees

**Part 7 Use of Pesticides**

7.1 – Termiticide Treatment Permit

7.2 – Aerial Pesticide Application

7.3 – Storage of Pesticides

7.4 – Transportation

7.5 – Disposal

7.6 – Recordkeeping

7.7 – Worker Protection Standards

**Part 8 Training and Certification**

8.1 – Training

8.2 – Required Certification

8.3 – Categories of Commercial Applicators, Private Applicators and Licensed Dealers

8.4 – Standards of Competency

8.5 – Application Forms, Duration and Renewals

8.6 – Standards for Supervisory Non-Certified Applicators

8.7 – Reciprocity with Other Jurisdictions and Temporary Certification

8.8 – Denial, Suspension or Revocation, and Appeal

8.9 – Fees

**Part 9 – List of Banned and Restricted Pesticides and Notice of Change in Status**

**Part 10 – Enforcement and Penalties**

**Part 11 – Application of Laws**

**Part 12 – Severability**

# **Proposed Pesticide Management Regulations** 16 November 2012

## **Part 1 GENERAL PROVISIONS**

Authority and Scope. These regulations have been promulgated by the Division of Environmental Quality in accordance 2 CMC §§ 3101 to 3134 (*Commonwealth Environmental Protection Act*) and 2 CMC §§ 3511 to 3521 (*Solid Waste Management Act*). These regulations shall have the force and effect of law and shall be binding on all persons and other legal entities subject to the jurisdiction of the Commonwealth of the Northern Mariana Islands.

## **Part 2 PURPOSE**

The purpose of these regulations is to establish a system of control over the importation, distribution, sale, use storage and disposal of pesticides by persons within the Commonwealth of the Northern Mariana Islands for the protection of public health and the prevention of environmental contamination.

## **PART 3 DEFINITIONS**

- 3.1 "Active Ingredient" means
- 3.1.1 in the case of a pesticide other than a plant regulator, defoliant or desiccant; an ingredient which will prevent, destroy, mitigate any pest.
  - 3.1.2 in the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the product thereof.
  - 3.1.3 in the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant.
  - 3.1.4 in the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.
- 3.2 "Adulterated" means any pesticide if its strength or purity falls below the professed standard of quality as expressed on the labeling under which it is sold, or if any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has been wholly or in part abstracted.
- 3.3 "Agricultural Establishment" means any operation engaged in the production and maintenance of agricultural plants.
- 3.4 "Banned Pesticide" means any pesticide that has been banned by the Division of Environmental Quality for importation, distribution, sale and use or which is prohibited for distribution or sale by the U.S. Environmental Protection Agency.
- 3.5 "Banned Use" means any use which is prohibited by the Division of the Environmental Quality, any use which is suspended or canceled by the U.S. EPA.
- 3.6 "Core Training" means the basic pesticide safety and education training required for certification for commercial and private applicators; training shall include but is not limited to labeling, safety factors, environmental consequences, pest identification and characteristics, pesticide types, formulations and dilutions, equipment maintenance and calibration, application techniques, pesticide laws and regulations, and other relevant information as deemed necessary, including but not limited to worker protection standards, record keeping, new developments and other pertinent matters.
- 3.7 "Certified Pesticide Applicator" means any individual who is certified by the Director to use general use or restricted use pesticides under these regulations.
- 3.8 "Commercial Applicator" means any applicator that applies pesticides for commercial purposes.

**Proposed Pesticide Management Regulations** 16 November 2012

- 3.9 "Commercial Purposes" means the use of pesticides (1) by persons in the business of providing pest control services or contracting to provide pest control plans or providing pest control services for hire, including, but not limited to, the extermination of ants, termites, rodents, or plants and (2) by persons using pesticides in the maintenance of exterior resort grounds, golf courses, green houses or other agricultural establishments.
- 3.10 "Compensation" means pay or wages, payment through services or goods, or barter of services or goods.
- 3.11 "DEQ" means the Division of Environmental Quality unless otherwise specified.
- 3.12 "Device" means any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, virus, or other microorganism on or in living man or other living animals); but not including equipment used for the application of pesticides when sold separately there from.
- 3.13 "Director" means the Director of the Division of Environmental Quality unless otherwise specified.
- 3.14 "Employer" means for the purposes of the workers protection program a person who
- 3.14.1 employs or contracts for the services of workers (including themselves and members of their family) for any type of compensation to perform tasks related to the production of agricultural plants, maintenance of resorts, or for commercial pest control (e.g. rodent and termite extermination); or
- 3.14.2 owns or operates an agricultural, resort, or commercial pest control facility.
- 3.15 "EPA" or "USEPA" means the United States Environmental Protection Agency.
- 3.16 "FIFRA" means the US Federal Insecticide, Fungicide, and Rodenticide Act, codified at 7 USC §§ 136 to 136y.
- 3.17 "Fumigant" means any pesticide that is a vapor or gas or forms a product that is a vapor or gas on application and whose method of pesticidal action is through the gaseous state.
- 3.18 "Handler" or "Pesticides Handler" means any person, including a self-employed person
- 3.18.1 Who is employed for any type of compensation by an agricultural establishment or commercial pesticide handling establishment, or commercial resort and who is
- A. Mixing, loading, transferring, or applying pesticides;
  - B. Disposing of pesticides or pesticide containers;
  - C. Handling opened containers of pesticides;
  - D. Acting as a flagger;
  - E. Cleaning, adjusting, handling, or repairing the parts of mixing, loading, or application equipment that may contain pesticide residues;
  - F. Assisting with the application of pesticides;
  - G. Entering a greenhouse or other enclosed area after the application and before the inhalation exposure level listed in the labeling has been reached or one of the ventilation criteria or in the labeling has been met to operate ventilation equipment, to adjust or remove coverings used in fumigation or to monitoring air levels;
  - H. Entering a treated area outdoors after application of any soil fumigant to adjust or remove soil coverings such as tarpaulins; or
  - I. Performing tasks as a crop advisor during any pesticide application, before any inhalation exposure level listed in the labeling has been reached or one of the

# *Proposed Pesticide Management Regulations* 16 November 2012

ventilation criteria or in the labeling has been met and during any restricted-entry interval.

- 3.18.2 The term does not include any person who is only handling pesticide containers that have been emptied or cleaned according to pesticide product labeling instructions, or in the absence of such instructions, have been subjected to triple-rinsing or its equivalent.
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- 3.19 "Label" means the written, printed or graphic matter on, or attached, to, the pesticide or device or any of its containers or wrappers.
- 3.20 "Labeling" means all labels and all other written, printed, or graphic matter accompanying the pesticides, or to which reference is made on the label or in literature accompanying the pesticide, except to current official publications of the U.S. Environmental Protection Agency, the United States Departments of Agriculture and Interior, or the U.S. Department of Health and Human Services.
- 3.21 "Licensed Dealer" means any person who is licensed by the Director to sell or distribute restricted use pesticides.
- 3.22 "MSDS" means Material Safety Data Sheets as required under the Occupational Safety and Health Act of 1970, 29 USC § 651 et seq., as amended and its implementing regulations.
- 3.23 "Misbranded" means any pesticide if
- 3.23.1 The label does not conform to the US EPA requirements for labeling or packaging.
- 3.23.2 The labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular.
- 3.23.3 The label is not in English, or lacks any of the following information:
- A. Name of a Pesticide in bold letters;
  - B. Restricted use designation (if applicable);
  - C. Description of which pests are controlled;
  - D. Chemical name of Pesticide;
  - E. Active ingredients;
  - F. Appropriate signal words
    - i. Caution;
    - ii. Warning; or
    - iii. Danger Poison;
  - G. Directions for proper use; and
  - H. Any additional DEQ labeling requirement not conspicuously displayed on each container.
- 3.24 "Owner" means any person who has a present possessory interest (e.g. fee, leasehold, rental, or other) in land or a business, except where the owner has relinquished control over and transferred full authority to another to manage the use of the land or business.
- 3.25 "Person" means an individual, corporation, partnership, association, joint venture, commercial entity, government, political subdivision, commission or interstate body.
- 3.26 "Personal protective equipment" or "PPE" means apparel and devices worn to protect the body from contact with pesticides or pesticide residues, including: coveralls, chemical-resistant suits; chemical-resistant gloves; chemical-resistant footwear; chemical-resistant aprons; chemical-resistant headgear; protective eye wear; and respirators. Items of ordinary clothing, including long-sleeved shirts, short-sleeved shirts, long pants, short pants, shoes, socks, and other items of

**Proposed Pesticide Management Regulations** 16 November 2012

work clothing, are not considered personal protective equipment for purposes of this section and are not subject to the requirements of this section, although pesticide labeling may require that such work clothing be worn during some activities.

- 3.27 "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest as defined pursuant to FIFRA. A product is not a pesticide if it is a product intended for use only for the control of fungi, bacteria, viruses, other microorganisms or invertebrate parasites or nematodes in or on living humans or animals, and labeled accordingly; and products that are intended to exclude pests only by providing a physical barrier against pest access.
- 3.28 "Private Applicator" means a certified applicator who uses any pesticide which is classified as restricted use for purposes of producing any agricultural commodity on property owned or rented by him or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.
- 3.29 "Restricted Use Pesticide" or "RUP" means a pesticide, one or more uses of which have been restricted by USEPA under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, or by DEQ under these regulations, or which bears on its label the phrase 'restricted use pesticide'.
- 3.30 "Restricted-Entry Interval" means the time after the end of a pesticide application during which entry to the treated area is restricted.
- 3.31 "Use" means
- 3.31.1 All activities related to the instructions and precautions contained on the label, including but not limited to, directions for use, handling and disposal, precautionary statements, worker protection, protective equipment, and storage and transportation requirements:
- 3.31.2 Pre-application activities, including, but not limited to,
- A. Arranging for the application of the pesticide;
  - B. Mixing and loading the pesticide; and
  - C. Making necessary preparations for the application of the pesticide, including responsibilities related to worker notification, training of handlers, decontamination, use and care of personal protective equipment, emergency information, and heat stress management:
- 3.31.3 Application of the pesticide;
- 3.31.4 Post-application activities necessary to reduce the risks of illness and injury resulting from handlers' and workers' occupational exposures to pesticide residues during the restricted-entry interval plus 30 days. These activities include, but are not limited to, responsibilities related to worker training, notification, and decontamination; or
- 3.31.5 Other pesticide-related activities, including, but not limited to, providing emergency assistance, transporting or storing pesticides and disposing of excess pesticides, spray mix, equipment wash waters, pesticide containers, and other pesticide-containing materials.
- 3.32 "Worker" means anyone who: (1) is employed (including self employed) for any type of compensation and (2) is doing tasks, such as harvesting, weeding, or watering, relating to the production of agricultural plants on a farm, forest, nursery, or greenhouse.
- 3.33 "40 CFR" shall mean Title 40 of the Code of Federal Regulations revised as of July 1, 2011.

**Part 4 ADMINISTRATION OF THE CNMI PESTICIDE REGULATIONS**

The Director is authorized to take such action as may be necessary in the effective administration and enforcement of these regulations.

**Part 5 UNLAWFUL ACTS**

5.1 General

- 5.1.1 Except as otherwise exempted in Part 5.2 it shall be unlawful for any person within the CNMI to use, to import, or to sell, distribute, deliver or offer to deliver to any person
- A. any pesticide that is adulterated or misbranded, including, but not limited to, pesticides that are not labeled in English;
  - B. any pesticide that is banned by DEQ or, cancelled, suspended, not registered by EPA;
  - C. any pesticide or device that is misbranded or not produced in an EPA registered establishment; or
  - D. any pesticide that DEQ determines to pose an unreasonable risk to human health and the environment.
- 5.1.2 It shall be unlawful for any person
- A. to detach, alter, deface, or destroy, in whole or in part, any labeling, unless such action is taken with the written approval of the Director to correct an improper label or labeling;
  - B. to refuse to keep any records required pursuant to these regulations; or to refuse to allow the inspection of any records; or to refuse to allow the Director or the Director's designee to observe pesticide use, storage or disposal; or to refuse to allow the Director or the Director's designee to investigate potential pesticide violations or to take samples of pesticides and pesticide residues as authorized by law for any purpose consistent with these regulations;
  - C. to use any pesticide in a manner inconsistent with its labeling;
  - D. to violate any order issued pursuant to these regulations or the Acts;
  - E. to violate any ban or restriction regarding the use, importation or distribution or sale of pesticides or devices issued by DEQ;
  - F. to knowingly falsify all or part of any application for certification, license, importation or use, or any record required to be maintained under these regulations;
  - G. to sell or distribute restricted use pesticides unless licensed by DEQ to do so;
  - H. to sell or distribute any restricted use pesticides to any person other than a licensed dealer or an applicator certified by DEQ;
  - I. to use, store, transport, mix or discard any pesticide or the containers of such pesticide in such a way as to pose a hazard to human health or the environment;
  - J. to use or apply restricted use pesticides unless certified by DEQ or under the direct supervision of an applicator certified by DEQ;
  - K. to use or apply pesticides for commercial purposes unless under the supervision of a certified applicator;
  - L. to reveal any confidential information acquired in the administration of these regulations relative to formulas of products to persons other than proper officers or employees of the DEQ or U.S. Government, or to courts in response to subpoena, or to physicians, or, in emergencies, to pharmacists or other qualified persons for use in the preparation of antidotes or to use such confidential information for personal advantage;
  - M. to violate these regulations in any way including but not limited to violating requirements regarding storage, use, record keeping, and worker's protection whether set forth in these regulations, the label, a permit, an order or a certification; or,

N. to manufacture or otherwise produce pesticides, including re-packaging, refilling or relabeling, for sale or resale, in the CNMI.

5.1.3 When a permit application is required prior to application of a pesticide, application of a pesticide without a permit is a violation of these regulations. Applicants must follow all requirements in the permit.

## 5.2 Exemptions

5.2.1 The penalties provided for a violation of Part 5.1 shall not apply to

- A Any carrier lawfully shipping, transporting, or delivering for shipment any pesticide or device in violation solely from the carrier's reasonable failure to detect that an item shipped was an illegal pesticide or device. If such a carrier upon request of any officer or employee duly designated by DEQ shall permit such officer or employee to copy all of its records concerning such pesticide or device;
- B The use of a pesticide that is a blend that conforms to the standards in 40 CFR § 167.3 for custom blenders, where the person uses the pesticide on his own property;
- C Any public official while engaged in the performance of the official duties of the public official;
- D Any person using or possessing an experimental use permit from EPA pursuant to federal law and with concurrent approval from DEQ for the pesticide's use or possession;
- E Any person who ships a substance or mixture of substances being put through tests in which the purpose is solely to determine its value for pesticide purposes or to determine its toxicity or other properties and from which the user does not expect to receive any benefit in pest control from its use; or
- F Any person lawfully acting in compliance with an order from the Director to remove a pesticide from the CNMI.

5.2.2 Section 5.1.1.B does not apply to products not registered by EPA if: (a) distribution and sale without registration has been authorized by EPA by 40 CFR 152.20 (pesticides adequately regulated by another federal agency); 40 CFR 152.25 (pesticides of a character not requiring FIFRA registration); or 40 CFR 152.30(e), (f) and (g) (pesticides that may be transferred, sold, or distributed without registration) provided that such product is not banned by DEQ or (b) use of an unregistered pesticide if that pesticide has not been manufactured or produced in violation of Section 5.1.1.N, not been banned by DEQ, and not been transferred, distributed or sold in violation of FIFRA.

## Part 6 IMPORTATION

DEQ regulates the importation of pesticides in the Commonwealth. Importation of any banned or misbranded pesticide or pesticide device is a violation of these regulations under § 5.1.1. Importation of any unregistered pesticide, but not pesticide device, is a violation of these regulations.

Any banned, misbranded or unregistered pesticide, any pesticide device without an establishment number, or any pesticide shipment otherwise not in compliance with these pesticide regulations, may be detained, or denied entry to the extent permitted by law, by the DEQ Director or by Customs Officers, or Agricultural Quarantine Officers.

## 6.1 Shipments Requiring Advance Notice

DEQ regulates the importation of pesticides in the Commonwealth, specifically any restricted use pesticide from any country into the CNMI; any pesticide or pesticide device manufactured in or shipped by or through a foreign country; any termiticide, including those used for crack, crevice, and spot treatment; and all general use pesticides used to control pests on fruit and/or vegetable crops or other agricultural products.

### 6.1.1 Notice of Intent

- A. **Restricted Use Pesticide (RUP).** Any person desiring to import a Restricted Use Pesticide (RUP) regardless of origin or quantity must submit a notice of intent to the Director on a form provided for that purpose. The form must be accompanied with the Material Safety Data Sheet and a copy of the pesticides label. Upon approval of the RUP, the importer can make importation arrangements. For the purposes of this section, any pesticide that has had a particular use banned by DEQ, but which can be imported into the CNMI, shall require advance notice as set forth in this Part. Import of a banned pesticide wholly prohibited for import is also a violation of this section.
- B. **General Use Pesticides (GUP).**
  1. A person desiring to import a pesticide or pesticide device manufactured in or shipped from or through any country other than the United States or U.S. Territories into the CNMI shall submit a notice of intent to the Director on a form provided for that purpose. The form must be accompanied with the Material Safety Data Sheet and a copy of the pesticides label. Upon approval of the GUP, the importer can make importation arrangements.
  2. A person desiring to import a pesticide labeled for use for agricultural plants, hospital-grade disinfection, fumigation, or termite control, including crack, crevice and spot treatment in houses, apartment buildings, hotels, restaurants, schools, stores, warehouses and other industrial buildings, shall submit a notice of intent to the Director on a form provided for that purpose. Persons engaging in a commercial purpose as defined in § 3.9, such as resorts, farmers and exterminators, must also submit a notice of intent in order to import any pesticide used for a commercial purpose. The form must be accompanied with the Material Safety Data Sheet and a copy of the pesticides label. Upon approval of the GUP, the importer can make importation arrangements.

Each Notice of Intent to Import ("NOI") shall indicate how the importer intends to use the pesticide, so that DEQ can ensure that such use complies with the law, prior to arrival of the pesticide. The form must be accompanied with the Material Safety Data Sheet and a copy of the pesticides label. Upon approval of the NOI, the pesticide or device may be ordered or shipped. The Importer must submit to DEQ the label and MSDS for each pesticide or device imported for the first time in a calendar year. If the importer intends to import the same pesticide or device during the same calendar year, and has submitted all of the appropriate paperwork, the label and MSDS is not required to be submitted again in the same calendar year.

### 6.1.2 Notice of Arrival

Upon arrival of the pesticide or device specified in section 6.1.1, the Director shall be notified by the importer on a form provided by DEQ. The Notice of Arrival is not to be substituted for the Notice of Intent to import. No pesticide or device can be imported or released into the CNMI without DEQ's written approval on the Notice of Arrival. Approval of the Notice of Intent or Notice of Approval shall not be a defense against liability and shall not limit any action taken by DEQ for any violation of these regulations.

## **6.2 Shipments Arriving Without Notice**

When a shipment of a pesticide or device specified in section 6.1 arrives in the CNMI without either the Notice of Intent or the Notice of Arrival, the shipment shall be detained or denied entry into the CNMI. The Director shall then determine whether the pesticide should be admitted into the CNMI and provide instructions for disposition of the shipment.

## **6.3 Inspection**

### **6.3.1 Inspection**

Upon arrival of any shipment containing a pesticide or device, DEQ, or other agencies or their personnel as agreed by the Director, may inspect the pesticide or device.

### **6.3.2 Inspection of Shipments Requiring Notice**

Upon arrival of the shipment of a pesticide or device requiring notice under this section, DEQ, or other agencies or their personnel as agreed by the Director, may inspect the pesticide or device and shall compare the findings from examining the pesticide or device to entry papers for the shipment with the information provided by the consignee/importer on the notice to DEQ. If no discrepancies are noted and no violations are found, the shipment shall be released. However, if any discrepancies are noted or violations are found, the shipment may be detained until the Director resolves such discrepancies or determines that the pesticide or device must be denied entry, returned or destroyed in accordance with § 6.4.

## **6.4 Detained, Denied, and Impounded Shipments**

All expenses arising from detainment, denial, impoundment or disposing of a pesticide or device shipment that would have been averted by compliance with these regulations, including but not limited to the timely submission of the Notice of Intent or Notice of Arrival, shall be payable by the importer.

For any detained shipment, the consignee/importer shall have sixty (60) days from arrival in which to return or dispose of the pesticide or device in a manner approved of by the Director. If the importer/consignee fails to return or dispose of the pesticide or device within the 60 day period, the Director may sell, dispose or destroy the pesticide or device in a manner consistent with law and all expenses for storage, cartage, labor, shipping and disposal costs shall be payable by the consignee/importer and in default of such payment shall constitute a lien against any further items of any nature imported by the consignee/importer.

If the consignee/importer does not satisfy any and all liens against such imports within 60 days after notification in writing of the amount of said liens, the Director shall instruct the Attorney General to enter into such action as may be necessary to effect transfer of ownership of the imports to the CNMI Government for satisfaction of said liens. This section does not preclude recovery of any additional costs that may be expended by the Government.

## **6.6 Fees**

- 6.6.1 Persons desiring to import a Restricted Use Pesticide shall pay a non-refundable fee of fifty dollars (\$50) for each shipment, accompanying the Notice of Arrival (NOA) form.
- 6.6.2 Persons desiring to import a General Use Pesticide shall pay a non-refundable fee of fifteen dollars (\$15) for each shipment, accompanying the Notice of Arrival (NOA) form.

**Part 7 USE OF PESTICIDES**

DEQ may, at its discretion, based on factors such as acreage, types of pesticides, volume of pesticides, location, and geological features, including proximity to surface water and drinking water, require the submission of an integrated pest management plan for DEQ's approval. The integrated pest management plan is an approach to manage pests by combining biological, cultural, physical and chemical tools in a way that minimizes economic, health and environmental risks. DEQ may prescribe the forms for the submission of the plan. The plan must be approved by DEQ prior to pesticide use. The plan must be revised and resubmitted once every two years for DEQ's approval. Applicator is required to follow the approved plan and deviations must be approved by DEQ in advance. Failure to follow the plan shall be considered a violation of these regulations.

**7.1 Termiticide Treatment Permit**

**7.1.1 Permit**

For all structures to be treated for termites in the foundation or ground area surrounding or under the foundation, the applicator must submit an application for structural treatment to the Director on a form provided for that purpose, accompanied by a non-refundable fee of fifty dollars (\$50). The request for a permit must be submitted to DEQ at least twenty (20) business days prior to the proposed date/ of application. Upon receipt of the Termiticide Application Permit, DEQ has up to ten (10) business days to process the permit. The permit is valid for 6-months after the date of issuance.

**7.1.2 Notification**

The applicator is required to notify DEQ in writing 48-hours prior to any termiticide application made under an approved permit. Unless pre-approved by DEQ, termiticide treatment shall not be phased or divided for a single structure. Termiticide applications conducted under an approved permit must be scheduled during DEQ's normal working hours. Further, the applicator must provide written notices of the date of application and the name and registration number used to each household and business that is located within seventy-five (75) feet of the proposed application. A copy of this written notice must be submitted to DEQ prior to the termiticide application.

**7.1.3 Preconstruction**

7.1.3.1 The following information must be provided as part of the permit application for pre-construction termiticide applications:

- A. EPA Registration Numbers (and copies of labels, if requested) for pesticide products to be used;
- B. Date(s) and time(s) of proposed application(s);
- C. Name(s) of each applicator and pesticide company;
- D. Certification number of each applicator involved in the project;
- E. Address of the application site;
- F. Description of the site;
- G. Size of area to be treated;
- H. Application Method; and
- I. Map, showing bodies of water within 100 feet of the area that termiticide is to be applied;

7.1.3.2 To prevent contamination of surface water, the following restrictions must be observed:

- A. After the application, cover the treatment site in order to prevent runoff in the event of rain; Note: The applicator must either cover the soil him/herself or provide written notification of the above requirement to the contractor on site and to the person commissioning the application (if different than the contractor). If notice is provided to

the contractor or the person commissioning the application, then they are responsible to ensure that: 1) if the concrete slab cannot be poured over the treated soil within 24 hours of application the treated soil is covered with a waterproof covering (such as polyethylene sheeting), and 2) the treated soil is covered if precipitation is predicted to occur before the concrete slab is scheduled to be poured;

- B. Do not treat soil that is water-saturated;
- C. Do not treat when raining;
- D. Do not allow treatment to runoff from the target area;
- E. Do not apply within 10 feet of storm drains;
- F. Do not apply within 25 feet of bodies of water or aquatic habitats (such as, but not limited to, lakes, reservoirs, lagoon, permanent streams, marshes or ponds, estuaries, and commercial fish farm ponds);
- G. Do not make on-grade applications when sustained wind speeds are above 10 mph (at application site) at nozzle end height; and
- H. Follow any additional restrictions or requirements included in a permit issued by DEQ.

#### **7.1.4 Post-construction**

##### **A. Application to surrounding soils**

The following information must be provided as part of the permit application for post-construction termiticide applications to soils surrounding structures:

1. EPA Registration Numbers (and copies of labels, if requested) for pesticide products to be used;
2. Date(s) and time(s) of proposed application;
3. Name of each applicator and pesticide company;
4. Certification number of each applicator involved in the project;
5. Address of the application site;
6. Description of the site;
7. Size of area to be treated;
8. Method of application; and
9. Map, showing bodies of water within 100 feet of the area that termiticide is to be applied;

##### **B. Fumigation**

Fumigation is the use of a vapor or gas or similar forms in order to suffocate, kill or mitigate termites. A fumigant is any pesticide that is a vapor or gas or forms a product that is a vapor or gas on application and whose method of pesticidal action is through the gaseous state.

The following information must be provided as part of the permit application for post-construction termiticide fumigations:

1. EPA Registration Numbers (and copies of labels, if requested) for pesticide products to be used;
2. Date(s) and time(s) of proposed application;
3. Name of each applicator and pesticide company;
4. Certification number of each applicator involved in the project;
5. Address of the application site;
6. Description of the site;
7. Description of equipment to be used;

8. Description or history of the company's experience conducting similar fumigations;
9. Description of any prior problems or issues with fumigations;
10. Health and Safety Plan;
11. Map showing all residential homes and businesses within 25 feet of the application site;
12. Fumigant Management Plan and any additional information required by product label;
13. The applicator must provide written notices to each household and business that is located within seventy-five (75) feet of the proposed application. If the application area is a single-owner complex with multiple units, then the applicator must inform all tenants of the fumigation project. Notices must be made no less than 14 days prior to the fumigation project.

**7.1.5 Termiticide applications exempt from permitting requirements:**

- A. Injection into structural voids;
- B. Spot, crack, crevice treatments; and
- C. Treatments that use enclosed baiting systems.

**7.2 Aerial Pesticide Application**

7.2.1 Aerial pesticide applications are granted on a case by case basis and are restricted to applications sites that are 150 acres or larger. Any person intending to apply pesticides by aircraft must have a valid Aerial Pesticide Application license (pilot license to apply pesticides aerially) from any state or territory of the United States. The aircraft used for aerial application must be in accordance with Federal Aviation Administration rules and regulations.

7.2.2 Aerial Pesticide Application Permit  
For all sites which will be undergoing aerial pesticide treatment, the applicator must submit an application to the Director on a form provided for that purpose, accompanied by a non-refundable fee of \$500. The request for a permit must be submitted to DEQ at least twenty (20) business days prior to the proposed date of application. Upon receipt of the Aerial Pesticide Application Permit, DEQ has up to ten (10) business days to process the permit. The permit is valid for 6-months after the date of issuance.

The following information must be provided as part of the permit application for aerial pesticide applications:

- A. EPA Registration Numbers (and copies of labels, if requested) for pesticide products to be used;
- B. Purpose of application; including description of alternatives
- C. Date(s) and time(s) of proposed application;
- D. Name of each applicator and pesticide company; including pilot information;
- E. Copy of the certification for the applicant and pilot/applicator, if different from the applicant.
- F. Copy of the pilot license
- G. Address of the application site;

- H. Description of the site, which shall include a map of the application site, identifying bodies of water or aquatic habitats, residential homes, schools, hospitals, and businesses within 1000 feet of the application site;
- I. Description of equipment to be used;
- J. Description or history of the company's experience conducting similar aerial treatments;
- K. Description of any prior problems or issues with pesticides; and
- L. Health and Safety Plan.

The DEQ Director may refuse to issue an Aerial Application Permit if it is determined that the proposed aerial pesticide application threatens to cause or causes unreasonable adverse effects to human health or the environment.

#### 7.2.3 Notification

- A. The applicator is required to notify DEQ in writing 48-hours prior to any aerial application made under an approved permit. Unless pre-approved by DEQ, aerial application shall not be phased or divided. Aerial pesticide applications conducted under an approved permit must be scheduled during DEQ's normal working hours. Further, the applicator must provide written notices of the date and time(s) of application and brand or common name and EPA registration of the pesticide to be used to each household and business that is located within a one-mile radius of the proposed application. A copy of this written notice must be submitted to DEQ prior to the pesticide application.
- B. Every possible effort should be made to control pesticide drift during aerial pesticide applications.

### 7.3 Storage of Pesticides

7.3.1 All certified pesticide applicators and licensed dealers shall store pesticides according to pesticide instructions on its label and federal requirements, as such, all pesticides shall be stored in the following manner:

- A. in a locked, well ventilated, cool and dry storage area out of direct sunlight,
- B. in a location separate from food, feed, seed, or animals;
- C. in the original labeled container;
- D. in a location or such a way that they are kept out of reach of children and pests;
- E. with absorbent materials such as sand or absorbent clay adequate to absorb all potential spills;
- F. in a location away from incompatible chemicals;
- G. in a location away from flammable liquids or solids; or near a flammable source;
- H. in a location away from personal protective equipment;
- I. with a fire extinguisher;
- J. with the Material Safety Data Sheet (MSDS) of the pesticides currently in use;
- K. in a manner such that spills will not impact ground or surface waters. If storing more than twelve (12) gallons or one hundred (100) pounds of pesticides at any one time, you must, at a minimum, store the pesticides on impermeable surface, such as a concrete slab, and must mark the area prominently with a skull and crossbones to indicate the presence of pesticides; and
- L. in a manner consistent with its labeling.

## *Proposed Pesticide Management Regulations* 16 November 2012

- 7.3.2 All certified pesticide applicators and licensed dealers shall store restricted use and general use pesticides in a storage area posted with a warning sign that states any, all or any combination of the following statements, as applicable:
- A. "Warning";
  - B. "Danger";
  - C. "Pesticide Storage Area";
  - D. "Poison Storage Area";
  - E. "All Unauthorized Persons Keep Out"; or
  - F. "Keep Door Locked When Not In Use".
- 7.3.3 Retailers, wholesalers and dealers shall store and display pesticides in the following manner:
- A. All pesticides offered for sale must be in the registrant's approved container with the appropriate labeling required by federal law.
  - B. All restricted use pesticides must be separated from general use pesticides in displays of pesticides offered for sale to the general public.
  - C. All pesticides (either general use or restricted use items) on display to the general public should be displayed at a minimum distance of ten (10) feet from all fresh, soft, loosely packaged or other types of food or feed items that can or may absorb odors from the pesticides. Examples include but are not limited to bread, pastries, potatoes, fresh meats, cheese, rice, pasta, chips and candy. All pesticides must be displayed at a minimum distance of four (4) feet from canned foods or any other type of food or edible item.
  - D. Any pesticide container which is leaking or otherwise damaged must be immediately removed from the display area to a location where its contents will be fully contained in the event that its condition deteriorates further. The use of "overpack" containers or similar devices is sufficient to meet this requirement. Any pesticide material spilled or otherwise allowed to move outside of the container must be immediately cleaned up by an appropriate decontamination method. The location where any pesticide material has been spilled must likewise be immediately decontaminated by a method appropriate to the material spilled.
- 7.3.4 A DEQ storage permit is required for the storage of pesticides in excess of 500 gallons or 4,000 lbs or an equivalent combination of liquids and solids in accordance with the following procedures:
- A. Owners and operators of the facility shall apply to the Director for storage permit on forms supplied by the Director at least one hundred and twenty (120) days prior to using the facility for storage as specified in this section.
  - B. Permits shall be approved only when containment and secondary containment complies with 40 CFR §§ 165.80-97 (July 2007), which requires containment and secondary containment for all such facilities and includes the use of specific materials and the incorporation of technical design standards. The Director shall require that all plans for a new facility be prepared by a certified engineer.
  - C. The storage permit shall be valid for five (5) years from date of issuance, and applicant shall pay DEQ a \$100 processing fee.

### **7.4 Transportation**

- 7.4.1 All Restricted Use Pesticides shall be transported in the following manner:

- A. not transported in the same compartment with persons, animals, food, feed, seed, clothing or consumer goods; and
- B. all containers must be secured tightly and loaded in such a way that they will not be damaged during transport, that their labels will not be rubbed off or otherwise compromised and that they will not shift or fall out of the vehicle.

7.4.2 Pesticides in any vehicle used for pest control shall not be transported inside the passenger compartment with persons, animals, food, feed, seed, clothing or consumer goods.

7.4.3 All pesticides shall be transported as required by the label.

### **7.5 Disposal**

Pesticides, empty containers, or equipment that holds (or has held) a pesticide, shall not be emptied or disposed of in such a manner that may present a hazard to persons, animals, food, feed, crops or property. Empty non-refillable pesticide containers must be triple rinsed and punctured to render useless. To dispose of any non-refillable pesticide container that cannot be triple rinsed and the user must follow directions on the container's pesticide label. To dispose of any pesticide container (including refillable containers and non-refillable containers that cannot be triple rinsed and punctured), the user must follow directions on the label and other federal requirements.

### **7.6 Recordkeeping**

Commercial Applicators, Private Applicators and Licensed Dealers shall keep and maintain records for a period of not less than three (3) years.

- 7.6.1 Commercial applicators shall maintain true and accurate records of the use and application of both restricted use and general use pesticides, including the following information:
  - A. the brand (common) name and EPA registration number of the product;
  - B. the amount of product used and, if the product is to be mixed with another substance prior to use, the name of the other substance and the total amount of mixture prepared;
  - C. the date, time, location and method of application;
  - D. total area covered;
  - E. targeted area or other site; and
  - F. targeted pest(s).
- 7.6.2 Private applicators shall maintain true and accurate records of the use and application of restricted use pesticides, including the following information:
  - A. the brand (common) name and EPA registration number of the product;
  - B. the amount of product used and, if the product is to be mixed with another substance prior to use, the name of the other substance and the total amount of mixture prepared;
  - C. the date, time, location and method of application;
  - D. total area covered;
  - E. targeted area or other site; and
  - F. targeted pest(s).
- 7.6.3 Licensed dealers shall maintain true and accurate records of the sale and distribution of restricted use pesticides, including the following information:

- A. the name, address, and certification number or dealer's license (if applicable) number of the person purchasing or receiving the pesticide;
- B. the date of sale or distribution;
- C. the brand name, EPA registration number, and quantity of product sold or distributed;
- D. the signature of the person selling or distributing the pesticide; and
- E. label of the pesticide.

## **7.7 Worker Protection Standards**

### **7.7.1 Applicability and Scope**

The CNMI Worker Protection Standard requirements were created to provide agricultural and certain other workers and pesticide handlers with protections against possible exposure and harm from pesticides in the workplace. CNMI Worker Protection Standards apply to any agricultural establishment, and any commercial application of pesticides.

### **7.7.2. General requirements for agricultural establishments and commercial application. Under the provisions of the CNMI Worker Protection Standard, employers are required to do the following:**

- A. Display at a central location where it can be readily be seen and read by workers in a language they understand specific information about pesticide safety, emergency procedures and recent pesticide applications;
- B. Supply pesticide safety training for workers as described at 40 C.F.R. 170.130 and for handlers as described at 40 C.F.R. Part 170.230;
- C. Provide assistance in getting medical treatment in case of work-related pesticide illness or injury;
- D. Comply with restricted-entry intervals found on the label. These are the times immediately after pesticide applications when workers may not enter treated areas;
- E. Notify workers through oral or by posted warnings in a manner they understand about areas where pesticide applications are taking place and areas where restricted-entry intervals are in effect;
- F. Ensure that only trained, properly equipped pesticide handlers enter or remain in the treated area during a pesticide application;
- G. Provide decontamination sites for workers and handlers to wash pesticides residues off their hands and bodies. Decontamination sites must include enough water for routine washing and emergency eye flushing plus sufficient quantities of soap and single-use towels;
- H. Provide and maintain any appropriate personal protective equipment and ensure it is stored correctly, away from pesticides and other dangerous chemicals, used correctly for its intended purpose and used according to the manufacturer's instructions and label directions. Personal protective equipment includes but is not limited to
  - 1. coveralls a loose-fitting one or two piece garment that covers, at a minimum, the entire body except head, hands, and feet; that is made of a cotton or a cotton polyester blend fabric; and are not chemical-resistant. The pesticide product labeling may specify that the coveralls be worn over a layer of clothing. If a chemical-resistant suit is substituted for coveralls, it need not be worn over a layer of clothing;
  - 2. chemical-resistant suits - a loose-fitting one or two piece chemical-resistant garment that covers, at a minimum, the entire body except head, hands, and feet;
  - 3. chemical-resistant gloves – gloves that are made of chemical-resistant material;

4. chemical-resistant footwear - shoes, boots, or coverings for shoes or boots, that are made of chemical-resistant material. If chemical resistant footwear with sufficient durability and a tread appropriate for wear in rough terrain is not obtainable for workers, then leather boots may be worn in such terrain;
5. chemical-resistant aprons - an apron that is made of chemical-resistant material and that covers the front of the body from mid-chest to the knees.
6. chemical-resistant headgear - hood or hat with wide brim, that is made of chemical-resistant material;
7. protective eye wear - goggles; face shield; safety glasses with front, brow, and temple protection; or a full-face respirator; and
8. respirators - a device that protects the respiratory system and is either 1) the type listed on the pesticide label or 2) more protective, and must be appropriate for the pesticide product being used and for the activity being performed;

- I. Instruct all handlers and workers in the correct use of personal protective equipment;
- J. Instruct all handlers in the correct use of application equipment;
- K. Must assure that all handlers understand all label requirements;
- L. Must assure that any pesticide handler who is mixing, loading, applying or otherwise handling any pesticide bearing a skull and crossbones symbol on the label is monitored visually or by voice communication every hour; and
- M. Implement other requirements as instituted by the DEQ Director.

7.7.3. Additional requirements. All agricultural establishments (farms, forest, nursery or greenhouse) must follow the federal Worker Protection Standards at 40 C.F.R. Part 170.

7.7.4. In the event of a conflict between any relevant Worker Protection Standards, the more stringent requirement will apply.

## **Part 8 TRAINING AND CERTIFICATION**

### **8.1 Training**

8.1.1. Instructor Qualifications. Any person intending to provide certification training must first meet the requirements set forth below:

- A. sufficient pesticide education, training, and/or experience necessary to exercise professional judgment and has the ability to teach and communicate effectively with student-applicators to prepare them for proper performance of their occupational duties; and
- B. pass a written pesticide safety examination [testing the applicant's pesticide knowledge on labeling, safety factors, environmental consequences, pest identification and characteristics, pesticide types, formulations and dilutions, equipment maintenance and calibration, proper storage, use, and disposal of pesticides and containers, pesticide application techniques, local and federal pesticide laws and regulations, recordkeeping, worker protection standards, and other relevant information as deemed necessary, including but not limited to new developments and other pertinent matters].

8.1.2. Instructor Responsibilities

- A. Training plan. Develop a hands-on, interactive training plan that includes but is not limited to labeling, safety factors, environmental consequences, pest identification and characteristics, pesticide types, formulations and dilutions, equipment maintenance and calibration, application techniques, pesticide laws and regulations, and other relevant information as deemed necessary, including but not limited to worker protection standards, record keeping, new developments and other pertinent matters.
  - B. Core Training Duration/Schedule. Training shall be a minimum of one (1) day (8 hours) of instruction, which shall include but is not limited to lecture, practicum, and exam preparation.
  - C. Training Announcement/Registration. Training shall be advertised through local media (newspaper, radio, television and other means) at least three (3) weeks prior to the scheduled training.
  - D. Training Materials. Instructor shall provide all materials (books, handouts, etc.) for the workshop and update all materials (books, handouts, etc.) as required or as needed.
- 8.1.3 Reporting. Instructor shall report all pesticide and safety education program activities to Division of Environmental Quality at the end of each quarter (Dec 31, March 31, June 30, and September 30).

## **8.2 Required Certification**

- 8.2.1 Any person who uses or supervises the use of any pesticide for commercial purposes must obtain a certification from DEQ.
- 8.2.2 Any person who uses, sells, or distributes restricted use pesticides must obtain a certification from DEQ.

## **8.3 Categories of Commercial Applicators, Private Applicators and Licensed Dealers**

### **8.3.1 Commercial Applicators**

Categories of applicators (other than private) are identified below:

- A. Agricultural pest control
  - (i) Plant. This category includes commercial applicators using or supervising the use of pesticides in production of agricultural crops, including without limiting the foregoing, tobacco, peanuts, cotton, feed grains, soybeans and forage; vegetables; small fruits; tree fruits and nuts; as well as on grasslands and non-crop agricultural lands.
  - (ii) Animal. This category includes commercial applicators using or supervising the use of pesticides on animals, including without limiting the foregoing, beef cattle, dairy cattle, swine, sheep, horses, goats, poultry, and livestock, and to places on or in which animals are confined. Doctors of Veterinary Medicine engaged in the business of applying pesticides for hire, publicly holding themselves out as pesticide applicators, or engaged in large-scale use of pesticides are included in this category.
- B. Forest pest control. This category includes commercial applicators using or supervising the use of pesticides in forests, forest nurseries, and forest seed producing areas.
- C. Ornamental and turf pest control. This category includes commercial applicators using or supervising the use of pesticides to control pests in the maintenance and production of ornamental trees, shrubs, flowers, turf, including the maintenance of resort grounds, golf courses, or green houses.

- D. Seed treatment. This category includes commercial applicators using or supervising the use of pesticides on seeds.
- E. Aquatic pest control. This category includes commercial applicators using or supervising the use of pesticide purposefully applied to standing or running water, excluding applicators engaged in public health related activities as set forth in section 8.3.1 G.
- F. Right-of-way pest control. This category includes commercial applicators using or supervising the use of pesticides in the maintenance of public roads, electric power lines, pipelines, railway rights-of-way or other similar areas.
- G. Industrial, institutional, structural and health related pest control. This category includes commercial applicators using or supervising the use pesticides in, on, or around food handling facilities, human dwellings, institutions, such as schools and hospitals, industrial facilities, including warehouses and grain elevators, and any other structures and adjacent areas, public or private; and for the protection of stored, processed, or manufactured products.
- H. Public health pest control. This category includes governmental employees using or supervising the use of pesticides in public health programs for the management and control of pests having medical and public health importance.
- I. Regulatory pest control. This category includes governmental employees using or supervising the use of pesticides in the control of regulated pests.
- J. Demonstration and research pest control. This category includes: individuals who demonstrate to the public the proper use and techniques of application of pesticides or supervise such demonstration, and persons conducting field research with pesticides, and in doing so, use or supervise the use of pesticides. Included in the first group are such persons as extension specialists and county agents, commercial representatives demonstrating pesticide products, and those individuals demonstrating methods used in public programs. The second group includes: State, Federal, commercial and other persons conducting field research on or utilizing pesticides.

8.3.2 Private Applicators

Any person who uses or supervises the use of any restricted use pesticide for the purpose of producing any agricultural commodity (see 40 CFR § 171.2(a)(20)) on property owned or rented by him, or if applied without compensation other than trading of personal services between producers of agricultural commodities on the property of another person, shall be classified as a private applicator. "Agricultural Commodity" means any plant, or part thereof, or animal product, produced by a person (including farmers, ranchers, plant propagators, aqua-culturists, flori-culturists, orchardists, foresters, or other comparable persons primarily for sale, consumption, propagation, or other use by man or animals.

8.3.3 Licensed Dealer

Any person who engages in the importation, sale, or distribution of restricted use pesticide shall be classified as a licensed dealer and shall be certified in the same manner as a commercial applicator.

**8.4 Standards of Competency**

- 8.4.1 Pesticide safety and education training offered in the CNMI shall include but is not limited to:
- A. labeling;
  - B. safety factors;
  - C. environmental consequences;
  - D. pest identification and characteristics;
  - E. pesticide types, formulations and dilutions;
  - F. equipment maintenance and calibration;
  - G. proper storage, use, and disposal of pesticides and containers;
  - H. pesticide application techniques;
  - I. pesticide laws and regulations;
  - J. recordkeeping;
  - K. worker protection standards; and
  - L. other relevant information as deemed necessary, including but not limited to new developments and other pertinent matters.

**8.4.2 Examinations.**

- A. Any person intending to become pesticide applicator or dealer must demonstrate competency based on a written examination.
- B. The passing grade for the examination is seventy percent (70%). Competence in the use and handling of pesticides shall be determined on the basis of written examinations and, as appropriate, performance testing based upon the standards set forth below. Such examination and testing shall include the general standards applicable to all categories and the additional standards specifically identified for each category or subcategory in which an applicator is to be classified, and to the pesticide or class of pesticides covered by the persons' certification.
- C. Examinations are offered as needed; request for examination must be made on a form provided by DEQ for that purpose.

**8.4.3 Determination of Competency for Commercial Applicators**

- A. **General Standards of Competency.**  
All applicators shall demonstrate practical knowledge of the principles and practices of pest control and safe use of pesticides as described below. Testing shall be based on examples of problems and situations appropriate to the particular category or subcategory of the applicator's certification and the following areas of competency:
  - 1. **Label and Labeling Comprehension.** Factors including general format of labels and terminology that are used on pesticide labels and labeling; Instructions, warnings, terms, symbols, and other information commonly appearing on pesticide labels; Classification of the product, general or restricted; and Necessity for use consistent with the label.
  - 2. **Safety.** Factors including : Pesticide toxicity and hazard to man and common exposure routes; Common types and causes of pesticide accidents; Precautions necessary to guard against injury to applicators and other individuals in or near treated areas; Need for and use of protective clothing and equipment; Symptoms of pesticide poisoning; First Aid and other procedures to be followed in case of a pesticide accident; and Proper identification, storage, transport, handling, mixing procedures and disposal methods for pesticides and used pesticide containers, including precautions

to be taken to prevent children from having access to pesticides and pesticide containers.

3. Potential Environmental Consequences of the Use and Misuse of Pesticides. Including influential factors such as: Weather and other climatic conditions; Types of terrain, soil or other substrate; Presence of fish, wildlife and other non-target organisms; Drainage patterns
4. Pests. Including factors such as: Common features of pest organisms and characteristics of damage needed for pest recognition; Recognition of relevant pests; and Pest development and biology as it may be relevant to problem identification and control.
5. Pesticides. Including factors such as: Types of pesticides; Types of formulations; Compatibility, synergism, persistence and animal and plant toxicity of the formulations; Hazards and residues associated with use; Factors which influence effectiveness or lead to such problems as resistance to pesticides; and Dilution procedures, including calculations to achieve correct application rate.
6. Equipment. Including factors such as: Types of equipment and advantages and limitations of each type; and Use, maintenance and calibration.
7. Application techniques. Including factors such as: Methods of procedure used to apply various formulations of pesticides, solutions, and gases, together with knowledge of which technique of application to use in a given situation; Relationship of discharge and placement of pesticides to proper use, unnecessary use, and misuse; and Prevention of drift and pesticide loss into the environment.
8. All local and federal requirements.

B. Specific Standards of Competency. Commercial Applicators shall demonstrate competence and shall be particularly qualified with respect to the standards elaborated below.

1. Agricultural Pest Control.

(a) Plants. Applicators must demonstrate practical knowledge of the crops grown and the specific pests of these crops on which they may be using RUPs. The importance of such competency is amplified by the extensive areas involved, the quantities of pesticides needed, and the ultimate use of many commodities as food and feed. Practical knowledge is required concerning soil and water problems, pre-harvest intervals, re-entry intervals, phytotoxicity, and potential for environmental contamination, non-target injury and community problems from the use of restricted use pesticides in agricultural areas.

(b) Animals. Persons applying pesticides directly to animals must demonstrate knowledge of such animals and their associated pests. A practical knowledge is also required concerning specific pesticide toxicity and residue potential, since host animals will frequently be used for food. Further, the applicator must know the relative hazards associated with such factors as formulation application techniques, age of animals, stress and extent of treatment.

2. Forest Pest Control. Applicators shall demonstrate practical knowledge of the extent and types of forests, forests nurseries, and seed production in the Northern Marianas and the pests involved. They shall possess practical knowledge of the cyclic occurrence of certain pests and specific population dynamics as a basis for programming pesticide applications. A practical knowledge is required of the relative biotic agents and their vulnerability to pesticides to be applied. Because forest stands frequently include aquatic habitats and harbor wildlife, the consequences of pesticide use may be difficult to assess. The applicators must therefore demonstrate practical knowledge of control methods that will minimize the possibility of secondary problems such as unintended effects on wildlife. Proper use of specialized equipment must be demonstrated, especially as it may relate to meteorological factors and adjacent land use.
3. Ornamental and Turf Pest Control. Applicators shall demonstrate practical knowledge of pesticide problems associated with the production and maintenance of ornamental trees, shrubs, plantings, and turf, including cognizance of potential phytotoxicity due to a wide variety of plant material, drift, and persistence beyond the intended period of pest control. Because of the frequent proximity of human habitations to application activities, applicators in this category must demonstrate practical knowledge of the application methods which will minimize or prevent hazards to humans, pets, and other domestic animals.
4. Seed Treatment. Applicators shall demonstrate practical knowledge of types of seeds that require chemical protection against pests and factors such as seed coloration, carriers, and surface active agents which influence pesticide binding and may affect germination. They must demonstrate practical knowledge of hazards associated with handling, sorting and mixing, and misuse of treated seed such as introduction of treated seed into food and feed channels, as well as proper disposal of unused treated seed.
5. Aquatic Pest Control. Applicators shall demonstrate practical knowledge of the secondary effects which can be caused by improper application rates, incorrect formulations, and faulty application of restricted use pesticides used in this category. They shall demonstrate practical knowledge of various water use situations and the potential of downstream effects. Further, they must have practical knowledge concerning potential pesticide effects on plants, fish, birds, beneficial insects and other organisms which may be present in aquatic environments. These applicators shall demonstrate practical knowledge of the principles of limited area application.
6. Right-of-way Pest Control. Applicators shall demonstrate practical knowledge of a wide variety of environments since rights-of-ways can traverse many different terrains, including waterways. They shall demonstrate practical knowledge of the problems of runoff, drift, including drift control measures and procedures, and excessive foliage destruction and ability to recognize

target organisms. They shall also demonstrate practical knowledge of the nature of herbicides and the need for containment of these pesticides within the right-of-way area, and the impact of their application activities in the adjacent areas and communities.

7: Industrial, Institutional, Structural and Health-Related Pest Control.

(a) General and Structural Pest Control. Applicators must demonstrate practical knowledge of a variety of pests including their life cycles, as well as types of formulations appropriate for their control and methods of application that avoid contamination of food damage and contamination of habitat, and exposure of people and pets. Since human exposure, especially to babies, children, pregnant women, and elderly people, is frequently a potential problem, applicators must demonstrate practical knowledge of the specific factors which may lead to a hazardous condition, including continuous exposure in the various situations encountered in this category. Because health related pest control may involve outdoor applications, applicators in this category must also demonstrate practical knowledge of environmental conditions particularly related to this activity.

(b) Structural and Commodity Fumigation. In this subcategory, types of structures include, but are *not* limited to inhabited buildings, containers, boat. Applicators must demonstrate practical knowledge of core requirements covering fumigant and fumigation use laws and regulations, the basic principles of fumigant use, of handler and worker safety requirements especially pesticide safety training, preventing heat-related illnesses, of fumigant labels, how to interpret and follow label directions and requirements. Applicators must demonstrate practical knowledge of the hazards associated with fumigant use and preventing human exposure, environmental contamination, off-site movement/drift, and phytotoxicity, of safe fumigant handling practices, proper PPE selection, use, and care, and responding to fumigant emergencies. Applicators must demonstrate practical knowledge of proper fumigant application procedures, selecting and using appropriate application equipment and its calibration, and of hazards and safe use practices.

(c) Soil Fumigation. Applicators must demonstrate practical knowledge of core requirements covering fumigant and fumigation use laws and regulations, the basic principles of fumigant use, of handler and worker safety requirements especially pesticide safety training, preventing heat-related illnesses, of fumigant labels, how to interpret and follow label directions and requirements. Applicators must demonstrate practical knowledge of the hazards associated with fumigant use and preventing human exposure, environmental contamination, off-site movement/drift, and phytotoxicity, of safe fumigant handling practices, proper PPE selection, use, and care, and responding to fumigant emergencies. Applicators must demonstrate practical knowledge of proper fumigant application procedures,

selecting and using appropriate application equipment and its calibration, and of hazards and safe use practices.

8. **Public Health Pest Control.** Applicators must demonstrate practical knowledge of pests of public health importance, vector-disease relationships, and etiology of disease-host relationships. Since a wide variety of pests are involved, these pests must be known and recognized by public health control applicators, and the life's cycles and habitats of each thoroughly understood. These applicators should be familiar with a great variety of environmental conditions ranging from streams to dwellings. They should also be cognizant of such non-chemical control methods as sanitation, waste disposal, and drainage. Applicators shall demonstrate practical knowledge of regulated pests, applicable law relating to quarantine and other regulation of pests, and the potential impact on the environment of restricted use pesticides used in suppression and eradication programs. They shall demonstrate knowledge of factors influencing introduction, spread, and population dynamics of relevant pests.

9. **Regulatory Pest Control.** Applicators must demonstrate practical knowledge of applicable laws, safety, regulated pests, pesticides and the impact of restricted use introduction, spread, and population dynamics of relevant pests. Applicators shall demonstrate practical knowledge over and above that required by their immediate duties since emergency measures are frequently required and individual judgments in new situations must be made.

10. **Demonstration and Research Pest Control.** Persons demonstrating the safe and effective use of pesticides to other applicators and the public will be expected to meet comprehensive standards reflecting a broad spectrum of pesticide uses. Many different pest problems situations will be encountered in the course of activities associated with demonstration, and practical knowledge of problems, pests, and population levels occurring in each demonstration situation is required. Further, they should demonstrate an understanding of pesticide-organism interactions and the importance of integrating pesticide use with other control methods. Applicators doing demonstration pest control work, conducting field research or method improvement work with RUPs should possess a practical knowledge of all of the general standards detailed in section 8.4.3.A. In addition, they shall be expected to know the specific standards described in section 8.4.3 B as may be applicable to their particular activity.

C. **Specific Standards of Competency.** Private Applicators shall demonstrate that s/he possesses a practical knowledge of the pest problems associated with his or her agricultural operations. Private applicators must be able to

1. Recognize common pests to be controlled and damage caused by them.
2. Read and understand the label and labeling information, including the common name of pesticides he applied, pest(s) to be controlled, timing and methods, of application, safety precautions, any pre-harvest or re- entry restrictions, and any specific disposal procedures.

3. Apply pesticides in accordance with label instructions and warnings, including the ability to prepare the proper concentration of pesticide to be used under particular circumstances taking into account such factors as area to be covered and the quantity dispersed in a given period of operation.
  4. Recognize local environmental situations that must be considered during the application to avoid contamination.
  5. Recognize poisoning symptoms and procedures to follow in case of a pesticide accident.
- D. Specific Standards of Competency. Licensed Dealers shall demonstrate additional competence and knowledge regarding but not limited to the following:
1. pesticide legislation, regulations and guidelines;
  2. safety and toxicology;
  3. disposal;
  4. storage and transportation;
  5. effects on animals, plants, and environment; fish and wildlife;
  6. factors affecting pesticide applications;
  7. classification and formulations of insecticides;
  8. fungicides, herbicides, and other pesticides and their uses;
  9. definitions;
  10. recommendations for use of pesticides; and
  11. poisoning symptoms and procedures to follow in case of a pesticide accident.

## 8.5 Application Forms, Duration and Renewals

- 8.5.1 Application for certification as a pesticide applicator or licensed dealer shall be made to the Director on a form provided for that purpose.
- 8.5.2 Duration of Certification and Renewals.
- A. All certifications shall be valid for a period of three (3) years from the date of issuance unless earlier suspended or revoked by the Director.
  - B. Application for renewal shall be made to the Director on a form provided for that purpose.
  - C. Applicants may renew certification by attending continuing education (CE) classes, relevant to the certification category, offered by any U.S. state or territory. However, renewals through classes may only be considered if the applicant takes CE classes during the certification period in the same or similar category for which the renewal is sought.
    - i. Commercial Applicators must take a minimum of twelve (12) continuing education classes to renew his or her certification.
    - ii. Private Applicators must take a minimum of three (3) continuing education classes to renew his or her certification.
  - D. In the event the applicator was not able to attend CE classes, the applicant shall be required to pass another examination of the same type required for renewals of certifications to ensure the ability to meet the requirements of changing technology and to assure a continuing level of competency and ability to use pesticides safely and properly.
  - E. In the event the applicator wishes to add or change his or her certification category, the applicant shall pass demonstrate competency in the new category.

**8.6 Standards for Supervisory of Non-Certified Applicators by Certified Applicators**

A non-certified but competent person acting under the direct supervision a certified applicator may apply general use pesticides in situations that would otherwise require the application by a certified applicator. The availability and active supervision of the certified applicator must be directly related to the hazard of the situation and the pesticide used. Non-certified applicators may only apply restricted use pesticides under the direct supervision of a certified applicator physically located at the site. Responsibility for proper application of general or restricted use pesticides shall remain with the both the non-certified and certified applicator.

**8.7 Reciprocity with Other Jurisdictions and Temporary Certification**

The Director may issue a temporary certification to a person who holds a valid pesticide applicator's certification issued in another state or territory of the United States having an approved state plan. The temporary certification shall remain valid for the length of time that the underlying certification is valid.

**8.8 Extension, Denial, Suspension or Revocation, and Appeal**

8.8.1. If the Director determines there is a need for a specific type of pesticide applicator and that it is in the best interests of the CNMI, he may extend the validity of the temporary certification. Written application for temporary certificate shall be made to the Director on a form provided for that purpose. Temporary certification shall be limited to the same type and category of pesticide use for which the applicant is certified in the other state or territory. Except under such circumstances as the Director may recognize, a temporary pesticide applicator certificate shall be non-renewable.

8.8.2. The Director will deny, suspend, or revoke a certificate and assess criminal and/or civil penalties for misuse of a pesticide or falsification of any records required to be maintained by a certified applicator.

8.8.3. The Director may deny certification to:

- A. any person whose certification is suspended or revoked.
- B. any person who has been found to be in violation of any part of these regulations.
- C. any person who has failed to pass the proficiency test.
- D. any person who fails to pay the required fees.

8.8.4. Any certification issued pursuant to this part will be reviewed for suspension or revocation by the Director for violation of any condition of the certificate or of these regulations, of criminal conviction under Section 14(b) of amended FIFRA, a final order imposing civil penalty under Section 14(a) of amended FIFRA, or a CNMI enforcement action.

8.8.5. Any person who has been denied certification pursuant to Part 8.8 or whose certificate has been suspended or revoked may request DEQ to set aside such denial, suspension, or revocation pursuant to the Administrative Procedures Act, 1 CMC §§ 9101, et seq. The Director's written decision on the matter shall be final and appeal shall only be available in accordance with law.

**8.9 Fees**

8.9.1. Persons desiring to obtain certification through examination administered by the Division of Environmental quality shall pay a non-refundable fee of ten dollars (\$10).

8.9.2. Commercial applicators shall pay a non-refundable fee of fifty dollars (\$50) for the processing of the application.

- 8.9.3 Private applicators shall pay a non-refundable fee of ten dollars (\$10) the processing of the application.
- 8.9.4 Fees for Government Applicators may be waived, provided the Applicator only conducts such applications at Government projects.
- 8.9.5 Restricted use pesticide dealers shall pay a non-refundable fee of fifty dollars (\$50) for the processing of the application.
- 8.9.6 All renewal of certification (commercial applicator, private applicator, RUP dealer) shall pay the established processing fee.

## **Part 9 LIST OF BANNED AND RESTRICTED PESTICIDES AND NOTICE OF CHANGE IN STATUS**

### **9.1 Restricting of Pesticides**

DEQ may restrict any use of any pesticide when it is deemed likely to produce significant adverse effects on human health or the environment. When DEQ determines that a pesticide is a Restricted Use Pesticide ("RUP"), its application is limited to certified applicators in all instances, as set forth in Part 8. Applicators bear the responsibility for determining whether any pesticide is an RUP under these regulations. If the use of any pesticide is restricted by U.S. EPA, it shall immediately become an RUP under this section, regardless if the pesticide is contained on the list maintained by the Director. In the event of a conflict in the listed status of a pesticide, the more stringent classification applies.

### **9.2 Banning of Pesticides**

DEQ may prohibit the importation, sale, distribution, and use of any pesticide or prohibit a specific use or uses of any pesticides when such use or uses has produced or is deemed likely to produce substantial adverse effects on human health or the environment. For the purposes of these regulations, any product suspended or canceled by the EPA or the registrant under FIFRA shall constitute a banned use regardless of whether it is contained on the list maintained by the Director at DEQ's Offices. In the event of a conflict in the listed status of a pesticide, the more stringent classification applies.

### **9.3 Notice of Changes in Status**

The Director shall keep a current list of pesticides restricted and banned by DEQ in the CNMI at DEQ's main office on Saipan, which shall serve to update, and in the case of conflict, supersede, any prior list of banned and restricted use pesticides. When a restricted use or banned pesticide is added to or removed from the CNMI list, DEQ shall issue a notice in a local newspaper and DEQ website.

DEQ shall not be responsible for notifying the public that EPA or the registrant has suspended or cancelled any use or designated a pesticide as restricted use, and lack of such notice will not be a defense to any action brought by DEQ.

### **9.4 Responsibility of Applicators/Dealers/Importers**

It shall be the responsibility of any person using, distributing, selling or importing pesticides to ensure that they are aware of the current status of the pesticide under FIFRA prior to use, distribution, sale or import.

It shall further be the responsibility of any person using, distributing or selling or importing pesticides to ensure that they aware of the current status of the pesticide under CNMI law prior to use, distribution, sale or import.

**9.5 Experimental Use Permits**

Experimental Permits for use of Pesticides may be used only if the pesticide has received a permit from EPA as required under FIFRA § 5 and 40 CFR Part 172 Subpart A (as may be amended), with concurrence from DEQ.

**Part 10 ENFORCEMENT AND PENALTIES**

**10.1 Instituting Actions**

The Director may enforce the regulations in this Chapter by the initiation of an administrative action and/or requesting the initiation of a civil or criminal case in the Commonwealth Courts pursuant to the Commonwealth Environmental Protection Act, 2 CMC § 3131.

**10.2 Inspections**

10.2.1 At any facility where pesticides are imported, sold, used, stored transported or disposed, the Director and his representatives may conduct inspections, enter properties, review records, and take samples pursuant to 2 CMC § 3132 in order to enforce these regulations and protect the public health and environment of the CNMI.

10.2.2 The Director may issue a written or printed "stop sale, use or removal" order to any person who owns, controls, or has custody of a misbranded pesticide, and after receipt of such order no person shall sell, use or remove the pesticide described in the order except in accordance with the provisions of the order.

**10.3 Administrative Orders**

The Director may issue administrative orders and take other administrative actions, including requiring remedial action and issuing penalties specified in 2 CMC § 3131. Administrative action shall be taken in accordance with the Administrative Procedures Act, 1 CMC §§ 9101 et seq.

**Procedures for Administrative Orders**

10.3.1 The Director may issue and order any person to pay a civil fine of not more than \$25,000.00 for each violation of the Act, regulations adopted pursuant to the Act, or any permit or license issued pursuant to the Act and such regulations. Each day of continued violation after issuance of written notice by the Director or designee and the expiration of any reasonable period allowed for corrective action is a separate offense.

10.3.2 Where the Director initiates an administrative action, the respondent is entitled to request an administrative hearing within seven (7) calendar days of the receipt of the order. The written request for a hearing shall serve as the answer to DEQ's administrative order or complaint. The request for hearing or "answer" shall clearly and directly admit, deny, or explain each of the factual allegations contained in the complaint with regard to which the respondent has any knowledge. Where respondent has no knowledge of a particular factual allegation and so states, the allegation is deemed denied. The answer shall also state

- (i) The circumstances or arguments which are alleged to constitute the grounds of defense; and
- (ii) The facts which respondent intends to place at the issue.

10.3.3 Failures to admit, deny, or explain any material factual allegation contained in the complaint constitutes an admission of the allegations. An oral answer may also be given at the time of hearing should a hearing be requested.

10.3.4 The respondent may also request an informal settlement conference. An informal settlement conference shall not affect the respondent's obligation to file a timely request for hearing. If a settlement is reached the parties shall forward a proposed consent order for the approval of the Director.

10.3.5 If a hearing is conducted, the Director or his designee will preside over the hearing. The Director shall control the taking of testimony and evidence and shall cause to be made an audio, audio-video, or stenographic record the hearing. The type of record made shall be the discretion of the Director. Evidence presented at such a hearing need not conform to the prescribed rules of evidence, but may be limited by the Director in any manner he reasonably determines to be just and efficient and promote the ends of justice. The Director shall issue a written decision within fifteen (15) working days of the close of the enforcement hearing. The decision shall include written findings of fact and conclusions of law. The standard of proof for such a hearing and decisions shall be the preponderance of the evidence.

10.3.6 Upon issuance of the written decision, the respondent may seek relief from the decision by the Director. The request for relief must be filed within ten (10) days of the date of issuance of the decision. The request must concisely state the specific objections to the decision. There is no right to review or a rehearing before the Director. The Director may in his discretion elect to review the case and issue a written decision amending or affirm the decision. He will issue a written decision within thirty (30) calendar days.

10.3.7 The Director's decision shall be final. An appeal from the final enforcement decision shall be to the Commonwealth Superior Court within thirty (30) calendar days following service of the final agency decision.

10.3.8 For filing deadline purposes counting of the days shall start on the day after receipt of the administrative order or complaint. If any filing date falls on a Saturday, Sunday, or Commonwealth Holiday, the filing date shall be extended to the next working day.

#### 10.4 Seizures

The Director may seize any banned, adulterated, misbranded or unregistered pesticide for violation of these regulations if the pesticide poses a risk to the public welfare and the environment, and may take emergency actions necessary as permitted by law to prevent a serious and imminent hazard to the human health or welfare.

#### 10.5.2 Penalties

Any person who violates or who refuses or neglects to comply with any provision of the regulations in this Chapter or any certification, standard, notification, permit, or order issued by the Director or the Division shall be subject to the penalties set forth in 2 CMC § 3131.

### PART 11 APPLICATION OF LAWS

In the event of any conflict between legally applicable standards, the more stringent standard shall apply.

### PART 12 SEVERABILITY

***Proposed Pesticide Management Regulations*** 16 November 2012

Should any part, section, paragraph, sentence, clause, phrase, or application of these rules and regulations be declared unconstitutional or invalid for any reason by competent authority, the remainder or any other application of these rules and regulations shall not be affected in any way thereby.

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Commonwealth gi Sangkattan na Islas Marianas Siha  
**UFISINAN GUBIETNU, Dibision Environmental Quality**

Frank M. Rabauliman, Direktot  
Gualo Rai Center, Chalan Páli' Arnold (Middle Road across ginin "Subway")  
P. O. Box 501204 Saipan, MP 96950  
Tel: 670.664.8500; fax: 670.664.8540  
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**NUTISIAN PUPBLIKU GI MANMAPROPONI NA REGULASION SIHA**

**I AKSION NI MA'INTENSIONA PARA U MA'ADÁPTA ESTI I MANMAPROPONI NA REGULASION SIHA:**  
I Commonwealth gi Sangkattan na Islas Marianas siha, gi Ufisinan i Gubietnu, Dibision i Environmental Quality ha intensiona para u adápta kumu petmanenti na regulasion siha ni mañechettun i Manmaproponi na Pesticide Management na Regulasion Siha yan para u apela i presentí na Regulasion Pesticide Siha, ni makodigu gi NMIAC Kapítulu 65-70, sigun gi manera siha gi Áktun i Administrative Procedure 1 CMC § 9104(a). I Regulasion siha para u ifektibu gi halum i dies(10) dihas dispues di makumpli i 1 CMC §§ 9102 yan i 9104 (a). (1 CMC § 9105(b))

**Áturidát:** I Lehislatura ha áturisa i Direktot i DEQ na para u adápta i areklamentu yan regulasion siha para i atministrasion yan enforcement gi Áktun Environmental Protection gi Commonwealth.  
2 CMC § 3122.

**I TEMA YAN I SUSTANSIAN I PALÁBRA SIHA:** I manmaproponi na regulasion siha manmaplaneha para u mana'siguru i propiu na minaneha gi usun pesticide, binendi yan manera siha para u afakcha' i federal standards yan prinaktika siha ni aplikáppli para i CNMI, yan itmás u difina yan áomenta i prinihibi na áktu siha yan fuera siha gi sigun i aplikábli na lain federát, Federal Insecticide Fungicide, Rodenticide Act (FIFRA). I manmaproponi na regulasion siha, gigun ma'adápta, debi na u apela i presentí na Regulasion Pesticide Siha, ni manma'adápta gi 1994.

**I SUHETU NI MASUMÁRIA YAN ASUNTU NI MANTINEKKA:**

1. I regulasion siha manmaribáha i apas ni associated yan hinehenta i pesticide applicator certification yan kláru i dinimánda siha ni manparerehu usun i pesticides, sásãonão i dinimánda siha para mapo'lonña yan transpottasion; yan
2. I regulasion siha ha ta'lun dumifina i kundision siha gi papa' i DEQ ni debi na u manotifika sigun i impottánti ni pesticide yan pesticide devices. I nutisia debi na u madimánda ha' para  
1) todú mapribi na uson pesticide siha ni manháhalum gi CNMI; (2) maseha háfa na pesticide pat pesticide device ni ma-manufactured hálum pat mana'fáttu ginin pat kontra ginin i foreign country; (3) maseha háfa na termiticide, sásãonão atyu i ma'usa para ká'ka', entalu' ká'ka', yan spot treatment; (4) maseha háfa na pesticide ma'usa para u control i ga'ga' gi fruta yan/pat tinanum gollai siha pat ottru produkton agrikultura siha; yan (5) pesticide ni ma'usa para fumigation, hospital grade disinfection yan hinangai kumietsiánti siha. Gi ma'pus, i nutisia para i DEQ na madimánda na para todú pesticides ni mana'háalum gi CNMI.

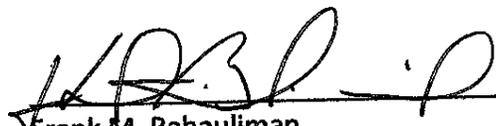
3. I la'anakku' na eksplasion gi tinilaika siha para i regulasion pesticide maproponi na ha sasahguan gi halum i summary ni chechettun guini.

**DIREKSION NI PARA U MAPO'LU YAN PUBLIKASION:** Esti i Manmaproponi na Regulasion siha debi na u mapupblika gi halum i Rehistran Commonwealth gi halum i seksiona gi manmaproponi yan nuebu na ma'adapta na regulasion siha (1 CMC § 9102(a)(1)) yan u mapega gi kumbinienti na lugat siha gi halum i civic center yan gi ufisinan gubietnamentu siha gi kada distritun senadot, parehu English yan i lingguanhin natibu. (1 CMC § 9104(a)(1))

**PARA U MAPRIBENIYI UPIÑON SIHA:** Na'hanao pat intrega i opiñon-mu siha guatu gi as Siñora Reina C. Camacho, Pesticide & Storage Tank Branch Manager, *Re: Pesticide Management Regulacions*, gi sanhilu' na address, pat gi sanhilu' na numirun fax. Todu opiñon u mana'fanhalum trenta(30) dihas ginin i fetchan i publikasion esti na nutisia. Put fabot na'halum i imfetmasion, opiñon, pat testamoñon kinentesta siha. (1 CMC § 9104(a)(2))

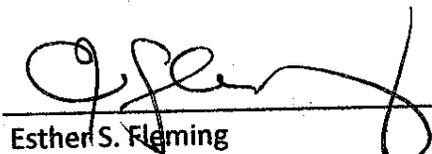
Esti i manmaproponi na regulasion siha manma'aprueba ginin i Direktot gi Disembri 04, 2012.

Nina'halum as:

  
Frank M. Rabauliman  
Direktot, Dibision Environmental Quality CNMI

1.24.13  
Fetcha

Rinisibi as:

  
Esther S. Fleming  
Ispisiat Na Ayudanti Para i Administrasion Gubietnu

01/24/13  
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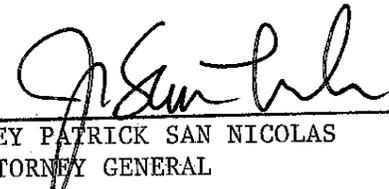
Pine'lu yan  
Ninota as:

  
ESTHER M. SAN NICOLAS  
Rehistran Commonwealth

01/25/2013  
Fetcha

Sigun i 1 CMC § 2153(e) (Inaprueban Abugadu Henerat na para u macho'gui i regulasion siha kumu fotma yan i 1 CMC § 9104(a)(3) ( hinentan inaprueban Abugadu Henerat) i manmaproponi na regulasion siha ni maflechettun guini ya manmaribisa yan manma'aprueba kumu sufisienti ligat ginin i CNMI Abugadu Henerat yan debi na u mapupblika, 1 CMC § 2153(f) (publikasion i areklamentu yan i regulasion siha).

Mafetcha gi diha 24<sup>th</sup> Eneru 2013  
di ~~Disembri, 2012~~

  
JOEY PATRICK SAN NICOLAS  
ATTORNEY GENERAL

# ***Manmaproponi na Regulasion Pesticide Management Siha***

## **SINAHGUAN SÁHYAN SIHA**

**Pátti 1 Prubension Henerát Siha**

**Pátti 2 Hinangai**

**Pátti 3 Difinision Siha**

**Pátti 4 Regulasion Pesticide Siha gi Atministrasion CNMI**

**Pátti 5 Pribidu Na Aksion Siha**

**5. 1 - Henerát**

**5. 2 – Exemptions**

**Pátti 6 Nina'hálum**

**6. 1 – Kátga Siha Madimánda Nutisia Kuntiempu**

**6.2 - Kátga Siha Ni Máfattu Sin Nutisia**

**6. 3 - Rinikonosi**

**6. 4 - Dinitieni, Pinini, yan Magotin Kátga Siha**

**6. 5 - Ápas Siha**

**Pátti 7 Usu gi Pesticide Siha**

**7. 1 – Termiticide Treatment Permit**

**7. 2 - Aerial Pesticide Application**

**7. 3 - Storage of Pesticides**

**7. 4 - Transpottasion**

**7. 5 - Dispuestu**

**7. 6 - Recordkeeping**

**7. 7 - Worker Protection Standards**

**Pátti 8 Training yan Setifikasion**

**8. 1 - Training**

**8. 2 – Setifikasion Dinimánda**

**8. 3 - Categories of Commercial Applicators, Private Applicators yan Licensed Dealers**

**8. 4 - Standards of Competency**

**8. 5 - Fotman Aplikasion Siha, Duration yan Renewals**

**8. 6 - Standards for Supervisory Non-Certified Applicators**

**8. 7 - Reciprocity with Other Jurisdictions yan Temporary Certification**

**8. 8 - Denial, Suspension pat Revocation, yan Appeal**

**8.9 - Ápas Siha**

**Pátti 9 - Listan Maprohibi yan Restricted Pesticides yan Nutisia gi Tinilaika gi Estão**

## ***Manmaproponi na Regulasion Pesticide Management Siha***

**Pátti 10 - Enforcement yan Penalties**

**Pátti 11 - Lain Aplikasion Siha**

**Pátti 12 - Severability**

# **Manmaproponi na Regulasion Pesticide Management Siha**

## **Påtti 1 PRUBENSION HENERÁT SIHA**

Åturidåt yan Scope. Esti na regulasion siha manmacho'gui ginin i Dibision Environmental Quality sigun gi 2 CMC §§ 3101 asta 3134 (*Commonwealth Åktun Environmental Protection*) yan 2 CMC §§ 3511 asta i 3521 (*Åktun Solid Waste Management*). Esti na regulasion siha debi na guaha fuetsa yan effect of law yan debi na ginege'ti todú petsona siha yan ottru legal entities ni sinuhetu para i jurisdiction i Commonwealth gi Sangkattan na Islas Marianas Siha.

## **Påtti 2 HINANGAI**

I hinangai esti siha na regulasion para u estaplesi i system of control kontra i importation, distribution, sale, use storage yan disposal of pesticides ni petsona siha gi halum i Commonwealth gi Sangkattan na Islas Marianas siha para i pruteksion hinemlu' pupbliku yan hinadahin i environmental contamination.

## **Påtti 3 DIFINISION SIHA**

### **3.1 "Active Ingredient" kumeke'ilekña**

- 3.1.1 sienkåsu i pesticide ottru ki i plant regular, defoliant pat desiccant; i ingredient para u atåha, distrosa, mitigate maseha håfa na pest.
- 3.1.2 sienkåsu i plant regulator, i ingredient ni, through physiological action. para u accelerate pat u retard i growth pat i rate maturation pat sino u alter i behavior of ornamental pat i crop plants pat i produktu guihi.
- 3.1.3 sienkåsu i defoliant, i ingredient ni para u nina'uyu i hagon siha pat para u famoddung påpa' ginin i tinanum.
- 3.1.4 sienkåsu na ha desiccant, i ingredient ni para u artificially accelerate i inanglu' i tissue gi tinanum.

3.2 "Adulterated" kumeke'ilekña maseha håfa na pesticide na yanggin metgut pat purity falls gi papa' i professed standard i quality kumu ha ekspresa gi labeling gi papa' ni mabendi, pat maseha håfa na substance ni kuantan i wholly pat gi påtti para i pesticide, pat yanggin maseha valuable constituent i pesticide has been wholly pat in part abstracted.

3.3 "Agricultural Establishment" kumeke'ilekña maseha håfa na operation engaged gi halum i production yan maintenance i agricultural plants.

3.4 "Banned Pesticide" kumeke'ilekña maseha håfa na usu ni ha pruhibi i Dibision Environmental Quality, para importation, distribution, sale, yan usu pat ni mapruhibi para distribution pat sale ginin i U.S. Environmental Protection Agency.

3.5 "Banned Use" kumeke'ilekña na maseha håfa na usu ni mapruhibi ginin i Dibision Environmental Quality, maseha håfa na usu ni masuspendi pat makansela ni i U. S. EPA.

## **Manmaproponi na Regulasion Pesticide Management Siha**

- 3.6 "Core Training" kumeke'ilekña na i basic pesticide safety yan education training ni madimãnda para i settifikasion para kumietsu yan private applicators; i training debi na u sãonão lão ti minidi para i labeling, safety factors, environmental consequences, pest identification yan characteristics, pesticide types, formulations yan dilutions, equipment maintenance yan calibration, application techniques, pesticide laws yan regulations, yan ottru relevant information kumu matungu' na nisisãriu, sãsãonão lão ti minidi para i worker protection standards, recordkeeping, new developments yan ottru pertinent matters.
- 3.7 "Cerified Pesticide Applicator" kumeke'ilekña na maseha hãyi na indibiyuãt ni masettifiku ginin i Direktot para u usa i general use pat prihibi i usun pesticides gi papa' esti na regulasion siha.
- 3.8 "Commercial Applicator" kumeke'ilekña maseha hãfa na applicator ni ha aplika i pesticides para hinangain kumietsu.
- 3.9 "Commercial Purposes" kumeke'ilekña na i usun pesticides (1) ni petsona siha gi halum i bisnis ni ha pribeninyi pest control services pat contracting para u pribeninyi pest control plans pat pribeninyi pest control services para hire, sãonão, lão ti minidi para, i extermination of ants, termites, rodents, pat tinanum siha yan (2) ni petsona siha ni umu'usa i pesticides gi halum maintenance of exterior resort grounds, golf courses, green houses pat ottru inestapblesin agrikuttura siha.
- 3.10 "Compensation" kumeke'ilekña âpas pat suetdu siha, âpas kontra sitbisiu siha pat fektus siha, pat barter of services pat fektus siha.
- 3.11 "DEQ" kumeke'ilekña i Dibision Environmental Quality osina ma'espisifika.
- 3.12 "Device" kumeke'ilekña maseha hãfa na instrument pat contrivance (ottru ki firearm) ni ma'intensiona para trapping, destroying, repelling, pat mitigating maseha hãfa na pest pat maseha ottru na fotman tinanum pat lina'la' gã'ga' (ottru ki tãotão yan ottru ki bacteria, virus, pat microorganism gi pat halum lãla'la' na tãotão pat ottru lala'la' na gã'ga' siha); lão ti minidi i ma'usan ramienta para i aplikasion i pesticides yanggin mabendi separão ginin atyu.
- 3.13 "Direktot" kumeke'ilekña na i Direktot i Dibision Environmental Quality osino ma'espisifika.
- 3.14 "\*\*Amu" kumeke'ilekña na para hinangai siha gi prugrãman pruteksion emple'ão siha ni
- 3.14.1 emple'a pat contracts para i setbisiun emple'ão siha (sãsãonão siha yan i miembrun familian-ñiha) para maseha hãfa na klãsin compensation para u cho'gui i che'chu' ni mana'achuli' para production tinanum agrikuttura siha, maintenance i resorts, pat para i commercial pest control (e.g. rodent yan termite extermination); pat
- 3.14.2 dueñu pat ha maneneha agrikuttura, resort, pat fasilidãt commercial pest control.

## **Manmaproponi na Regulasion Pesticide Management Siha**

- 3.15 "EPA" pat USEPA" kumeke'ilekña na United States Environmental Protection Agency.
- 3.16 "FIFRA" kumeke'ilekña na i US Federal Insecticide, Fungicide, yan Rodenticide na Áktu, ni makodigu gi 7 USC §§ 136 asta 136y.
- 3.17 "Fumigant" kumeke'ilekña na maseha háfa na pesticide ni vapor pat gas pat fotman i product ni vapor pat gas gi application yan atyu i method of pesticide action ni ginin i gaseous state.
- 3.18 "Handler" pat Pesticide Handler" kumeke'ilekña na maseha háyi na petsona, sãosãonão i self-employed na petsona.
- 3.18.1 Háyi ma'emple'a para maseha háfa na klásin compensation ni agricultural establishment pat commercial pesticide handling establishment, pat commercial resort yan háyi na
- A. Tinempla, diniskátga, trinansferi, pat inaplikan pesticides;
  - B. Dinespuetun pesticides pat sahguan pesticide siha;
  - C. Handling i mababa na sahguan i pesticides;
  - D. Acting kumu flagger;
  - E. Cleaning, adjusting, handling, pat repairing i pãtti gi binatti siha, kinatga, pat aplikasion equipment ni siña gai sinahguan pesticide residues;
  - F. Inasisti gi aplikasion pesticides;
  - G. Hinalum gi greenhouse pat ottru mãchum na lugãt dispues di aplikasion yan ántis i inhalation exposure level ni malista gi mamãtka kumu tinaka' pat unu gi ventilation criteria pat gi mamãtka kumu umafakcha' para operasion ventilation equipment, para u adjust pat u mana'suha i tampi ni ma'usa gi fumigation pat para uma'a'atan i air levels;
  - H. Hinalum i ma'ãmti na lugãt gi sanhiyung dispues di aplikasion i maseha háfa na soil fumigant para u adjust pat manasuha i soil coverings tãtkumu i tarpaulins; pat
  - I. Machocho'gui i che'chu' siha kumu crop advisor gi durãntin maseha háfa na aplikasion pesticide, ántis di maseha háfa na inhalation exposure level ni malista na mamãtka kumu tinaka' pat kumu unu gi ventilation criteria pat gi halum i mamãtka ni umafakcha' yan gi durãntin maseha háfa na restricted-entry interval.
- 3.18.2 I tema ti ha na'sãonão maseha háyi na petsona ni ingkatgão ha' ni pesticide containers ni esta manhokkuk pat mangãsgas sigun gi pesticide product ni gai instruksion ni mamãka siha, pat gi tinaigui kumu i instruksion siha, ni manmasuheu para i triple-rising pat its equivalent.
- 3.19 "Mãtka" kumeke'ilekña i matugi', imprenta pat graphic matter gi, pat chechettun, gi, i pesticide pat device pat maseha háfa na sahguan-ña pat balutãn-ña siha.

## **Manmaproponi na Regulasion Pesticide Management Siha**

- 3.20 "Minatka" kumeke'ilekña na todú mâtka siha yan todú ottru tinigi', inemprenta, pat graphic matter ni inesgagaihun i pesticide siha, pat ni ma-reference ni mamâtka pat gi literature ni inakupâpaña i pesticide, solu para i prisenti na pupublikasion ufisiât siha gi U. S. Environmental Protection Agency, i United States Department of Agriculture yan Interior, pat i U. S. Department of Health yan Human Services.
- 3.21 "Lisenced Dealer" kumeke'ilekña maseha hâyi na petsona ni malisensia ginin i Direktot para u bendi pat u distribute restricted use pesticides.
- 3.22 "MSDS" kumeke'ilekña Material Safety Data Sheets kumu madimânda gi papa' i Occupational Safety yan i Âktun Health gi 1970, 29 USC § 651 et seq., kumu ma'amenda yan i ma'implementânña i regulasion siha.
- 3.23 "Misbranded" kumeke'ilekña maseha hâfa na pesticide yanggin
- 3.23.1 I matka ti ha konfotma para i US EPA i dinimânda siha para i mamâtka pat mapaketi.
- 3.23.2 I mamâtka ha bear maseha hâfa na sinangan, design, pat graphic representation relative ni para pat para i ingredients ni latchi pat misleading gi halum maseha hâfa na pattikulât.
- 3.23.3 I matka ti gi English, pat ti nahung maseha hâfa gi sigienti na imfotmasion:
- A. Na'an i Pesticide gi bold na lettra siha;
  - B. Restricted use designation (yanggin aplikâppli);
  - C. Description of which pests are controlled;
  - D. Na'an i Chemical na Pesticide;
  - E. Active Ingredients;
  - F. Manasientâdu na sifât palâbra siha
    - i. Caution;
    - ii. Warning; pat
    - iii. Danger Poison;
  - G. Direksion siha para ma'usa propiu; yan
  - H. Maseha hâfa na inâomenta i DEQ na minatka madimânda ni ti conspicuously displayed gi kada sahguan.
- 3.24 "Dueñu" kumeke'ilekña maseha hâyi na petsona ni gai possessory interest (e.g. fee, leasehold, rental, pat ottru) gi tanu' pat i bisnis, solu amânu i dueñu nai ha relinquished control over yan matransferi todú âturidât para ottru ni para u minaneha i usun i tanu' pat i bisnis.
- 3.25 "Petsona" kumeke'ilekña na indibiyuât, corporation, partnership, association, joint venture, commercial entity, government, political subdivision, commission pat interstate body.

## **Manmaproponi na Regulasion Pesticide Management Siha**

- 3.26 "Personal protective equipment" pat "PPE" kumeke'ilekña magágu yan ramienta siha ni ma'usa para u prutehi i tataotão kontra i pesticides pat pesticide residues, sásãonão: coveralls, chemical-resistant suits; chemical-resistant na guântis; chemical-resistant dogga; chemical-resistant tâpis; chemical-resistant headgear; protective eye wear; yan respirators. Attikulu ni manotdinãriu na magágu, sásãonão na mânggas chinina, kadada' na mânggas chinina, katsunis anãkku', katsunis kadada' siha, sapãtus, meyas siha, ottru attikulun magágun cho'chu', ni ti makunsidera na personal protective equipment para i hinangai siha gi esti na seksiona yan ti masuhetu para i dinimãnda siha gi esti na seksiona, lão i pesticide labeling siña madimãnda na kumu magágun cho'chu' ma'usa gi durãntin palu na aktibidãt siha.
- 3.27 "Pesticide" kumeke'ilekña maseha hãfa na substance pat mixture of substances ni ma'intensiona para u inatãha, dinistrotrosa, repelling, pat mitigating maseha hãfa na pest ni madifina sigun gi FIFRA. I produktu ni ti pesticide yanggin i produktu ni ma'intensiona para usa ha' para ma-control i fungi, bacteria, viruses, ottru na microorganisms pat invertebrated parasites pat nematodes gi halum pat gi lãla'la' na tãotão pat gã'ga' siha yan mamãtka gi sigun ni ginagagão; yan produktu siha ni manma'intensiona para u ma'-exclude i pests ha' ginin i prinebiyi ni physical barrier kontra i pest access.
- 3.28 "Private Applicator" kumeke'ilekña i certified applicator ni umu'usa maseha hãfa na pesticide ni maklisifika kumu restricted use para hinangai siha gi manprodusi maseha hãfa na agricultural commodity gi propiadãt-ña pat ha atkila pat (yanggin inaplika sin compensation ottru ki umatulaika ni petsonãt na sitbisio siha gi entalu' i producers i agricultural commodities) gi propiadãt ottru na petsona.
- 3.29 "Restricted Use Pesticide" pat "RUP" kumeke'ilekña i pesticide, unu pat mãs meggai ma'usãña ni ma'-restricted ni USEPA gi papa' i Federl Insecticide, Fungicide; yan Rodenticide na Åktu, kumu ma'amenda, pat ginin DEQ gi papa' esti na regulasion siha, pat which bears gi matkã-ña i phrase 'restricted use pesticide'.
- 3.30 "Restricted-Entry Interval" kumeke'ilekña i tiempu dispues di ottimun i aplikasion pesticide durãnti ni humãlum para i matrãta na lugãt ni ma-restricted.
- 3.31 "Usu" kumeke'ilekña
- 3.31.1 Todu aktibidãt siha ni mamparehu gi instrãksion yan precautions g imamãtka, sásãonão lão ti minidi para, direksion ni para u ma'usa, handling yan disposal, precautionary statements, pruteksion i manmachocho'chu', protective equipment, yan storage yan dinimãndan transpottasion siha:
- 3.31.2 Pre-application na aktibidãt siha, sásãonão, lão ti minidi para;
- A. Areklamentu para i aplikasion i pesticide;
  - B. Binatti yan kinatgan i pesticide; yan

- C. Machocho'gui nisisâriu na preparasion siha para i aplikasion i pesticide, sâsâonão i responsâpblidât siha ni mamparehu para i notifikasion emple'ão, training of handlers, decontamination, usu yan inadahin personal protective equipment, yan stress management:

3.31.3 Aplikasion Pesticide;

3.31.4 Post –application na aktibidât siha nisisâriu na u ribâha i risk of illness yan injury resulting ginin i handlers' yan workers' occupational exposures gi pesticide residues gi durântin i restricted-entry interval plus 30 dihas. Esti siha na aktibidât sâonão, lão ti manminidi para, i responsâpblidât siha ni mamparehu gi worker training, notifikasion, yan decontamination; pat

3.31.5 Ottru pesticide-related na aktibidât siha, sâsâonão lão ti minidi para, prinebiniyi emergency assistance, transporting pat storing pesticides yan disposing of excess pesticides, spray mix, equipment wash waters, pesticide containers, yan ottru pesticide-containing materials.

3.32 "Fafa'cho'chu" kumeke'ilekña maseha hâyi ni: (1) ni ma'emple'a (sâsâonão gui'ni self employed) yan (2) ha chocho'gui i che'chu' siha, tâtkumu mangusesecha, guâguasan, pat manrerega, mamparerehu gi production i tinanum agrikultura siha gi lanchu, forest, nursery, pat greenhouse.

3.33 "40 CFR" debi na u kumeke'ilekña na i Titulu 40 gi Kodigun Federât na Regulasion siha ni maribisa kumu gi Hului 1, 2011.

#### **Pãtti 4 REGULASION GI ADMINISTRADOT CNMI PESTICIDE SIHA**

I Direktot ma'âturisa para u chuli' tâtkumu aksion anai siña nisisâriu gi halum effective administration yan enforcement esti na regulasion siha.

#### **Pãtti 5 ÂKTUN TI PRIBI SIHA**

##### **5.1 Henerât**

- 5.1.1 Solu lão kumu ma'-exempted gi Pãtti 5.2 debi na ti u pribi para maseha hâyi na petson gi halum i CNMI para u usa, para u import, pat para u bendi, u distribute, deliver pat para u ufresi para u intrega gi maseha hâyi na petson
- A. maseha hâfa na pesticide ni adulterated pat misbranded, sâsâonão, lão ti minidi para, i pesticides ni ti manmamâtka gi finu' Englis;
  - B. maseha hâfa na pesticide ni maprohibi ni DEQ pat, makansela, masuspendi, ti marehistra ni EPA;
  - C. maseha hâfa na pesticide pat device ni ma-misbrande pat ti produzi gi halum EPA registered establishment; pat

## **Manmaproponi na Pesticide Management na Regulasion Siha**

- D. maseha hâfa na pesticide ni i DEQ ha detitmina para u pega unreasonable risk gi hinemlu' tâotâo yan i environment.

### **5.1.2 Debi na ti u mapribi para maseha hâyi na petsona**

- A. para u châppak, alter, deface, pat distrosa, gi trosu pat gi pâtti, maseha hâfa na minatka solu tâtkumu machuli' i aksion ni inaprueban Direktot ni para u na'dinanchi i propiu na mâtka pat minatka;
- B. para u rinunsia para u go'ti maseha hâfa na rekot siha ni madimânda sigun gi esti na regulasion siha; pat para u rinunsia para u sedi i rinikosin maseha hâfa na rekot siha; para u rinunsia para u sedi i Direktot pat i dinesiknan Direktot para u observe i ma'usan pesticide, storage pat disposal; pat para u rinunsia para u sedi i Direktot pat dinesiknan Direktot para u imbestiga i potential pesticide violations pat para u chuli' sample siha gi pesticides yan i pesticide residues kumu ma'âturisa ni lai para maseha hâfa hinangai kinensisti yan esti na regulasion siha;
- C. para u ma'usa maseha hâfa na pesticide gi manera ni ti konsisti yan i minatka;
- D. para u kontra i lai maseha hâfa na otdin ni malaknus sigun gi esti na regulasion siha pat i Âktu siha;
- E. para u kontra i lai maseha mapribi pat restricting sigun i usu, nina'hâlum pat distribution pat binendin pesticides pat i devices ni malaknus ni DEQ;
- F. para u tungu' na mandadagi gi todû pat pâtti gi maseha hâfa gi aplikasion para i settifikasion, lisensia, nina'hâlum pat use, pat maseha hâfa na rekot ni madimânda para u maintained gi papa' esti na regulasion siha;
- G. para u mabendi pat distribute restricted use pesticides solu malisensia ni DEQ ni para u cho'gui
- H. para u mabendi pat distribute restricted use pesticides para maseha hâyi na petsona ottru ki malisensia na dealer pat i masettifiku na applicator ginin i DEQ;
- I. para u ma'usa, store, transport, mix pat discard maseha hâfa na pesticide pat kumu sahguan pesticide siha gi manera ni para u pose piniligru para i hinemlu' tâotâo pat i environment;
- J. para u ma'usa pat ma'aplika i restricted use pesticides solu masettifica ni DEQ pat gi papa' i direct supervision ni applicator ni masettifiku ginin i DEQ;
- K. para u ma'usa pat ma'aplika i pesticides para hinangain kumetsu siha solu gi papa' supervision i masettifica na applicator.
- L. para u mana'annuk maseha hâfa na konfidensiât na imfotmasion ni maganyi' gi halum atministrasion ni esti na regulasion siha ni pumarehu na formulas of products para i petsona siha ottru ki propiu na ufisiâlis pat emple'âo siha gi DEQ pat i U. S. government, pat para u ineppi ni kotti siha gi subpoena, pat i physicians, pat, gi emergencies, i pharmacists pat ottru kualifikâo na petsona siha para u ma'usa gi preparasion i antidotes pat para ma'usa gi konfidensiât imfotmasion para personal advantage;

## **Manmaproponi na Pesticide Management na Regulasion Siha**

- M. para u kontra i lain esti na regulasion siha gi manera ni sâsâonão lão ti minidi ni para i kinentran i dinimânda siha sigun i storage, usu, record keeping, yan worker's protection maseha mapega mo'na guini na regulasion siha, i matka, i permit, an order pat settifikasion; pat
  - N. para u ma-manufacture pat lão produce pesticides, sâsâonão re-packing, refilling pat relabeling, para mabendi pat mata'lun mabendi, gi halum CNMI.
- 5.1.3 Yanggin i aplikasion i permit madimânda ântis di aplikasion i pesticide, i aplikasion i pesticide tai permit ha kontra i lain esti na na regulasion siha. I aplikânti siha debi na u matattiyi todû dinimânda siha gi halum lisensia.

### **5.2 Exemptions**

5.2.1 I mapribeniyi mutta siha para i violation gi Pâtti 5.1 na ti debi na u inaplika

- A. Maseha hâfa na carrier ni mapribi mângâtka, transporting, pat delivering kâtga ni maseha hâfa na pesticide pat device ni in violation uniku ginin i carrier's reasonable failure ni para u detect na i fektus ni ma-shipped na ti ligât na pesticide pat device. Yanggin hâfa na carrier mamaisin maseha hâyi na ufisiâlis pat emple'âo ni ma disikna ginin i DEQ debi na u sedi tâtkumu i ufisiâlis pat emple'âo para u fama'tinas kopia todû gi rekot-ña siha sigun gi tinetekka kumu pesticide pat device.
  - B. I ma'usan i pesticide ni ha blend ni ha conforms para i standards gi 40 CFR § 167.3 para i custom blenders, anai i petsona ha usa i pesticides gi propiadât-ña;
  - C. Maseha hâyi na ufisiâlis pupbliku anai ha engaged gui' gi halum i performance gi obligation ufisiât siha gi ufisiât pupbliku;
  - D. Maseha hâyi na petsona ni umu'usa pat ha possess i experiemental use permit ginin i EPA sigun i lain federât yan i concurrent approval ginin i DEQ para i ma'usan pesticide's pat possession;
  - E. Maseha hâyi na petsona ni muna'hânão substance pat mixture of substances ni mapega para u mates gi hinangai anai uniku ni para u madetitmina i bali-ña para i hinagai pesticide siha pat para u madetitmina i beninu-ña pat ottru properties yan gi anai i user ti ha ekspekta para u risibi hâfa na benefisiu gi pest control ginin i ma'usâ-ña; pat
  - F. Maseha hâyi na petsona libri para acting in compliance yan i etdin ginin i Direktot para u na'suha i pesticide ginin i CNMI.
- 5.2.2 I Seksiona 5.1.1.B ni ti ha aplika para i products ni ti ma rehistra ni EPA yanggin: (a) distribute yan u bendi sin rehistrasion anai ma'aturisa ni EPA gi 40 CFR 152.20 (pesticides ni sufisienti ma-regulate ni ottru na ahensian federât); 40 CFR 152.25 (pesticides ni i character ni ti dinimâmanda ni rehistrasion FIFRA); pat 40 CFR 152.30(e), (f) yan (g) (pesticides ni siña matransferi, mabendi, pat ma-distribute sin rehistrasion) mapribeniyi na kumu product ni ti mapribi ni DEQ pat (b) ma'usan i ti marehistra na pesticide yanggin atyu na pesticide ti mafa'tinas pat maprodusi gi violation i Seksiona 5.1.1.N, ni ti mapribi ni DEQ, yan ti matransferi, distributed pat mabendi gi violation i FIFRA.

## **Manmaproponi na Pesticide Management na Regulasion Siha**

### **Pãtti 6 NINA'HALUM**

I DEQ ha maneha i nina'halum pesticides gi halum Commonwealth. I nina'halum maseha hãfa mapribi pat misbranded na pesticide pat pesticide device ni violation esti na regulasion siha gi papa' § 5.1.1. Nina'halum maseha hãfa na ti marehista na pesticide, lão ti pesticide device, violation esti na regulasion siha.

Maseha hãfa mapribi, misbranded pat ti marehista na pesticide, maseha hãfa na device sin ma'estapblesi na numiru, pat maseha hãfa na pesticide shipment solu ti compliance yan esti na regulasion pesticide siha, siña maditieni, pat mapuni hinalom para i extended permit ni lai, ginin i Direktot DEQ pat ginin i Customs Officers, pat Agricultural Quarantine Officers.

#### **6.1 Dinimãnda Kuntiempu gi Nutisian Shipments**

I DEQ ha maneha i nina'hãlum pesticides gi halum Commonwealth, espisifikãtmenti maseha hãfa na restricted use pesticide ginin maseha mãnu na lugãt asta hãlum gi CNMI; maseha hãfa na pesticide pat pesticide device ni mafa'tinas gi pat shipped by pat ginin i foreign country; maseha hãfa na termiticide, sãsaonão atyu i ma'usa para i ka'ka', crevice, yan spot treatment; yan todususun henerãt pesticides ni ma'usa para u ma-control i pests gi fruta yan/pat tinanum gollai siha pat ottru produktun agrikultura siha.

##### **6.1.1 Nutisian Intension**

- A. **Restricted Use Pesticide (RUP).** Maseha hãyi na petsona ni malagu' para u na'halum ni Restricted Use Pesticide (RUP) maskiseha ginin manu pat i kantidã debi na u na'hãlum nutisian intension para i Direktot gi fotma ni mapribeniyi para atyu na hinangai. I fotma debi na u gina'chungi ni Material Safety Data Sheet yan i kopia ni mamãtka gi pesticide. Gigun inaprueba ni RUP, i munana'halum siña mama'tinas important arrangements. Para i hinangai siha guini na seksiona, maseha hãfa na pesticide ni gai pattikulãt na usu ni mapribi ni DEQ, lão anai siña mana'hãlum gi CNMI, debi na u madimãnda kuntiempu na nutisia kumu mapega mo'na guini na Pãtti. Nina'halum i mapribi na pesticide esta ha maprohibi para u hãlum lokku' i violation esti na seksiona.
- B. **Usun Pesticides Henerãt (GUP).**
  1. I petsona ni malagu' numa'halum pesticide pat pesticide device ni mafa'tinas gi pat mana'hãlum ginin pat ginin maseha mãnu na lugãt ottru ki Estãdus Unidu pat U.S. Territories asta hãlum gi CNMI debi na u na'hãlum nutisian intension guatu gi Direktot gi fotma ni mapribeniyi para atyu na hinangai. I fotma debi na u gina'chungi ni Material Safety Date Sheet yan i kopian i pesticide label. Gigun inaprueba ni GUP, i muna'halum siña mama'tinas importation arrangements.

## **Manmaproponi na Pesticide Management na Regulasion Siha**

2. I petsona ni malagu' para u na'hålum pesticide labeled para usun tinanum agrikultura siha, hospital-grade disinfection, fumigation, pat termite control, sãsãonão kã'ka', crevice yan spot treatment gi gima' siha, apartmnt buildings, hotels, restaurants, eskuela siha, tenda siha, warehouses yan ottru industrial buildings, debi na u na'hålum i nutisian intension guatu gi Direktot gi fotma ni mapribeniyi para atyu na hinangai. Petsona siha engaging gi hinangain kumetsiãnti kumu madifina gi § 3.9, tãtkumu resorts, lancheru siha yan exterminators, debi lokkui' na u na'hålum i nutisian intension kosa ki siña u mana'hålum maseha hãfa na pesticide ni ma'usa parahinangain kumetsiãnti. I fotma debi na u gina'chungi ni Material Safety Data Sheet yan i kopia gi pesticide label. Gigun inaprueba ni GUP, i muna'halum siña ha fa'tinas importation arrangements.

Kada Nutisian Intension para Muna'halum (NOI) debi na u ma'indika taimanu i importer ha intensiona para u usa i pesticide, kosa ki DEQ siña ha na'siguru na i ma'usãña ha tattiyi i lai, åntis di u fãttu i pesticide. I fotma debi na u gina'chungi ni Material Safety Data Sheet yan i kopian i pesticides label. Gigun inaprueba ni NOI, i pesticide pat i pesticide device siña ma'oda pat ma-shipped. I Importer debi na u na'hålum guatu gi DEQ i label yan i MSDS para kada pesticide pat device ni mana'hålum gi primet biãhi gi sakkan kalendãriu. Yanggin i importer ha intensiona para u na'hålum i parehu na pesticide pat pesticide device gi durãntin i parehu na sakkan kalendãriu, yan ha na'hålum todú i apropositu na che'chu' pãppit, i label yan i MSDS ti madimãnda para u na'hålum ta'lu gi parehu na sakkan kalendãriu.

### **6.1.2 Nutisian Finattu**

Gigun mãttu i pesticide pat i device ni ma'episifika gi seksion 6.1.1, i Direktot debi na u manutisia ni importer gi fotma ni pribeniyi ni DEQ. I Nutisian Finattu ti debi na u ma-substituted ni Nutisian Intension para finattu. Tãya' pesticide pat device siña mana'fãttu pat u mana'huyung gi halum i CNMI sin i inaprueban i DEQ gi Nutisian Finattu. Inaprueba gi Nutisian Intension pat Nutisian Inaprueba ti debi na defense against liability yan ti debi na minidi maseha hãfa na aksion machuli' ni DEQ para maseha hãfa na violation esti na regulasion siha.

### **6.2 Shipments Manmãttu Sin Nutisia**

Yanggin i shipments pesticides pat i device ni ma'episifika gi seksiona 6.1 mãttu gi halum CNMI sin maskiseha i Nutisian Intension pat Nutisian Finattu, i shipment debi na u maditieni pat mapuni i hinalom-ña gi CNMI. I Direktot debi na detitmina kão i pesticide debi na u ma'atmiti hãlum gi CNMI yan u pribeniyi instrãksion para i disposition i shipment.

## **Manmaproponi na Pesticide Management na Regulasion Siha**

### **6.3 Rinikonosi**

#### **6.3.1 Rinikonosi**

Gigun måttu maseha hâfa na shipment ni ha sasahguan pesticide pat device, i DEQ pat ottu ahensia siha pat iyon-ñiha personnel kumu kuntientu ni Direktot, siña marikonosi i pesticide pat i device.

#### **6.3.2 Dinimândan Nutisia Gi Rinikonosin Shipments**

Gigun i finattun i shipment pesticide pat device dinimânda nutisia gi papa' esti na seksion, i DEQ, pat ottu ahensia siha pat iyon-ñiha personnel kumu mangontentu ni Direktot, siña marikonosi i pesticide pat device yan debi na u ma'akumpâra i sinedda' siha ginin i ma'esksaminan i pesticide pat device para i hinalum pâppit siha para i shipment ni prinibeniya ni consignee/importer gi nutisia para i DEQ. Yanggin tâya' discrepancies manota pat violations masodda', i shipment siña maditieni estaki i Direktot ha sâtba i discrepancies pat ha detitmina i pesticide pat device na debi na u mapuni i hinalon-ña, manana'lu pat madistrosa sigun gi § 6.4.

### **6.4 Maditieni, Mapuni, yan Ma'-Impounded i Shipments**

Todu i gâstu siha ginin maditieni, mapuni, ma'-impoundment pat madistrosa i pesticide pat i device shipment siña ha' mohun masuhâyi ni compliance esti na regulasion siha, sâsâonão lão ti minidi gi tiempun mana'hâlum i Nutisian Intension i Finattu, debi na u payable ni ginin i importer.

Maseha hâfa maditieni na shipment, i consignee/importer debi na guaha sisenta (60) dihas ginin i finattu gi ni para u mana'na'lu pat madistrosan i pesticide pat device gi manera ni ma'aprueba ni Direktot. Yanggin i importer/consignee ti ha na'na'lu pat distrosa i pesticide pat device gi halum i sisenta (60) dihas na tiempu, i Direktot siña ha bendi, ha distrosa i pesticide pat device gi manera gi kinensistin i lai yan todû i gâstun storage, cartage, labor, shipping yan gâstun distrosu debi na u payable ni consignee/importer yan ha default i tât âpas debi na u constitute i lien kontra itmâs kosas siha gi maseha hâfa na manera ni mana'hâlum ni consignee/importer.

Yanggin i consignee/importer ti satisfetchu gi hâfa yan todû liens kontra i imports gi halum i sisenta (60) dihas dispues di nutisifikasion gi tinigi' gi kantidâ ni mamensiona na liens, i Direktot debi na u na'tungu' i Abugâdu Henerât na para u hâlum gi hâfa na aksion kumu siña nisisâriu para u effect i matransferin i dueñu gi imports para i Gubietnun CNMI para u satisfetchu i mamensiona na liens. Esti na seksion ti ha preclude i recovery gi hâfa mâs na inâomenta gi gâstu siha nai siña ma-expended ni Gubietnu.

### **6.6 Âpas Siha**

6.6.1 Petsona siha ni malagu' muna'halum ni Restricted Use Pesticide debi na u apâsi non-refundable na âpas gi singkuenta(\$50) pesus para kada shipment, inakumpâpaña ni Nutisian Finattu (NOA) na fotma.

6.6.2 Petsona siha ni malagu' muna'halum General Use Pesticide debi na u apâsi non-refundable na âpas gi kinsi(\$15) pesus para kada shipment, inakumpâpaña ni Nutisian Finattu (NOA) na fotma.

# **Manmaproponi na Pesticide Management na Regulasion Siha**

## **Påtti 7 MA'USAN I PESTICIDE SIHA**

I DEQ siña, gi dispusion-ña, sigun gi kundision siha kumu acreage, klâsin pesticides, kantidån pesticides, lugåt, yan geological features, sâsånão i uriya asta surface water yan hånun magimin, ha dimânda i hinalum integrated pest management para inapruedan DEQ. I integrated pest management plan tinattiyi para minanehan pests ni mana'danña' i biological, cultural, physical yan chemical tools gi manera ni ha minimizes economic, health yan environmental risks. I DEQ siña ha prescribe i fotma siha para i mana'hålum i plânu. I plânu debi na u ma'aprueda ni DEQ åntis di ma'usan i pesticide. I plânu debi na u maribisa yan u mata'lun mana'hålum un biåhi kada dos(2) åñus para inapruedan i DEQ. I applicator madimânda para u tattiyi i ma'aprueda na plânu yan deviations na debi na u ma'aprueda ni DEQ kuntiempu. I ti tumattiyi i plânu debi na u makunsidera i violation esti na regulasion siha.

### **7.1 Lisensian Termiticide Treatment**

#### **7.1.1 Lisensia**

Para todun structures ha nisisita na u ma-treat ni termites gi halum foundation pat gi årian i tanu' ni inuririya pat gi papa' i foundation, i applicator debi na u na'hålum i aplikasion para i structural treatment guatu gi Direktot gi fotma ni mapribeniyi para atyu na hinangai, inakumpåña ni i non-refundable na åpas gi singkuenta(\$50) pesos. I ginagåo i lisensia debi na u mana'hålum guatu gi DEQ putlumenus benti(20) dihas gi ha'ånin bisnis åntis di i maproponi na fetcha/i aplikasion. Gigun marisibi i Lisensian Aplikasion Termiticide, i DEQ guaha dies(10) dihas gi ha'ånin bisnis para u process i lisensia. I lisensia bumåli sais(6) mesis na tiempu dispues di fetchan malaknos-ña.

#### **7.1.2 Nutisifikasion**

I applicator madimânda para u tugi'i nutisia i DEQ kuarentai'otchu(48) oras åntis di håfa na termiticide application mafa'tinas gi papa' ma'apruedan lisensia. Solu pre-approved ni DEQ, i termiticide treatment ti debi na u phased pat u madibidi para unu na structure. I termiticide applications makundukta gi papa' i ma'aprueda na lisensia na debi na u masiñåla gi duråntin i DEQ gi naturåt na oran cho'chu'. Itmås, i applicator debi na u mapribeniyi nutisian tinigi' siha ni fetchan i aplikasion yan i na'an yan numirun rehistrasion ni ma'usa para kada household yan bisnis ni manggaigi gi halum i sitentaisingku (75) pie gi maproponi na aplikasion. I kopian esti na tinigi' nutisia debi na u mana'hålum guatu gi DEQ åntis di aplikasion termiticide.

#### **7.1.3 Preconstruction**

7.1.3. 1 I sigienti na imfotmasyon debi na u mapribeniyi kumu påtti gi lisensian aplikasion para i pre-construction termiticides na aplikasion siha:

- A. I EPA Numirun Rehistrasion siha (yan kopian labels, yanggin ma gagåo) para i pesticide products ni para u ma'usa;
- B. Fetcha yan ora siha gi maproponi na aplikasion;
- C. Nå'an siha gi kada applicator yan kumpanian pesticide;

## **Manmaproponi na Pesticide Management na Regulasion Siha**

- D. Numirun settifikasion gi kada applicator ni tinekka gi halum i prâyek;
- E. Address i lugât aplikasion;
- F. Description i lugât;
- G. Mineddung i âria ni para u ma-treated;
- H. Application Method; yan
- I. Mâpa, a'annuk i bodies of water gi halum i 100 pie gi âria anai mânu na u inaplika i termiticide;

7.1.3.2 Para u pribeni i contamination i sanhilu' hânum, i sigienti restrictions debi na u observed:

- A. Dispues i aplikasion, u matâmpi i lugât i treatment anai siña para u mapribeni runoff yanggin siakâsu na uchan; Nota: I applicator debi na u tâmpi mismu i edda' pat u pribeniyi tinigi' nutisifikasion gi sanhilu' na dinimânda para i contractor gi lugât yan para i petsona ni commissioning i application (yanggin ti parehu ki i contractor). Yanggin mapribeniyi nutisia para i contractor pat i petsona commissioning i aplikasion, pues siempri siha manrisponsâpbli para u mana'siguru atyu: 1) yanggin i concrete slab ti siña machuda' kontra i waterproof covering (tât kumu i polyethylene sheeting), yan 2) i ma-treated na odda' tinampi yanggin ma-predicted i precipitation para u fâttu ântis di concrete slab masiñâla para u machuda';
- B. Ti siña ma-treat i edda' ni mampus fotgun;
- C. Ti siña ma-treat yanggin u'uchan;
- D. Ti siña masedi i treatment na para u falâgu ginin i ma-target na âria;
- E. Ti siña ma'aplika gi halum 10 pie gi storm drains;
- F. Ti siña ma'aplika gi halum 25 pie gi bodies of water pat aquatic habitats (tât kumu, lăo ti minidi para, sadduk, reservoirs, laguna, permanent streams, marshes pat ponds, estuaries, yan commercial fish farm ponds);
- G. Ti siña mafa'tinas on-grade applications yanggin ha sustieni wind speeds gi tinakkilu' gi 10 mph (gi inaplika na lugât) at nozzle end height; yan
- H. Tattiyi hâfa mâs na restrictions pat dinimânda siha ni ingklusu gi lisensia ni malaknus ni DEQ.

### **7.1.4 Post-construction**

- A. Inaplikasion para uriyan i edda' siha  
I sigienti na imfotmasion debi na u mapribeniyi kumu pâtti gi aplikasion lisensia para post-construction termiticide na aplikasion siha para i edda' ni inuririya i structures:
  - 1. EPA Numirun Rehistrasion Siha (yan kopian labels, yanggin magâgăo) para i pesticide products ni para u ma'usa;
  - 2. Fetcha yan ora siha gi maproponi na aplikasion;
  - 3. Na'an i kada applicator yan i kumpanian pesticide;
  - 4. Numirun Settifikasion gi kada applicator ni tinekka gi halum i prâyek;

## **Manmaproponi na Pesticide Management na Regulasion Siha**

5. Address i lugât aplikasion;
6. Description i lugât;
7. Mineddung i lugât ni para u ma-treated;
8. Method gi aplikasion; yan
9. Mâpa, a'annuk i bodies of water gi halum 100 pie gi âria ni i termiticide ni para u inaplika;

### **B. Fumigation**

I fumigation i ma'usan i vapor pat gas pat u ma'achuli' na fotma siha gi anai para u linimus, punu' pat mitigate termites. I fumigation maseha hâfa na pesticide ni ha vapor pat gas pat fotman produktu ni vapor pat gas na aplikasion yan ni hâfa na method fi pesticidal action ni ginin i gaseous state.

I sigienti na imfotmasion debi na u mapribeniya kumu pâtti gi aplikasion lisensia para post-construction termiticide fumigations:

1. EPA Numirun Rehistrasion Siha (yan kopian labels, yanggin magâgâo) para i produktun pesticide siha ni para u ma'usa;
2. Fetcha yan ora gi aplikasion ni maproponi;
3. Na'an kada applicator yan kumpanian pesticide;
4. Numirun settifikasion gi kada applicator ni tinekka gi præyek;
5. Address i lugât aplikasion;
6. Description i lugât;
7. Description i equipment ni para u ma'usa;
8. Description pat history i ekspirensian kumpania ni kundukta similar fumigations;
9. Description maseha hâfa na prublema estâba pat manera siha gi fumigations;
10. Hinemlu' yan Plânun Sinâfu';
11. Mâpa anai a'annuk todû residentin guma' siha yan bisnis gi halum i 25 pie gi lugât aplikasion;
12. I Plânun fumigant Management yan hâfa mâs na imfotmasion madimânda ni product label;
13. I applicator debi na u mapribeniya nutisian tinigi' para kada household yan bisnis ni gaigi gi halum sitentaisingku(75) pie gi maproponi na aplikasion. Yanggin i ârian aplikasion unu ha' na dueñun complex ni meggai units, pues i applicator debi na imfotma todû mafâsaga gi fumigation project. Nutisia siha debi na u macho'gui putlumenus ki katotsi(14) dihas ântis di fumigation project.

#### **7.1.5 Aplikasion Termiticide siha ma'-exempt gi dinimândan linisensia siha:**

- A. Injection gi halum structural voids;
- B. Châtku, kâ'ka', crevice treatments; yan
- C. Treatments ni ma'usa i enclosed baiting systems.

## **Manmaproponi na Pesticide Management na Regulasion Siha**

### **7.2 Aerial Pesticide Application**

7.2.1 Aerial pesticide applications manmanâ'i kâosa put kâosa yan mapribi para i lugât aplikasion siha ni man 150 acres pat ladangkulu. Maseha hâyi na petsona ha intensiona para u aplika i pesticides ni aircraft debi na u bâli i lisensian Aerial Pesticide Application (lisensian pilotu ni para u inaplika i pesticides aerially) ginin maseha manu na state pat territory of the United States. I aircraft ni ma'usa para i aerial application debi na u sigun gi areklamentu yan regulasion i Federal Aviation Administration siha.

#### **7.2.2 Lisensian Aerial Pesticide Application**

Para todû i lugât siha ni para u fanma-undergoing aerial pesticide treatment, i applicator debi na ha hâlum i aplikasion guatu gi Direktot gi fotma ni mapribeniyi para atyu na hinangai, ni inakumpânia ni non-refundable na âpas ni \$500. I ginagâo para i lisensia debi na u mana'hâlum guatu gi DEQ putlumenus di benti (20) ha'ânin bisnis ântis di ha'ânin i fetchan maproponin aplikasion. Gigun marisibi i Lisensian Aerial Pesticide Application, i DEQ guaha dies(10) ha'ânin bisnis ni para u cho'gui i lisensia. I lisensia bumâli 6-mesis dispues di fetchan i malaknos-ña.

I sigienti na imfotmasion debi na u mapribeniyi kumu pâtti gi lisensian aplikasion para i aerial pesticide applications:

- A. I Numirun EPA na Rehistrasion siha (yan kopian i labels, yanggin magâgâo) para i ma'usan i pesticide products;
- B. Hinangai i aplikasion; sâsâonâo i description of alternatives
- C. Fetcha yan ora siha gi maproponi na aplikasion
- D. Nâ'an gi kada applicator yan i kumpanian pesticide; sâsâonâo imfotmasion pliotu;
- E. Kopian i settifikasion para i aplikânti yan pilotu/applicator, yanggin difirensiâo yan i aplikânti.
- F. Kopain i lisensian pilotu
- G. Address i lugât aplikasion;
- H. Description i lugât, ni debi na sâonâo i mâpa gi aplikasion lugât, aidentififika i bodies of water pat aquatic habitats, residential homes, iskuela siha, hospitât, yan bisnis siha ni manggaigi gi halum 1000 pie gi aplikasion lugât;
- I. Description i equipment ni para u ma'usa;
- J. Description pat historian i ekspirensian i kumpania ni kumundudukta i pumareha na aerial treatments;
- K. Description i hâfa finene'na na problema siha pat manera ni pesticides siha; yan
- L. Plânun Hinemlu' yan Sinâfu'.

## **Manmaproponi na Pesticide Management na Regulasion Siha**

I Direktot DEQ siña ha rinunsia para u laknus i Lisensian Aerial Application yanggin madetitmina na i maproponi na aerial pesticide application ha threatens para u cause pat causes unreasonable adverse effects para i hinemlu' tãotão pat i environment.

### **7.2.3 Notifikasion**

- A. I applicator madimãnda para u tug'i nutisia i DEQ gi halum 48 oras åntis di u guaha hãfa na aerial application mafa'tinas gi papa' i ma'aprueba na lisensia. Solu ma-pre-approved ginin i DEQ, i aerial application ti debi na u ma-phased pat u madibidi. I Aerial pesticide applications makondukta gi papa' i ma'aprueba na lisensia ya debi na u masiñãla gi durãntin i DEQ's naturãt na oran cho'chu' siha. Itmãs, i aplikasion debi na u mapribeniyi nutisian tinigi' siha gi fetcha yan oran aplikasion yan i brand pat common name yan rehistrasion EPA gi pesticide ni para u ma'usa gi kada household yan bisnis ni manggaigi gi halum i one-mile radius gi maproponi na aplikasion. I kopian esti na tinigi' nutisia debi na u mana'hãlum guatu gi DEQ åntis di aplikasion pesticide.
- B. Kada guaha ånimu debi na u macho'gui para u ma-control i finalãgun pesticide gi durãntin aplikasion aerial pesticides.

## **7.3 Mapo'lun i Pesticides**

7.3.1 Todu masettifiku na pesticide applicators yan malisensian dealers debi na mapo'lu i pesticides sigun gi instrãksion pesticide siha gi matkã-ña yan i dinimãndan federãt siha tãtkumu, todus pesticides debi na u mapo'lu gi halum i sigienti na manera:

- A. gi halum makandãlu, nahung airi, fresku yan ånglu' na sagan pine'lu ni tãya' inanan somnak,
- B. gi halum i lugãt siparão kontra i nengkannu', nengkannu' gã'ga', simiya, pat gãga' siha;
- C. gi halum i oriyinãt na sahguan ni mamãtka;
- D. gi halum lugãt pat tãt gi manera ni mapega gi anai ti mahagu' ni famagu'on yan pests;
- E. yan i absorbent materials tãtkumu unai pat absorbent clay ni nahung para u chopchup todus i guaha ni machuda' siha;
- F. gi halum i lugãt chãgu' kontra i incompatible chemicals;
- G. gi halum i lugãt chãgu' kontra i flammable liquids pat solids; pat hihut i flammable source;
- H. gi halum i lugãt chãgu' kontra i personal protective equipment;
- I. yan i fire extinguisher;
- J. yan i Material Safety Data Sheet (MSDS) i pesticide ni ma'u'usa gi prisenti;
- K. gi halum i manera tãt i machuda' ni ti u impact i tanu' pat surface waters. Yanggin mapopo'lu mãs ki dossi (12) gallon siha pat sientu (100) libra na pesticides un biãhi na tiempu, debi na un, gi minimum, store i pesticides gi impermeable surface, tãtkumu i concrete slab, yan debi na u mamãtka i lugãt prominently ni skull yan crossbones para u indika i ginaigin i pesticides; yan

## **Manmaproponi na Pesticide Management na Regulasion Siha**

- L. gi halum i manera konsisti yan i matkân-ña.
- 7.3.2 Todu masetiifiku na pesticide applicators yan malisensia na dealers debi na u ma-store restricted use yan general use pesticides gi halum i sagan pine'lu ni mapega warning sign ni ha states maseha hâfa, todû pat maseha hâfa na combination gi sigienti na statements, kumu aplikâppli:
- A. "Warning";
  - B. "Piligrû";
  - C. "Sagan Pine'lun Pesticide";
  - D. "Sagan Pine'lun Binenu";
  - E. "Todû Unauthorized Persons Keep Out"; pat
  - F. "Kandâlu i Petta Yanggin Ti Ma'u'usa".
- 7.3.3 Retailers, wholesalers yan dealers debi na u mapo'lu yan ma-display i pesticides gi halum i sigienti na manera:
- A. Todû pesticides ma'ufresi para u mabendi debi na gaigi gi halum i registrant's approved container ni asintâdu na minatka ni dinimânda ni lain federât.
  - B. Todû restricted use pesticides debi na u masipâra kontra i general use pesticides in displays of pesticides ni ma'ufresi para mabendi guatu gi pupbliku.
  - C. Todû pesticides (either general use pat restricted use items) gi display para i pupbliku henerât debi na u ma-displayed gi minimum distance gi dies (10) pie kontra todû fresh, soft, loosely packaged pat ottru klâsin nengkannu' pat feed items gi lâta pat siña ha absorb odors, ginin i pesticides. Put ihemplu sâsâonão lão ti minidi para i pân, pastries, batâtas, kâtnin fresku, kesu, pugas, pasta, chips yan kandi siha. Todû pesticides debi na u ma-displayed gi minimum distance gi kuâttru (4) pie ginin i nengkannu' latiria siha pat maseha hâfa ottru na klâsin nengkannu' pat edible item.
  - D. Maseha hâfa na sahguan pesticide ni susumi' pat maseha dañão debi na insigidas mana'suha ginin i display area asta i lugât anai i contents siña ma-fully contained an siakâsu na i ha deteriorates i kundision-ña mâs. I ma'usan "overpack" na sahguan siha pat similar devices sufisienti para u afakcha' esti na dinimânda. Maseha hâfa na pesticide material ni machuda' pat mâski seha masedi para u mana'suha huyung gi sahguan debi na insigidas u mana'gâsgas ni apropositu na decontamination method. I lugât anai mânu na gaigi i maseha hâfa na pesticide material ni machuda' debi na u parehu ha' na insigidas u ma-decontaminated ni apropositu na method para i machuda' na matiriât.

## **Manmaproponi na Pesticide Management na Regulasion Siha**

7.3.4 I lisensian storage DEQ madimânda para i storage pesticides gi ti u inipus 500 galon siha pat 4,000 libra pat equivalent combination of liquids yan solids gi sigun i sigienti na manera siha:

- A. Dueñu yan operators siha gi fasilidât debi na u aplika guatu gi Direktot sientu benti (120) dihas ântis di ma'usan i fasilidât para storage kumu ma'espisifika guini na seksiona.
- B. Lisensia siha debi na u ma'aprueba solu yanggin i containment yan secondary containment complies ni 40 CFR §§ 165.80-97 gi (Huliu 2007), ni ha dimânda i containment yan secondary containment para todû kumu fasilidât siha yan sãonão i ma'usan i specific materials yan i incorporation technical design standards. I Direktot debi na dimânda atyu todû i plãnu siha para i nuebu na fasilidât ya u mapripãra ni certified engineer.
- C. I lisensian storage debi na u bãli gi singku (5) ãñus ginin i fetcha ni malaknus, yan i aplikãnti debi na u apãsi i DEQ sientu (\$100) pesus para i processing fee.

### **7.4 Transpottasion**

7.4.1 Todû Restricted Use Pesticides debi na u matranspotta gi halum i sigienti na manera:

- A. ti matranspotta gi halum i parehu na compartment yan i petsona siha, gã'ga', nengkannu', feed, simiya, magãgu pat consumer goods; yan
- B. todû sahguan siha debi na u mahuchum mafñut yan loaded gi manera anai ti u dãñu gi durãntin matranspotta, atyu na mâtkan-ñiha siha ni ti u magesguis huyung pat sino compromised yan atyu i ti u ma-shift pat u poddung huyung gi tumobit.

7.4.2 I pesticides gi maseha hãfa na tumobit ma'usa para i pest control ti debi na u transpotta gi halum i compartment pasaheru yan i petsona siha, gã'ga', nengkannu', feed, simiya, magãgu pat consumer goods.

7.4.3 Todû pesticides debi na u matranspotta kumu madimãnda gi matka

### **7.5 Dispuestu**

Pesticides, mantai sinahguan na sahguan siha, pat equipment ni manggogo'ti (pat ginin manggogo'ti) pesticide, debi na ti mana'tai sinahguan pat u mayuti' gi hãfa na manera nai siña gai piniligru para tãotão siha, gã'ga', nengkannu' feed, tinanum siha pat propiadãt. Basiha i non-refillable pesticide na sahguan siha ni ti siña machalãochão tres biãhi yan punctured to render useless. Para u mayuti' i maseha hãfa na non-refillable pesticide na sahguan ni ti siña machalãochão tres biãhi yan i user debi na tattiyi direksion siha gi mâtkan sahguan pesticide. Para u mayuti' maseha hãfa na sahguan pesticide (sãsaonão i refillable na sahguan siha yan i non-refillable na sahguan siha ni ti siña machalãochão tres biãhi yan punctured), i user debi na u tattiyi direksion siha gi mâtka yan ottru na dinimãndan federãt siha.

## **Manmaproponi na Pesticide Management na Regulasion Siha**

### **7.6 Recordkeeping**

Commercial Applicators, Private Aplicators yan Malisensia na Dealers debi na u keep yan u maintain records para i tiempu ni ti menus ki tres (3) años.

7.6.1 Commercial applicators debi na u maintain i magâhit yan dinanchi na records gi usu yan aplikasion parehu i dos ni mapribi i usu yan usun henerât na pesticides, sâsâonão i sigienti na imfotmasion:

- A. i brand (common) na ná'an yan i EPA na numirun rehistrasion gi produktu;
- B. i kantidân produktu ni ma'usa yan, yanggin para u mabâtti yan ottru na substance ântis di ma'usa, i na'an i ottru substance yan i tutât kantidân binatti ni mapripâra;
- C. i fetcha, ora, lugât yan method i aplikasion;
- D. tutât i âria ni kinubri;
- E. i ma'a'atan na âria pat ottru lugât; yan
- F. ma'a'atan i pest(s).

7.6.2 Private applicators debi na u maintain i magâhit yan dinanchi na records gi ma'usa yan aplikasion i mapribi na usun pesticides, sâsâonão i sigienti na imfotmasion:

- A. i brand (common) na ná'an yan i EPA na numirun rehistrasion gi produktu;
- B. i kantidân produktu ni ma'usa yan, yanggin para u mabâtti yan ottru na substance ântis di ma'usa, i na'an i ottru substance yan i tutât kantidân binatti ni mapripâra;
- C. i fetcha, ora, lugât yan method i aplikasion;
- D. tutât i âria ni kinubri;
- E. i ma'a'atan na âria pat ottru lugât; yan
- F. ma'a'atan i pest(s).

7.6.3 Malisensia na dealers debi na u maintain i magâhit yan dinanchi na records i mabendi yan distribusion i mapribi na usun pesticides, sâsâonão i sigienti na imfotmasion:

- A. i na'an, address, yan numirun settifiku pat lisensian i dealer (yanggin aplikâpbli) numirun tâotão ni mamâmahan pat manrिसisibi pesticide;
- B. i fetchan mabendi pat distribusion;
- C. i na'an i brand, EPA numirun rehistrasion, yan i mineggai produktu mabendi pat ma-distributed;
- D. i finitman i petsona ni mambebendi pat distributing i pesticide; yan
- E. mâtkan i pesticide.

### **7.7 Worker Protection Standards**

7.7.1 Applicability yan Scope

I CNMI Worker Protection Standards ha dimânda i mafa'tinas na para u pribeniyi agricultural yan guaha ottru emple'ão siha yan pesticide handlers ni pruteksion kontra i possible exposure yan tinailayi ginin i pesticides gi halum sagan cho'chu'. I CNMI Worker Protection Standards ha aplika para maseha hâfa na agricultural establishment, yan maseha hâfa na commercial application gi pesticides.

## **Manmaproponi na Pesticide Management na Regulasion Siha**

7.7.2 Dinimândan henerât siha para i agricultural establishments yan aplikasion commercial. Gi papa' i prubension siha gi CNMI Worker Protection Standard, manmadimânda i employers para u macho'gui i sigienti:

- A. Pega gi talu' na lugât anai siña chaddik mali'i' yan mataitai ni emple'âo siha gi lingguâhi ni makumprendi i specific na imfotmasion put i sinâfu' i pesticide, emergency procedures yan recent pesticide applications;
- B. Supply pesticide safety training para i emple'âo siha kumu madiskribi gi 40 C.F.R. 170.130 yan para i handlers kumu madiskribi gi 40 C.F.R. Pâtti 170.230;
- C. U mapribeniyi assistance in getting medical treatment yanggin siakâsu na work-related pesticide illness pat injury;
- D. U kumpli i restricted-entry intervals ni masodda' gi matka. Esti siha na tiempu anai insigidas dispues i aplikasion pesticide siha anai i emple'âo siha siña ti manhâlum gi treated areas;
- E. U manutisia i emple'âo siha kontra manmasângani pat mapega i warnings gi manera ni makumprendi put i âria siha anai i aplikasion pesticide siha na masusesedi yan i âria siha anai restricted-entry intervals ni maninafekta;
- F. Mana'siguru na atyu ha i ma-trained, propiu equipped pesticide handlers humâlum pat remain gi halum i ma-treated area gi durântin i aplikasion pesticide;
- G. U mapribeniyi decontamination sites para emple'âo siha yan handlers para u mafa'gâsi i residues gi kannai-ñiha yan tatâotâo-ñiha. I decontamination sites debi na u sâonâo nahung hânum para routine washing yan emergency eye flushing yan sufisienti na kantidân habbun yan single-use na tu'âya siha;
- H. U mapribeniyi yan maintain maseha hâfa apropositu na personal protective equipment yan mana'siguru na u mafa'mâolik mâolik, châgu' kontra i pesticides yan ottru mampiligru na chemicals, u ma'usa mâolik ni ma'intensiona na hinangai yan u ma'usasigun gi instrâksion manufacture's yan i direksion i matka siha. Personal protective equipment sâonâo lâo ti minidi para;
  1. coveralls ni loose-fitting unu pat dos na pidâsun magâgu ni tinampi todû, at a minimum, i interu tâotâo solu i ilu, kannai, yan adding; ni mafa'tinas cotton pat cotton polyester blend fabric; yan ti chemical-resistant. I pesticide na produktu labeling siña ma'esisifika na i coveralls u ma'usa gi hiyung ottru magâgu. Yanggin chemical-resistant suit ma-substituted para i coveralls, ti ha nisisita na u ma'usa gi hiyung ottru magâgu;
  2. i chemical-resistant suits – a loose-fitting unu pat dos pidâsu na chemical-resistant na magagu ni ha tâmpi, gi minimum, gi interu tâotâo solu i ilu, kannai, yan âdding siha.;
  3. i chemical-resistant gloves – gloves ni mafa'tinas ni chemical-resistant material;
  4. i chemical-resistant footwear- sapâtus, boots, pat tâmpin sapâtus pat boots siha ni mafa'tinas chemical-resistant material. Yanggin chemical resistant footwear ni sufisienti durability yan tread ni apropositu para u ma'usa gi halum terrain ni ti obtainable para emple'âo siha, pues i kueru na boots siña ma'usa gi such terrain;

## **Manmaproponi na Pesticide Management na Regulasion Siha**

5. i chemical-resistant na tapis siha – i tapis ni mafa'tinas chemical-resistant material yan tinampi i sanme'na gi tatãotão ginin i talu' gi petchu asta i temmu siha.
  6. i chemical-resistant headgear – hood pat tuhung ni ânchu i brim, ni mafa'tinas chemical-resistant material;
  7. protective eye wear - goggles; face shield; safety glasses with front, brow, yan temple protection; pat full-face respirator; yan
  8. respirators- i device ni ha prutetehi i respiratory system yan maseha mânu  
1) i klâsi ni malista gi pesticide label pat 2) mâs protective, yan debi na u apropositu para i pesticide product ni ma'usa yan para i aktibidât ni macho'gui;
- I. U mana'fanmanungu' todû handlers yan emple'ão gi dinanchi ni ma'usan i personal protective equipment;
  - J. U mana'fanmanungu' todû handlers gi dinachi ni ma'usan i application equipment;
  - K. Debi mana'siguru na todû handlers makumprendi todû mâtka ni madimânda siha;
  - L. Debi mana'siguru na maseha hãfa na pesticide handler ni bumãbatti, kumakatga, ha aplilika pat sino handling maseha hãfa na pesticide a skull yan crossbones na simbulu gi mâtka ni monitored visually pat ni voice communication kada ora; yan
  - M. Ma'implimenta ottru na dinimânda siha kumu instituted ni Direktot DEQ.

7.7.3 Mãs dinimânda siha. Todû agricultural establishments (lãnchu, forest, nursery pat greenhouse) debi na u tattiyi i federât Worker Protection Standards gi 40 C.F.R. Pãtti 170.

7.7.4 Yanggin siakãsu na guaha conflict gi entalu' maseha hãyi na relevant Worker Protection Standards, mãs gumuaha rinektu na dinimânda ni para u inaplika.

## **Pãtti 8 TRAINING YAN SETTIFIKASION**

### **8.1 Training**

8.1.1 Kuãlifikasion Instructor Siha. Maseha hãyi na petsona ha intensiona para u pribeniyi training settifikasion debi finene'na na u afakcha' yan i dinimânda siha ni mapega mo'na gi sampapa':

- A. sufisienti na edukasion pesticide, training, yan/pat ekspirensia u nisisãriu para u eksisiu i professional judgment yan u gai abilidadã para u fama'nã'gui yan u mãolik i komunikasion yan i student-applicators para u pripãra siha para i propiu na performance gi iyon-ñiha occupational duties; yan'

## **Manmaproponi na Pesticide Management na Regulasion Siha**

- B. u pass i written eksaminasion pesticide safety [testing i tingu' aplikanti ni pesticide labeling, safety factors, environmental consequences, aidentifikasion pest yan i characteristics, klâsin pesticide siha, formulations, yan dilutions, equipment maintenance yan calibration, proper storage, usu, yan disposal i pesticides yan sahguan siha, pesticide application techniques, local yan federât lai yan regulasion pesticide siha, recordkeeping, worker protection standards, yan ottru relevant na imfotmasion kumu ma-deemed nisisâriu, sâsâonão lão ti minidi para i nuebu na developments yan ottru pertinent matters].

### **8.1.2 Risponsâpblidât Instructor Siha**

- A. Plânun training. Develop i hands-on, interactive training plan ni ha na'sâonão lão ti minidi para i labeling, safety factors, environmental consequences, aidentifikasion pest yan i characteristics, klâsin pesticide siha, formulations yan dilutions, equipment maintenance yan calibration, application techniques, lain yan regulasion pesticide siha, yan ottru relevant na imfotmasion kumu ma-deemed na nisisâriu, sâsâonão lão ti minidi para i worker protection standards, recordkeeping, nuebu na developments yan ottru pertinent matters.
- B. Core Training Duration/Schedule. I training debi na u minimum un (1) diha (8 oras) na instruction, ni debi na u sâonão lão ti minidi para lecture, practicum, yan priparasion eksam.
- C. Anunsiun Training/Rehistrasion. I training debi na u ma'anunsia kontra i local media (gasetâ, rediu', telebision yan ottru manera siha) putlumenus tres (3) simâna siha ântis di para i masiñâlan i training.
- D. Matiriât Training Siha. I instructor debi na u pribeniyi todû matiriât siha (lepblu, handouts, etc.) para i workshop yan update todû matiriât siha (lepblu, handouts, etc.) kumu madimânda pat kumu manisisita.

- 8.1.3 Reporting. I instructor debi na u ripot todû pesticide yan i aktibidât i prugrâma gi safety education siha para i Dibision Environmental Quality gi uttimun i kada quarter (Disembri 31, Mâtsu 31, Huniu 30 yan Septembri 30).

## **8.2 Dinimândan Settifikasion**

- 8.2.1 Maseha hâyi na petsona ni ha usa pat ha supervise i ma'usan maseha hâfa na pesticide para hinangain commercial siha debi na u ma'ahenta i settifikasion ginin i DEQ.
- 8.2.2 Maseha hâyi na petsona ni ha u'usa, bebendi, pat ha distribute i restricted use pesticides debi na u ahenta i settifikasion ginin i DEQ.

## **8.3 Katigurât Siha gi Commercial Applicators, Private Applicators yan Licensed Dealers**

### **8.3.1 Commercial Applicators**

Katigurât siha gi applicators (ottru ki private) manma'aidentifika gi sampapa':

## **Manmaproponi na Pesticide Management na Regulasion Siha**

- A. Agriculture pest control
- (i) Tinanum. Esti na katigurât sãonão i commercial applicators ni ha u'usa pat ha supervising i ma'usan i pesticides gi produksion i agricultural crops, sãsonão sin minidi i foregoing, tobacco, kakakuâtis, cotton, feed grains, soybeans yan forage; gollai; dikiki' na fruta siha, trongkun fruta siha yan nuts; kumu well as gi grasslands yan non-crop agricultural lands.
- (ii) Gã'ga'. Esti na katigurât sãonão i commercial applicators ni ha u'usa pat supervising i ma'usan i pesticides gi ga'ga' siha, sãsonão sin minidi i foregoing, beef cattle, dairy cattle, swine, sheep, kabãyu, chiba siha, poultry, yan livestock, yan para i lugât siha gi pat gi anai manmapega i ga'ga' siha. Doctors of Veterinary Medicine ni ha engaged gi halum i bisnis ni inaplika pesticides for hire, publicly ha gogo'tin maisa siha huyung kumu pesticide applicators, pat engaged gi large-scale na ma'usan i pesticides ni mañãonão gi halum esti na katigurât.
- B. Forest pest control. Esti na katigurât sãonão i commercial applicators ni ha u'usa pat supervising i ma'usan i pesticides gi forests, forest nurseries, yan forest seed producing areas.
- C. Ornamental yan turf pest control. Esti na katigurât sãonão i commercial applicators ni ha u'usa pat ha supervising i ma'usan i pesticides para u ma-control i pests gi maintenance and production i ornamental trees, shrubs, floris, turf, sãsonão i maintenance i resort grounds, golf courses, pat i greenhouses.
- D. Seed treatment. Esti na katigurât sãonão i commercial applicators ni ha u'usa pat supervising i ma'usan i pesticides gi simiya siha.
- E. Aquatic pest control. Esti na katigurât sãonão i commercial applicators ni ha u'sa pat supervising i ma'usan i pesticide hinangain inaplika gi tumotohgi pat malãlagu na hãnum, ti sãonão i applicators engaged gi hinemlu' pupbliku ni mana'achuli' na aktibidât siha ni mapega mo'na gi halum i seksiona 8.3.1 G.
- F. Right-of-way pest control. Esti na katigurât sãonão i commercial applicators ni ha u'usa pat supervising i ma'usan i pesticides gi halum i maintenance i chalan pupbliku siha, electric power lines, pipelines, railway right-of-way pat ottru ária siha ni u ma'achuli'.
- G. Industrial, institutional, structural yan health related pest control. Esti na katigurât sãonão i commercial applicators ni ha u'usa pat supervising i ma'usan i pesticides gi halum, gi hilu' pat uriyan i fasilidât food handling siha, human dwelling, institutions, tãtkumu i eskuela, yan hospitãt, industrial facilities, sãonão i warehouses yan grain elevators, yan maseha ottru na structures yan adjacent areas, public pat private; yan para i pruteksion i stored, processed, pat manufactured products.

## **Manmaproponi na Pesticide Management na Regulasion Siha**

- H. Public health pest control. Esti na katigurât sãonão i governmental employees ni ha u'usa pat supervising i ma'usan i pesticides gi halum i prugrãman hinemlu' pupbliku siha para i minaneha yan control pests anai guaguaha medical yan public health importance.
- I. Regulatory pest control. Esti na katigurât sãonão i governmental employees ni ha u'usa pat supervising i ma'usan i pesticides gi halum i control of regulated pests.
- J. Demonstration yan research pest control. Esti na katigurât: i indibiyuât siha ni ha demonstreha gi pupbliku i propiu ma'usa yan techniques gi application i pesticides pat supervise tãt i demonstrehasion, yan i petsona siha ni kumondudukta i field research ni pesticides, yan gi halum ha chocho'gui, usa pat supervise i ma'usan i pesticides. Sumãonão gi halum i primet gurupu gi tãt petsona siha kumu extention specialists yan country agents, commercial representatives ni ha demonstretreha i pesticide products, yan atyu na indibiyuât siha ni mademonstretreha i methods ni ma'usa gi prugrãman pupbliku. I sigundu gurupu sãonão: State, Federãt, commercial yan ottru petsona siha ni kumondudukta i field research gi pat ma'u'usa i pesticides.

### **8.3.2 Private Applicators**

Maseha hãyi na petsona ni ha u'usa pat supervises i ma'usan i maseha hãfa ni mapribi ni usun pesticide para i hinangai i mamprudusin maseha hãfa na agricultural commodity (atan i 40 CFR § 171.2(a)(20)) gi propiadãt-ña pat ha atkikila, pat yanggin inaplika sin compensation ottru ki tinilaikan sitbisiun petsonãt siha gi entalu' i producers of agricultural commodities gi propiadãt ottru na petsona, debi na u maklasifika kumu private applicator. "Agricultural Commodity" kumeke'ilekña na maseha hãfa na tinanum, pat pãtti gi, pat produktun gã'ga', ni maprodusi ni petsona (sãsonão i lancheru, ranchers, plant propagators, aqua-culturists, flori-culturists, orchardists, foresters, pat ottru comparable persons primarily para mabendi, consumption, propagation, pat ottru usu ni taotão pat gã'ga' siha.

### **8.3.3 Licensed Dealer**

Maseha hãyi na petsona ni ha engages gi importation, mabendi, pat distribution i mapribi na usun pesticide debi na u maklasifika kumu malisensia na dealer yan debi na u masettifika gi parehu na manera kumu commercial applicator.

## **8.4 Standards of Competency**

8.4.1 I sinãfu' pesticide yan education training ma'ufresi gi halum i CNMI debi na u sãonão lão ti minidi para:

- A. labeling;
- B. safety factors;
- C. environmental consequences;

## **Manmaproponi na Pesticide Management na Regulasion Siha**

- D. aidentifikasion pest yan characteristics;
- E. klâsin pesticide siha, formulations yan dilutions;
- F. equipment maintenance yan calibration;
- G. proper storage, usu, yan disposal i pesticides yan i sahguan siha;
- H. pesticide application techniques;
- I. lai yan regulasion i pesticide siha;
- J. recordkeeping;
- K. worker protection standards; yan
- L. ottru relevant na imfotmasion kumu ma-deemed na nisisâriu, sâsâonão lão ti minidi para i nuebu na developments yan ottru pertinent matters.

### **8.4.2 Eksaminasion Siha.**

- A. Maseha hâyi na petsona ni ha intensiosiona para u pesticide applicator pat dealer debi na u demonstreha competency sigun gi eksaminasion tinigi'.
- B. I passing grade para i eksaminasion i sitienta(70%) put sientu. I competence gi ma'usa yan handling i pesticides debi na u madetitmina gi sigun gi eksaminasion tinigi' yan, kumu apropositu, performance testing sigun gi standards ni mapega mo'na gi sampapa'. Tâtkumu i eksaminasion yan testing debi na u sãonão i general standards applicable gi todú katigurât siha yan i pumalu na standards ni ma'espisifika ni ma'aidentifika para kada katigurât pat subcategory gi ni i applicator ni para u maklasifika, yan para i pesticide pat klas pesticides ni minaneha ni settifikasion i petsona.
- C. I eksaminasion siha ni ma'ufresi kumu manisisita; mafaisin para eksaminasion na debi u mafa'tinas gi fotma ni mapribeniyi ni hinangai atyu i DEQ.

### **8.4.3 Detitminasion i Competency para Commercial Applicators**

- A. **General Standards of Competency.**  
Todú applicators debi na u demonstreha i practical knowledge gi principles yan practices gi pest control yan safe use gi pesticides kumu madiskribi gi sampapa'. Testing debi na u ma-based gi ihemplun i problema siha yan i sichuasion ni apropositu para i pattikulât na katigurât pat subcategory gi settifikasion i applicator yan i sigienti na ârian competency:
  - 1. **Label yan Labeling Comprehension.** Factors sãsãonão i general format gi labels yan terminology ni manma'usa gi pesticide labels yan labeling; instructions, warnings, terms, symbols, yan ottru imfotmasion ni sessu annuk gi pesticide labels; Klasifikasion gi produktu, general pat restricted; yan Nisisidât gi usu ni konsisti gi label.

## **Manmaproponi na Pesticide Management na Regulasion Siha**

2. **Sinâfu'. Factors ingklusu :** Pesticide toxicity yan hazard para i taotão yan common exposure routes; Common types yan causes i pesticide accidents; Precautions nisisãriu para u maguãdia kontra injury gi applicators yan ottru indibiyuât siha gi pat fi'un i ma'ãmti na ária siha, Ha nisisita para yan usu gi protective clothing yan equipment; Symtoms i pesticide poisoning; First Aid yan ottru manera siha para u matattiyi yanggin siakãsu pesticide accident; yan Propiu na aidentifikasion, storage, transport, handling, mixing procedures yan disposal methods para i pesticides yan ma'usa na sahguan pesticide siha, sãsaonão precautions ni para u machuli' para u mapribeni famagu'un kontra u fangai access gi pesticides yan i sahguan pesticides siha.
3. **Potential Environmental Consequences of Use yan Misuse of Pesticides.** Ingklusu i influential factors tãtkumu: Weather yan ottru kundision klema siha; Types of terrain, soil pat ottru substrate; Presence of fish, wildlife yan ottru non-target organisms, Drainage patterns
4. **Pests.** Ingklusu i factors tãtkumu : Common features of pest organisms yan characteristics of damage manisisita para i pest recognition; Recognition of relevant pests; yan Pest development yan biology kumu siãa relevant para i prubleman aidentifikasion yan control.
5. **Pesticides.** Ingklusu i factors tãtkumu: Klãsin pesticides; Klãsin formulations; Compatibility, synergism, persistence yan gã'ga' yan tinanum toxicity gi formulations; Hazards yan residues associated yan i ma'usu; Factors ni ha influence effectiveness pat lead gi tãt prublema siha kumu resistance para i pesticides; yan Dilution procedures, sãsaonão calculations para u achieve dinanchi na rate aplikasion.
6. **Equipment.** Ingklusu i factors tãtkumu: Klãsin equipment yan advantages yan limitations gi kada klãsi: yan Usu, maintenance yan calibration.
7. **Techniques aplikasion.** Ingklusu i factors tãtkumu: Methods i manera siha ni ma'usa para u aplika i palu siha na formulations i pesticides, solutions, yan gases, dumanfia yan tiningu' ni technique i aplikasion para u ma'usa gi hãfa na sichuasion; Relationship gi discharge yan placement i pesticides ni para u propiu ma'usa, ti nisisãriu na usu, yan misuse; yan Prevention of drift yan pesticide loss asta halum i environment.
8. **Todu local yan federãt na dinimãnda siha.**

## **Manmaproponi na Pesticide Management na Regulasion Siha**

- B. Specific Standards of Competency. I Commercial Applicators debi na u mademonstreha i competence yan debi na i pattikulâtmienti i kualifikâo yan rispetu gi standards elaborated gi sampapa'.
1. Agricultural Pest Control.
    - (a) Tinanum Siha. I applicators debi na u mademonstreha i practical knowledge gi dinekku' tinanum siha yan i specific pests of-these crops ni siña ma u'usa i RUPs. I impottânenña tât i competency is amplified ni i extensive areas ni tinekka, i kantidân pesticides ni manisisita, yan i ultimate use of many commodities kumu nengkannu' yan feed. I practical knowledge madimânda sigun gi prubleman i edda' yan i hanum, pre-harvest interval, re-entry interval, phytotoxicity, yan potential para i environmental contamination, non-target injury yan problema gi kumunidât ginin i ma'usan i mapribi na pesticides i halum i ârian agrikuttura siha.
    - (b) Gâ'ga' Siha. Petsona siha ni manaplilika pesticides direktamenti para i ga'ga' siha debi na u mademonstreha i tiningo'-ña tâtkumu ga'ga' siha yan i iyun-ñiha associated pests. I practical knowledge lokkui' madimânda sigun gi specific pesticide toxicity yan residue potential, desdi i ga'ga' sessu ma'usa para nengkannu'. Itmâs, i applicator debi na u tungu' i relative hazards associated yan tât factors kumu i formulation application techniques, idât i ga'ga' siha, stress yan extent of treatment.
  2. Forest Pest Control. I applicators debi na u mademonstreha i practical knowledge gi extent yan klâsin forests, forests nurseries, yan produksion simiya gi halum i Sangkattan na Marianas siha yan i pests ni tinekka. Debi na u ma possess i practical knowledge gi cyclic occurrence gi pumalu na pests yan specific population dynamics kumu basis para i programming pesticide applications. I practical knowledge madimânda gi relative biotic agents yan iyun-ñiha vulnerability para pesticides ni para u ma'aplika. Sa' put i forest tumotohgi sessu ingklusu i aquatic habitats yan harbor wildlife, i consequences i pesticide i usu siña gai minapput para ma'-assess. I applicators debi atyu na u demonstreha i practical knowledge of control methods ni minimize i possibility gi secondary problems tâtkumu i unintended effects gi wildlife. Propiu ma'usa i specialized equipment debi na u mademonstreha, ispisiâtmenti kumu siña mana'achuli' yan i meteorological factors yan adjacent land use.

## **Manmaproponi na Pesticide Management na Regulasion Siha**

3. Ornamental yan Turf Pest Control. I applicators debi na u mademonstreha i practical knowledge gi prublema pesticide siha ni associated yan i production yan maintenance of ornamental trees, shrubs, plantings, yan turf, ingklulusu i cognizance of potential phytotoxicity pudi meggai klâsin matiriât tinanum, drift, yan persistence inipus i ma'intensiona na tiempu gi pest control. Sa' put sessu i proximity of human habitations para aktibidât aplikasion siha, i applicators guini na katigurât debi na u demonstreha i practical knowledge gi application methods ni para u minimize pat u pribeni i hazards para i taotâo, pets, yan ottru domestic animals.
4. Seed Treatment. I applicators debi na u mademonstreha i practical knowledge gi klâsin simiya siha ni ha nisisita chemical protection kontra i pests yan factors tâtkumu i seed coloration, carriers, yan surface active agents ni ha influence i pesticide binding yan siña inafekta i germination. Debi na u ma demonstreha i practical knowledge of hazards associated yan i handling, sorting yan mixing, yan misuse of treated seed tâtkumu i introduction i treated seed hâlum gi nengkannu' yan feed channels, kumu i proper disposal gi unused treated seed.
5. Aquatic Pest Control. I applicators debi na u mademonstreha i practical knowledge gi secondary effects ni siña ha caused ginin improper application rates, incorrect formulations, yan faulty application gi mapribi u usun i pesticides ni ma'usa gi esti na katigurât. Siña ma demonstreha i practical knowledge gi pumalu na hânum siha use situations yan i potential of downstream effects. Itmâs, siña ma na'guaha practical knowledge sigun gi potential pesticide effects gi tinanum siha, guihan, paluma, beneficial insects yan ottru organisms nai siña manggaigi gi aquatic environments. Esti siha na applicators siña ma demonstreha i practical knowledge gi principles of limited area application.
6. Right-of-way Pest Control. I applicators debi na u ma demonstreha practical knowledge gi meggai na klâsin environments pudi rights-of-ways siña traverse meggai klâsin terrains, ingklusu waterways. Debi na u ma demonstreha practical knowledge gi prubleman runoff, drift, ingklusu drift control measures yan procedures, yan excessive foliage yan abilidad para u rekognisa i target organisms. Debi lokkui' na u ma demonstreha practical knowledge gi nature of herbicides yan i nisisidât para containment gi esti na pesticides gi halum i right-of-way na âria, yan i impact gi iyon-ñiha aplikasion aktibidât siha gi halum adjacent areas yan communities.

## **Manmaproponi na Pesticide Management na Regulasion Siha**

### **7 Industrial, Institutional, Structural yan Health-Related Pest Control.**

- (a) **General yan Structural Pest Control.** I applicators debi na u mademonstreha i practical knowledge gi meggai klâsi na pests ingklusu iyon-ñiha life cycles, tâtukumu klâsin formulations apropositu para i iyon-ñiha control yan methods gi application ni ha avoid contamination gi food damage yan contamination gi habitat, yan exposure gi taotão yan pets. Ginin human exposure, ispisiâtmienti para neni siha, famagu'un, manmapotgi' na famalão'an, yan manâmku' na tãotão siha, ni sessu i potential problem. i applicators debi na u mademonstreha i practical knowledge gi specific factors ni siña chumachalâlani i hazardous condition, ingklusu continuous exposure gi halum i kantidâ na sichuasion siha ni ha encountered guini esti na katigurât. Sa' put i health related pest control siña humålum i outdoor applications, i applicators guini na katigurât debi lokkui' na u demonstreha i practical knowledge gi environmental conditions pattikulâtmienti i mana'achuli' gi esti na aktibidât.
- (b) **Structural yan Commodity Fumigation.** Gi halum esti na subcategory, klâsin structures ingklusu, lão ti manminidi para i inhabited buildings, containers, boti. I applicators debi na u mademonstreha i practical knowledge gi core requirements covering lai yan regulasion fumigant yan fumigation, basic principles gi fumigant use, gi handler yan worker safety na dinimãnda siha ispisiâtmienti pesticide safety training, preventing heat-related illnesses, gi fumigant labels, taimanu ma'intetpitiyi yan matattiyi i direksion siha gi label yan i dinimãnda siha. I applicators debi na u mademonstreha i practical knowledge gi hazards associated yan i fumigant use yan mapribebeni i human exposure, environmental contamination, off-site movement/drift, yan phytotoxicity, gi safe fumigant emergencies. I applicators debi na u demonstreha i practical knowledge gi propiu fumigant application procedures, a'atyik yan u'usa i apropositu na application equipment yan iyon-ña calibration, yan gi hazards safe use practices.

## **Manmaproponi na Pesticide Management na Regulasion Siha**

- (c) **Soil Fumigation.** I applicators debi na u mademonstreha i practical knowledge gi core na dinimânda siha ni tinatampi fumigant yan fumigation ni usun lai yan regulasion siha, i basic principles gi usun fumigant, gi handler yan worker safety na dinimânda siha ispisiâtmienti i pesticide safety training, prinibebeni i heat-related illnesses, gi fumigant labels, taimanu para u ma'intetpitiyi yan matattiyi i direksion yan i dinimânda siha gi label. I applicators debi na u mademonstreha i practical knowledge gi hazards associated yan i usun fumigant yan prinibebeni human exposure, environmental contamination, off-site movement/drift, yan phytotoxicity, gi safe fumigant handling practices, propiu na sileksion, usu, yan inadahi, yan responding gi fumigant emergencies. I applicators debi na u demonstreha i practical knowledge gi propiu na fumigant aplikasion manera siha, inatyik yan ma'usa apropositu aplikasion equipment yan iyon-ña calibration, yan gi hazards yan sinâfu' na prinaktika siha.
8. **Public Health Pest Control.** I applicators debi na u mademonstreha i practical knowledge gi pests gi public health importance, stor-disease relationships, yan etiology gi disease-host relationship. Desdi i mineggai na klâsin pests mantinekka, esti siha na pests debi na u matungu' yan u marekoknisa ni public health control applicators, yan i life's cycles yan i habitats gi kada thoroughly understood. Esti siha na applicators debi na u fan-familiar yan i meggai na klâsin environmental conditions desdi i streams asta dwellings. Debi na u ma cognizant tâtkumu non-chemical control methods kumu sanitation, waste disposal, yan drainage. I applicators debi na u mademonstreha i practical knowledge gi regulated pests, ni aplikâpbli na lai ni mana'achul' ni para i quarantine yan ottru na regulasion i pests, yan i potential impact gi environmenta ni mapribi i usun pesticides ni ma'usa gi halum i suppression yan eradication na prugrâma siha. Debi na u ma demonstreha i tiningu' gi factors ni ha influencing introduction, spread, yan population dynamics of relevant pests.

## **Manmaproponi na Pesticide Management na Regulasion Siha**

9. **Regulatory Pest Control.** I applicators debi na u mademonstreha i practical knowledge gi aplikápbli na lai siha, sinâfu', regulated pests, pesticides yan i impact i restricted use introduction, spread, yan population dynamics gi relevant pests. I applicators debi na u mademonstreha i practical knowledge kontra yan hilu' atyu i madimânda ni iyon-fiha immediate duties desdi i emergency measures ni mansessu madimânda yan i individual judgments gi nuebu na sichuasion ni debi na u mafa'tinas.
  10. **Demonstrasion yan Research Pest Control.** Petsona siha ni mademonstretreha i sinâfu' yan ifektibu na ma'usa pesticides para ottru applicators yan i pupbliku para u ma'espekta para u afakcha' yan i comprehensive standards ni ha reflelekta i broad spectrum gi ma'usan pesticides. Meggai disfrentis klâsi na prubleman pest siha ni para u encountered gi durântin aktibidât siha ni associated yan i demonstrasion, yan practical knowledge gi problema siha, pests, yan population levels ni masusesedi gi kada demonstrasion sichuasion ni madimânda. Itmâs, debi na u ma demonstreha gi kinemprendi gi pesticide-organism interactions yan i importance of integrating pesticide na usu yan ottru na control methods. I applicators ha chocho'gui i demonstrasion gi pest control work, ni ha kondudukta i field research pat method improvement na cho'chu' yan i RUPs ni debi na u possess i practical knowledge gi todú i general standards ni ma-detailed gi halum i seksion 8.4.3 A. Putmâs, debi na u ma ekspekta para u matungu' i specific standards ni madeskribi gi seksiona 8.4.3 B kumu siña u maplikápbli gi pattikulâtmienti na aktibidât-ñiha.
- C. **Specific Standards of Competency.** Private Applicators debi na u mademonstreha atyu i ha possesses i practical knowledge gi prubleman pest ni associated yan iyon-ña agricultural operations. Private applicators debi para u
1. U rekognisa i common pests ni para u ma-controlled yan dañão ni muna'tailayi.
  2. U maitai yan u makumprendi i label yan i labeling na imfotmasion, ingklusu i common name i pesticides ni ha aplika, pests ni para u ma-controlled, timing yan i methods, i aplikasion, safety precautions, maseha hâfa na pre-harvest pat re-entry restrictions, yan maseha hâfa na pre-harvest pat re-entry restrictions, yan maseha hâfa na specific disposal procedures.

## **Manmaproponi na Pesticide Management na Regulasion Siha**

3. U ma'aplika i pesticides sigun gi label instructions yan warnings, ingklusu i abilidad para u pripara i proper concentration gi pesticide ni para u ma'usa gi papa' i pattikulat na sikumtansia siha ni ha chuchuli' into an account tatkumu i factors kumu i aria ni para u covered yan i kantida ni ha dispersed gi halum i tiempun operasion.
  4. U rekognisa i local environmental situations debi na u makunsidera gi durantin i application para u avoid i contamination.
  5. U rekognisa i poisoning symptoms yan i manera siha para u tattiya yanggin siakasu pesticide accident.
- D. Specific Standards of Competency. I Malisensia na Dealers debi na u mademonstreha mas i competence yan knowledge sigun lao ti ingklusu lao ti minidi para i sigienti:
1. leyislation pesticide, regulasions yan giniha siha;
  2. safety yan toxicology;
  3. disposal;
  4. storage yan transpottasion;
  5. effects gi ga'ga' siha, tinanum, yan environment; guihan yan wildlife;
  6. factors ni inafefekta i aplikasion pesticides;
  7. klasifikasion yan formulations gi insecticides;
  8. fungicides, herbicides, yan ottru pesticides yan i usun-niha;
  9. difinision siha;
  10. rekomendasion siha para usun pesticides; yan
  11. poisoning symptoms yan manera siha ni para u matattiya yanggin siakasu i pesticide accident.

### **8.5 Fotman Aplikasion Siha, Durao yan Rininueba Siha**

- 8.5.1 I aplikasion para settifikasion kumu pesticide applicator pat malisensia na dealer debi na u mafa'tinas para i Direktot gi fotma ni mapribeniyi para atyu na hinangai.
- 8.5.2 Durao Settifikasion yan Rininueba Siha
- A. Todu settifikasion siha debi na u bali para tres (3) años na tiempu ginin i fetcha ni malaknus solu lataftaf na masuspendi pat ma-revoke ni Direktot.
  - B. Para i rininueban aplikasion debi na u mafa'tinas gi fotma ni mapribeniyi para atyu na hinangai.
  - C. I aplikanti siha siña ma rinueba i settifikasion ni ma'atetendi i continuing education (CE) classes, relevant gi katigurat settifikasion, ni ma'ufresi ni maseha manu na U. S. state pat territory. Lao, i rininueba siha ginin i classes siña ha' makunsidera yanggin i aplikanti ha chuli' i CE classes gi durantin i tiempu settifikasion gi parehu pat pumarehu na katigurat ni para i masatba i rininueba.

## **Manmaproponi na Pesticide Management na Regulasion Siha**

- i. Commercial Applicators debi na u machuli' i minimum dossi (12) na continuing education classes para u rinueba i settifikasion-ña.
  - ii. Private applicators debi na u machuli' i minimum tres (3) na continuing education classes para u rinueba i settifikasion-ña.
- D. Yanggin siakâsu na i applicator ti ha atendi i CE classes, i aplikânti debi na madimânda na para u pass ottru na eksaminasion gi parehu na klâsin dinimânda para i rininueba siha gi settifikasion siha para u na'siguru i abilidadâ na para u chuli' i dinimânda siha gi tinilaikan technology yan para u na'siguru i continuing level of competency yan abilidadâ ni para u usa pesticide safely yan propiu.
- E. Yanggin siakâsu na i applicator malagu' para u na'dañña'i pat u tulaika i katigurât settifikasion, i aplikânti debi na u pass i demonstrate competency gi halum i nuebu na katigurât.

### **8.6 Standards para i Spervisory gi Non-Certified Applicators ni Certified Applicators**

I non-certified lão i competent na petsona ni u ma'-acting gi papa' i direct supervision i certified applicator siña manaplika general use pesticides gi sichuasion ni pat osino u madimânda i aplikasion ni certified applicator. I availability yan active supervision gi certified applicator debi na u direktamienti u a'achuli' gi para hazard gi sichuasion yan i ma'usan pesticide. I non-certified applicators siña ha' manaplika gi mapribi na usun pesticides gi papa' i direct supervision ni certified applicator ni gaigi gi lugât. Responsâpblidât para i propiu na aplikasion gi henerât pat mapribi i usun pesticides debi na u sâga parehu yan i non-certified yan i certified applicator.

### **8.7 Reciprocity yan Ottru Jurisdictions yan Temporâriu na Settifikasion**

I Direktot siña ha laknus i temporâriu na settifikasion para i petsona ni gumogo'ti i valid pesticide applicator's certification ni malaknus ni ottru na state pat territory of the United States ni guaguaha inapruedan state plan. I temporâriu na settifikasion debi na u sâga bâli para anâkku' na tiempu ni underlying certification ni bâli.

### **8.8 Extension, Denial, Suspension pat Revocation, yan Appeal**

8.8.1 Yanggin i Direktot ha detitmina na manisisita para i specific type na pesticide applicator yan atyu i para i minâolik intires gi CNMI, siña ha ekstendi i validity gi temporâriu na settifikasion. I tinigi' aplikasion para i temporâriu na settifiku debi na u mafa'tinas guatu gi Direktot gi fotma ni mapribeniyi para atyu na hinangai. I temporâriu na settifikasion debi na u minidi para i parehu na klâsi yan katigurât gi usun pesticide ni para i aplikânti ni masettifiku gi ottru na state pat territory. Solu gi papa' tât na sitkumtânsia siha kumu i Direktot siña ha rekognisa, i temporâriu na pesticide applicator na settifiku debi na u non-renewable.

8.8.2 I Direktot siña ha puni, suspendi, pat revoke i settifku yan u assess i criminal yan/pat civil penalties para i misuse i pesticide pat falsification gi hâfa na records ni madimânda para u maintained ni certified applicator.

## **Manmaproponi na Pesticide Management na Regulasion Siha**

8.8.3 I Direktot siña ha puni i settifikasion para:

- A. maseha hâyi na petsona ni gai settifikasion ni masuspendi pat ma-revoked.
- B. maseha hâyi na petsona ni masodda' na gai violation gi maseha mânu na pâtti gi esti na regulasion siha.
- C. maseha hâyi na petsona ni ha failed para u pass i proficiency test.
- D. maseha hâyi na petsona ni ha fail para u apâsi i madimânda na âpas siha.

8.8.4 Maseha hâfa na settifikasion ni malaknus sigun gi esti na pâtti u marinueba para suspension pat revocation ni Direktot para i violation gi maseha hâfa na kundision gi settifiku pat esti na regulasion siha, gi criminal conviction gi papa' i Seksiona 14(b) ni ma'amenda FIFRA, i ottimu na otdin ha imposing civil penalty gi papa' Seksion 14(a) gi ma'amenda FIFRA, pat i CNMI enforcement action.

8.8.5 Maseha hâyi na petsona ni mapuni i settifikasion sigun gi Pâtti 8.8 pat ni hâyi na settifiku ni masuspendi pat ma-revoked siña mamaisin gi DEQ para u mapo'lu gi un bânda tât i pinuni, suspension pat revocation sigun gi Âktun Administrative Procedure, 1 CMC §§ 9101, et seq. I tingi' Direktot na disision gi manera debi na u final yan inapela na u available sigun gi lai.

### **8.9 Âpas Siha**

8.9.1 Petsona siha ni madiseseha para u mahenta i settifikasion ginin examination ni ma'atministra ginin i Dibision Environmental Quality debi na i apas u non-refundable gi dies (\$10) pesus.

8.9.2 Commercial applicators debi na i apas u non-refundable gi singkuent (\$50) pesus para i processing ni aplikasion.

8.9.3 Private applicators debi na i apas non-refundable gi dies (\$10) pesus para i processing i aplikasion.

8.9.4 Âpas siha para i Government Applicators siña ma-waived, u mana'siguru na i Applicator atyu ha' ha kundukta tât i aplikasion siha gi prâyek Gubietnamentu siha.

8.9.5 Mapribi i usun pesticide dealers na debi i apas non-refundable gi singkuenta (\$50) pesus para i processing ni aplikasion.

8.9.6 Todu renewal na settifikasion (commercial applicator, private applicator, RUP dealer) debi na u apâsi i ma'istapblesi i processing fee.

## ***Manmaproponi na Pesticide Management na Regulasion Siha***

### **Påtti 9 LISTAN I MAPROHIBI YAN MANMAPRIBI NA PESTICIDES YAN NUTISIAN TINILAIKA GI ESTÃO**

#### **9.1 Prinibin Pesticides**

I DEQ siña ha pribi maseha hâfa na usun maseha hâfa na pesticide yanggin ma-deemed para u prudusi significant adverse effects gi hinemlu' tâotâo pat i environment. Yanggin i DEQ ha detitmina na i pesticide Mapribi i Usun Pesticide ("RUP"), i aplikasion-ña minidi para i certified applicators gi todou manera siha, kumu mapega mo'na gi halum i Pâtti 8. I applicators ha chuli' responsâpblidât para u detitmina maseha hâfa na pesticide gi RUP gi papa' esti na regulasion siha. Yanggin i usun maseha hâfa na pesticide mapribi ni U. S. EPA, debi na insigidas u fama' RUP gi papa' esti na seksiona, mâski seha yanggin i pesticide ma-contained gi lista ni ma-maintained ni Direktot. Yanggin siakâsu na guaha conflict gi halum i malista na estâo i pesticide, mâs siempri stringent inaplika siha gi klasifikasion.

#### **9.2 Prinohibin Pesticides**

I DEQ siña prohibit i importation, mabendi, distribution, yan usun maseha hâfa na pesticide pat ha prohibit i specific use pat usu siha gi maseha hâfa na pesticides anai i usu pat i usu ha produced pat ha deemed para u produce substantial adverse effects gi hinemlu' tâotâo' pat i environment. I hinangai siha gi esti na regulasion siha, maseha hâfa na produktu masuspendi pat makansela ni EPA pat i registrant gi papa' i FIFRA debi na u constitute i maprohibi i usu maseha ki ha contained gi lista ni ma-maintained ni Direktot gi Ufisanan DEQ siha. Siakâsu na conflict ni malista na estâo i pesticide, mâs stringent inaplika siha gi klasifikasion.

#### **9.3 Nutisian Tinilaika gi Estâo**

I Direktot debi na u keep presenti na listan pesticides ni mapribi yan maprohibi ni DEQ gi halum CNMI gi prinsipât na ufisanan DEQ giya Saipan, ni debi na u serve i update, yan siakâsu na conflict, supercede, maseha hâfa i mofo'na gi lista ni maprohibi yan mapribi i usun pesticides. Anai mapribi i usu pat maprohibi i pesticide ni mana'danña' gi pat mana'suha gi listan CNMI, i DEQ debi na u laknus nutisia gi local newspaper yan i website DEQ.

I DEQ ti u responsâppli para u nutisia i pupbliku na i EPA pat i registrant masuspendi pat makansela maseha hâfa na usu pat madisikna i pesticide kumu mapribi na usu, yan ti nahung tât nutisia na u para defense gi maseha hâfa na aksion ni machuli' ni DEQ.

#### **9.4 Responsâpblidât Applicators/Dealers/Importers**

Debi na u responsâpblidât maseha hâyi umu'usa, distributing, selling pat importing pesticides para u na'siguru na matungu' i presenti na estâo pesticide gi papa' i FIFRA ântis di u ma'usa distribution, mabendi pat import.

Debi na u mâs gai responsâpblidât gi maseha hâyi na petsona ni umu'usa, distributing pat selling pat importing pesticides para u na'siguru na matungu' i presenti na estâo i pesticide gi papa' i lain CNMI ântis di u ma'usa, distribution, mabendi pat import.

## **Manmaproponi na Pesticide Management na Regulasion Siha**

### **9.5 Experimental Use Permits**

Experimental Permits para usu gi Pesticides siña ma'usa ha' yanggin i pesticide ha resibi i lisensia ginin i EPA kumu madimânda gi papa' FIFRA § 5 yan 40 CFR Pâtti 172 Subpart A (kumu siña ma'amenda), yan i concurrence ginin DEQ.

## **Pâtti 10 ENFORCEMENT YAN MUTTA SIHA**

### **10.1 Ma'institutuyi na Aksion Siha**

I Direktot siña ha enforce i regulasion siha guini na Kapitulu ni initiation i administrative action yan/pat requesting i initiation gi civil pat criminal case gi halum Commonwealth Courts sigun gi para i Âktun Commonwealth Environmental Protection, 2 CMC § 3131.

### **10.2 Inspeksion Siha**

10.2.1 Gi maseha hâfa na fasilidât anai mânu i pesticides na ma'-imported, mabendi, ma'usa, stored transported pat ma-disposed, i Direktot yan i reipresentante-ña siha siña makondukta i inspeksion siha, hâlum gi propiadât siha, rinueba i records, yan u machuli' samples sigun gi 2 CMC § 3132 anai siña ma'-enforce esti na regulasion siha yan u maprutehi i hinemlu' publiku yan environment gi CNMI.

10.2.2 I Direktot siña ha laknus tinigi' pat u imprenta "pâra mabendi, usa, pat na'suha" na otdin para maseha hâyi na petsona ni dueñu, controls, pat gai custody gi misbranded pesticide, yan dispues di marisibi i tât na otdin tâya' petsona debi na u bendi, usa pat u na'suha i pesticide ni madeskribi gi anai solu gi sigun gi prubension siha gi otdin

### **10.3 Administrative Orders**

I Direktot siña ha laknus i administrative orders yan ha chuli' ottru na administrative actions, ingklulusu i madimâmanda na remedial action yan issuing penalties ni ma'esisifika gi 2 CMC § 3131. I administrative action debi na u machuli' gi sigun gi âktun Administrative Procedures, 1 CMC §§ 9101 et seq.

#### **Manera siha gi Administrative Orders**

10.3.1 I Direktot siña ha laknus yan ha otdin maseha hâyi na petsona para u apâsi i civil fine ti u mâs ki bentisingku (\$25,000.00) mit pesus para kada violation i Âktu, i regulasion siha ma'adâpta sigun gi Âktu, pat maseha hâfa na permit pat lisensia ni malaknus sigun gi âktun yan tât regulasion siha.

## **Manmaproponi na Pesticide Management na Regulasion Siha**

- 10.3.2 Amânu i Direktot na ha initiates i administrative action, i respondent entitled para u famaisin administrative hearing gi halum sietti (7) dihas gi kalendâriu gigun marisibi i otdin. I finaisin tinigi' para i hinekkunguk debi na u serve kumu ineppi gi DEQ's administrative order pat complaint. I finaisin hinekkunguk pat "ineppi" debi na klâru yan atmiti direktamenti, puni, pat eksplika kada factual allegations contained gi halum i complaint yan sigun gi mânu i respondent nai gai tiningu'. Amânu i respondent na tai tiningu' gi pattikulât na factual allegation yan so states, i allegation ma-deemed na mapuni. I ineppi debi lokku' na u state
- (i) I sitkumtânsia siha pat i atgumentu siha ni man-alleged para u constitute i grounds i defense; yan
  - (ii) I facts ni respondent ha intensiona para u po'lu gi manera.
- 10.3.3 Failures para u atmiti, puni, pat eksplika maseha hâfa na material factual allegation ha contained gi halum i complaint ni ha constitutes i nina'hâlum allegations. Ineppin sinangan siña lokku' manâ'i gi oran hinekkunguk kâo debi magâgâo hinekkunguk .
- 10.3.4 I respondent siña lokku' magâgâo informal settlement conference. I informal settlement conference ti debi na u inafekta i respondent's obligation para u file a timely na ginagâo para i hinekkunguk. Yanggin i settlement ha hagu' i pattida siha debi na u ma-forward i maproponi consent order para i inapruuban i Direktot.
- 10.3.5 Yanggin makondukta i hinekkunguk, i Direktot pat i ha disikna u preside i hinekkunguk. I Direktot debi na u control chinili' i testimony yan ebidensia yan debi i cause u mafa'tinas gi audio, audio-video, pat stenographic record i hinekkunguk. I klâsin record mafa'tinas debi na i discretion i Direktot. I ebidensia maprisenta gi tât i hinekkunguk ti ha nisista para u conform i mapreskribi na areklamentun ebidensia, lão siña mamidi ni Direktot gi maseha hâfa na manera ni ha detitmina na risonâpbli para u just yan efficient yan promote i ends of justice. I Direktot siña ha laknus i matugi' na disision gi halum kinsi (15) dihas gi ha'ânin cho'chu' gi hihut i mahuchum i enforcement hearing. I disision debi na u inklusu sinedda' tinigi' siha gi fâktu yan i conclusions i lai. I standard of proof para tât i hinekkunguk yan disision siha debi na i preponderance i ebidensia.
- 10.3.6 Gigun malaknus i matugi' na disision, i respondent siña ma'aligâo alibiu ginin i disision i Direktot. I magâgâo na alibiu debi na u mapo'lu gi halum dies(10) dihas gi fetchan i malaknus i disision. Tâya' mâolik para u maribisa pat u mata'lun ma'ekkunguk gi me'nan i Direktot. I Direktot siña gi iyon-ña discretion para u elect para u ribisa i case yan u laknus i tinigi' na disision ni ma'amemenda pat mana'siguru i disision. Para u laknus i matugi' na disision gi halum trenta (30) dihas gi kalendâriu.
- 10.3.7 I disision Direktot debi na u final. I inapela ginin i final enforcement na disision na debi u para i Commonwealth Superior Court gi halum trenta (30)dihas gi kalendâriu ni tinattitiyi i sitbisiu gi final agency na disision.

## **Manmaproponi na Pesticide Management na Regulasion Siha**

10.3.8 Para filing deadline na hinangai siha matutufung i ha'ani siha na debi na u matutuhun gi ha'ani dispues di marisibi i administrative order pat complaint. Yanggin maseha i filing date poddung gi Sabalu, Damenggu, pat Commonwealth Holiday, i filing date debi na u ma'ekstendi para i sigienti diha gi ha'anin cho'chu'.

### **10.4 Seizures**

I Direktot siña ha chuli' maseha hãfa maprohibi, adulterated, misbranded, pat unregistered pesticide para i violation esti siha na regulasion yanggin i pesticide ha poses a risk para i public welfare yan i environment, yan siña guaha emergency actions ni nisisãriu kumu mapetmiti ni lai para u pribeni a serious yan imminent hazard para i hinemlu' tãotão pat welfare.

### **10.5.2 Pena Siha**

Maseha hãyi na petson ni ha violates pat ha rinunsia pat neglects para u comply yan maseha hãfa na provision gi regulasion siha gi halum esti na Kapitulu pat maseha hãfa na settifikasion, standard, notifikasion, petmiti, pat otdin ni malaknu ni ginin i Direktot pat i Dibision debi na u masuhetu para i pena siha ni mapega mo'na gi 2 CMC § 3131.

## **PÅTTI 11 APLIKASION I LAI SIHA**

Yanggin siakãsu na guaha conflict gi entalu' legally applicable standards, itmãs stringent standard debi na u inaplika.

## **PÅTTI 12 SEVERABILITY**

Kumu guaha maseha hãfa na pãtti, parãfu, sentensia, clause, phrase, pat aplikasion esti na areklamentu yan regulasion siha madiklãra na unconstitutional pat invalid gi maseha hãfa na rason ni competent authority, i remainder pat maseha ottru na aplikasion gi esti na areklamentu yan regulasion siha tãi u debi na u inafekta gi maseha hãfa na manera guihi.

**Commonwealth of the Northern Mariana Islands  
Office of the Governor, Division of Environmental Quality**

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**ARONGORONGOL TOULAP REEL POMWOL ATIWLIGH**

**MÁNGEMÁNGIL MWÓGHUT YEEL BWE EBWE ADAPTÁÁLI POMMWOL ATIWLIGH KKAL:**

Commonwealth of the Northern Mariana Islands, Office of the Governor, Division of Environmental Quality e tipali ebwe adaptááli me aléghúw ló atiwlich kka e appasch bwe Proposed Pesticide Management Regulations me ebwe ssiweli Pesticide Regulations kka ra fasúl pomwoli, codified reel NMIAC Chapter 65-70, sangi mwóghutughutul Administrative Procedure Act, 1 CMC § 9104(a). Atiwlich kkal ebwe kkamalo 10 ráll mwiril yaal atabwey 1CMC §§ 9102 me 9104(a). (1 CMC §9105(b)).

**BWÁNGIL:** Director il DEQ e bwughi bwangil mereel Legislature bwe ebwe adaptááli alúgh me atiwlich reel pomwol me amamawal reel Commonwealth Environmental Protection Act. 2 CMC § 3122

**KKAPASAL ME AWEWEEL:** Pomwol atiwlich kkal e fféer bwe ebwe asughuru li bwungul yayal pesticide, akkamélól me bwal akkaw bwulul reel rebwe atabwey federal standards me mwóghutughut kka e fiil lól CNMI, me ebwe bwal awevey me ebwe lapalo meta mwóghutughut kka e ngaw me meta kka exceptions iye e atabwey federal law. Federal insecticide Fungicide, Rodenticide Act (FIFRA). Pomwol atiwlich kkal, ngare schagh ra adaptááli, ebwe liweli Pesticide Regulations kkewe ghom we re adaptááli lól 1994.

**KKAPASAL ME ÓUTOL:**

1. Atiwlich kkaal ebwe aghitighitativ óbwóss reel bweibwoghul pesticide applicator certification me affata requirements reel yayal pesticide, e toolong bwal requirements reel isisil me transportation; me

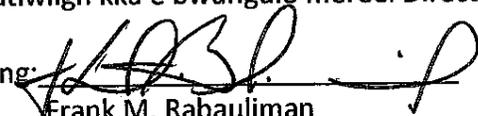
2. Atwiligh kkaal ebwe awevey sefali conditions faal DEQ igha rebwe arongar ngare re bweibwogh long pesticide me pesticide devices. Aroong nge reel schagh (1) Alongal pesticide kka e tolong CNMI ikka ese mwal; (2) pesticide me ngare pesticide device kka re fféeru me lól me ngare re afangato mereel me ngare sáangi eew foreign country; (3) termiticide, e toolong meta kka re yaya reel ngat, crevice, me spot; (4) alongal pesticide iye re yaya reel control il maal wóól fruuta me gholay me akkaw agricultural products; me (5) pesticides kka re yaya reel fumigation, hospital grade disinfection me commercial purposes. Mwal, arong ngáli DEQ nge eew requirement reel alongal pesticides kka e toolong lól CNMI.

3. Lalayil aweve kkal reel ssiwel reel aléghul pesticide nge e lo lól summary iye e appasch

**AFALA REEL AMWELIL ME ARONGOWOWUL:** Pomwol allégh me atiwiligh kkaal ebwe appasch llong lól Commonwealth Register llól section we e ira proposed me newly adopted regulations (1 CMC § 9102(a)(1)) me ebwe bwal appasch fetal llól bwuley kka elo civic center me bwal llól bwulasyoo kka llól senatorial district rel kkasal English, Remeraalis me Refaluwasch. (1 CMC § 9104(a)(1))

**ATOTOOLONGOL MWALILI :** Afanga ngáre bwughiló yóomw mángemáng reel Reina C. Camacho. Pesticide & Storage Tank Branch Manager, Re. Pesticide Management Regulations, reel address me fax iye weilang. Isisilongol mangemang nge ebwe lol 30 raal sangi raalil iye e appasch arongorong yeel. Isalilong yoomw data, views me arguments. (1 CMC § 9104(a)(2)).

Pomwol atiwiligh kka e bwungulo mereel Director wool Disembre 04, 2012.

Isáliiyallong:   
Frank M. Rabauliman  
Directors, CMNI Division of  
Environmental Quality

1.24.13  
Ráall

Aramas ye:   
E bwughi ESTHER S. FLEMING  
Governor's Special Assistant  
for Administration

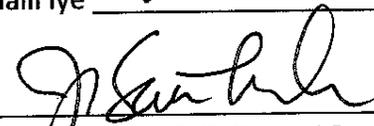
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Rekoodliiyal:   
ESTHER M. SAN NICOLAS  
Commonwealth Register

01.25.2013  
Ráall

Sengi 1 CMC § 2153(e) Allégh kkaal lléghló sáangi AG bwe e fil reel fféeruúl me 1 CMC § 9104(a)(3) (mwiir sáangi AG) Pomwol amenda kkal e appasch a takkal amwuri fiischiy, me angúungú ló fféerúl me legal sufficiency sáangi CNMI Attorney General me ebwele akkatewoow, 1 CMC § 2153(f) (Arongowowul allégh me atiwiligh kkaal

Ráálil iye 24<sup>th</sup> Eneero 2013  
~~December 2012.~~

  
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# **Pomwol Atiwilghil Pesticide Management**

## **TABLE OF CONTENTS**

Part 1 Milikka Autol

Part 2 Bwúlúl

Part 3 Meeta Faal

Part 4 Mwoghutughutul CNMI Pesticide Regulations

Part 5 Mwoghutughut kka e ngaw

5.1 General

5.2 Exemptions

Part 6 Bweibwoghlongul

6.1 Shipments kka e debi rebwi ghomwal arong

6.2 Shipments kka e itto nge esoor ghomwal arong

6.3 Inspection

6.4 Pisegh kka re amuschuló, denied, me impounded

6.5 Óbwóss

Part 7. Yayal Pesticides

7.1 Termiticide Treatment Permit

7.2 Aerial Pesticide Application

7.3 Isisil Pesticides

7.4 Transportation

7.5. Akkasch lol

7.6 Isisil rekkod

7.7 Worker Protection Standards

Part 8. Training me Certification

8.1 Training

8.2 Required Certification

8.3 Categories il Commercial Applicators, Private Applicators me Licensed Dealers

8.4 Standard of Competency

8.5 Application Forms, Duration me Renewals

8.6 Standards reel Supervisory Non-Certified Applicators

8.7 Reciprocity reel akkaw Jurisdictions me Temporary Certification

8.8 Denial, Suspension me Revocation, me Appeal

8.9 Obwoss

Part 9. Listal alongal Pesticide kka e ngaw me re alúghuw me Arong reel Ssiwel lol Status

Part 10. Enforcement me Penalties

Part 11. Application il allugh

Part 12. Severability

# Proposed Pesticide Management Regulations

## Part 1 Meeta kka Óutol

Authority and Scope: Atiwligh kkaal e akkatowow mereel Division of Environmental Quality sáangi 2 CMC §§ 3101 ngáli 3134 (Commonwealth Environmental Procedure Act ) me 2 CMC §§ 3511 ngali3521 (Solid Waste Management Act). Atiwligh kkaal ebwe amamawa alégh me ebwe ngalir alonger aramas me bwal akkaw entities kka re lo faal lemelemil Commonwealth of the Northern Marianas Islands.

## Part 2 Bwulul

Bwulul atiwligh kka nge ebwe ayoora systemal control reel bweibwoghlóngol, isisiwowul, akkamelo, me isisil me akkaschlol pesticides reel aramas lól Commonwealth of the Northern Marianas Islands reel protection il limilimil iligh me atipal angawal weleyor.

## Part 3: Meta Faal

### 3.1 "Active ingredient"faal nge

- 3.1.1 Reel pesticide, lughul plant regulator, defoliant me ngare desiccant, eew ingredient iye ebwe atipa, angawa me mitigate lil maal.
- 3.1.2. Reel plant regulator, eew autol iye ebwe sangi yaal physiological action, emwal ebwe accelerate me retard li yaal ebwe waa me rate il yaal maturation me ngare yaal behavior reel ornamental me crop plants me ngare yaal product.
- 3.1.3 Reel defoliant, eew óutol nge emwal ebwe atoratiw ulul.
- 3.1.4 Reel desiccant, eew óutol nge ebwe amwetemweta yaal plant tissue ebwe pwass.

3.2 "Adulterated"faal nge inamo meta na pesticide ngare mamawal me yaal purity elo faal professed standard of quality igha e abwari wóól label igha re amwéw ló, me ngare eyoor substance iye re liweli ngali ngare eghus me ngare alongal reel pesticide, me ngare eew autchea óutol pesticide re liweli reel alongal me ngare eghus.

3.3 "Agricultural Establishment"faal nge angaangil féérul me affelil agricultural plants.

3.4 "Banned Pesticide"faal nge pesticide kka re ayuwlo mereel Division of Environmental Quality kka e tolong faley, isisiwow, akkamelo me yayal igha re aleghuw mereel U.S. Environmental Protection Agency.

3.5 "Banned Use"faal nge meeta kka re yaya ikka re aleghu mereel Division of the Environmental Quality, me yaayal ikka re ayuwlo me U.S. EPA.

3.6 "Core Training"basic pesticide training reel safety me education il certification reer commercial me private applicators, training nge e toolong nge ese bwal aighugh reel labeling,

safety factors, environmental consequences, pest identification, me characters, pesticide types, formulations me dilutions, equipment maintenance me calibration, application techniques, aleigh me atiwlighil pesticides, me bwal akkaw arong kka a ffil , e tolong me ese aighugh ngali bwal worker protection standards, isisil rekkod, me meta kka e ffée.

3.7"Certified Pesticide Applicator" inamo iyo aramas iye e certified mereel Director be ebwe yaya general me ngare restricted pesticide faal atiwligh kkal.

3.8"Commercial Applicator" faal nge applicator iye eghal yaya pesticide reel commercial .

### **Proposed Pesticide Management Regulations**

3.9"Commercial Purposes" faal nge yayal pesticide reel (1) aramas iye eghal business reel ebwe ayora pest control services me ngare contract reel ebwe ayora plóónol pest control, me ebwe ayora setbisiol pest control reel umumwul schóól angang, e toolong me ese bwal aighughu reel extermination il loomw, termites, rodents, me plants, me (2) aramas kka re yaya pesticide reel maintenance il lughul resort grounds, leliyal golf, green houses me akkaw leliyal ammat.

3.10"Compensation" faal nge obwoss me ngare wages, óbwóós sangi setbisio me ngare pisegh, liwel reel setbisio me ngare pisegh.

3.11"DEQ" faal nge Division of Environmental Quality me ngare iyo iye e affat.

3.12""Device" pisegh ngare meta iye e ffээр(lughul ppakk) iye rebwe yaya reel susubw, ferey lo, repelling me ngare rebwe mitigate li malawal maal ngare ira(lughul mwal me bwal akkaw bacteria, virus, me akkaw microorganism iye e lo wool aramas me akkaw maal kka re malaw);, ese tolong pisegh kka re yaya reel rebwe mila ngali pesticides igha re amwew fesengi.

3.13"Director" faal nge Direkktodol Division of Environmental Quality ngare re affatatiw.

3.14"Employer" reel bwulul rebwe protehi li schóól angang me aramas kka re lo lól progróoma yeel

3.14.1 iye re laylay schóól angang me ngare contract li schóól angang (re toolong me membrol yaar schóól) reel inamo meta tappal óbwóós reel rebwe féeru angang ikka e arap ngali féerul agricultural plants, maintenance il resorts, me ngare reel commercial pest control(e.g rodent me termite extermination); me ngare

3.14.2 re yaya me ngare re ghal operate li eew agricultural, resort me ngare commercial pest control facilidóód.

3.15"EPA" me ngare "USEPA" faal nge United States Environmental Protection Agency.

3.16 "FIFRA" faal nge US Federal Insecticide, Fungicide, me Rodenticide Act, codified me 7 USC §§ 136 ngali 136y.

3.17 "Fumigant" faal nge pesticide iye e lo lól ululul vapor me ngare gas me ngare e féeri eew product iye ebwal ululul vapor me gas wóol application me móghutughutul pesticide nge gaseous state.

3.18 "Handler" ngare Pesticide Handler" faal nge eschay aramas me ebwal, toolong aramas iye e angaang ngali schaagh.

3.18.1 Aramas iye e angaang ngali inamo meta tappal óbwóss, reel agricultural establishment, commercial pesticide handling establishment, me commercial resort iye

- A. Mixing, loading, transferring, me apply il pesticide
- B. Akkatch lol pesticide me leliyal pesticide
- C. Handling il leliyal pesticide ikka e suusu.
- D. Eschay flagger
- E. Aghasaghasa, awela, bwughi, me fferu reel mixing, loading, application equipment ikka eyoor pesticide residue.
- F. Alilis reel application il pesticides
- G. toolongol lól greenhouse me ngare akkaw leli kka e tit mwuril yayal me mwal Inhalation exposure level iye e lista tiw lól labeling a ghula me ngare eew ventilation criteria me ngare lol labeling a ghula reel rebwe operate li ventilation equipment, reel rebwe adjust me saghi lo tampil kka re yaya reel fumigation me monitoring air levels.
- H. Tolongol eew leli iye e lo lughul iye ra takkal safeya reel soil fumigant reel rebwe awela me saghi lo tampil ppwel reel tarpaulins; me ngare
- I. Pomwoli angangal crop advisor durantil igha re yaya pesticide, mwal inhalation exposure level iye e lista lól labeling ra ghula me ngare eew ventilation criteria lol labeling raghula me durantil restricted-entry interval.

3.18.2 Term yeel ese bwal tolong reel aramas iye eghal schagh handle li pesticide containers ikka ra takkal alipalo me aghasaghasa wow nge re atabwey pesticide product labeling instructions, me ngare esoor instructions, nge re triple-rinsing liir me pisegh.

3.19 "Labels" faal nge meta kka e iisch, printed, zuungwa iye re appascha ngali pesticide me device, containers, me wrappers.

3.20 "Label" faal nge labels kka re iischiy, printed, zunguwali iye e schuu ngali pesticide me ngare e reference ngali wóol label reel literature iye e schu ngali pesticide nge esabw ngali official publication reel U.S. Environmental Protection Agency, the United States Department of Agriculture me Interior, U.S. Department of Health and Human services ikka e ghomw.

3.21"Licensed Dealer"faal nge aramas iye e licensed mereel Direkktod bwe ebwe akkamwelo me isisiwos restricted use pesticide.

3.22"MSDS"faal nge Material Safety Data Sheet igha e required faal Occupational Safety me Health Act of 1970, 29 USC § 651 et seq., igha re amendaali me re pomwoli atiwligh kkal.

3.23" Misbranded"faal nge pesticide ngare

3.23.1 Yaal label ise atabwey US EPA requirements reel labeling me packaging.

3.23.2 Wóól label nge eyoor tapalal kkepas design, zungwa iye e arap ngali meta óutol nge e mis.

3.23.3 Labels nge sabw lol kkesal English, me esoor tapalal kkepas kkal.

- A. Ital pesticide lól bold letters.
- B. Yayal nge ese ffil
- C. Discription il reel tapal pest e control li.
- D. Ital Chemical reel pesticide
- E. Yaal active ingredient
- F. Signal words kka a ffil
  - i. afeli
  - ii. arong
  - iii. Danger poison
- G. Afal reel yayal, me
- H. Akkaw DEQ labeling requirement kka ese appasch me lo wóól container

3.24"Owner" faal nge Aramas iye eyoor yaal interest(e.g.obwoss, leasehold, rental, me bwal akkaw)wóól faluw me ngare business, me ngare a relinquished li yaal lemelem me alusu bwangil ngali eschay bwe ebwe le lemelem wóól yayal faluw me business.

3.25"Person"faal nge eschay aramas, corporation, partnership, association, joint venture, commercial entity, gobetno, political subdivision, commission me interstate body.

3.26"Personal protective equipment"me ngare "PPE" faal nge mwongogh me ngare pisegh iye re yaya reel rebwe afali ilighir reel pesticides me ngare pesticides residues, e tolong : coverall, chemical-resistant suits, chemical-resistant gloves, chemical-resistant footwear, chemical-resistant aprons, chemical-resistant headgear, protective eye war; me respirators. Mwangogh kka si ghal yaya eteital raal e tolong sipiring kka e lalay me moschomwosch payul, ghasuli lalay me mwoschomwosch, tubwotus, menzas, me bwal akkaw pisegh kka sigal yaya reel angaang, nge resebwal kkonisdera li bwe personal protective equipments reel section yeel me rese bwal tolong reel alugh kkal, emwel bwe wool pesticide labeling nge ebwe require yayal tappal mwungogh kkal nge re angaang.

3.27 "Pesticide" faal nge substance ngare mixture il substance iye yayal nge reel preventing, destroying, repelling, me mitigation il maal igha e awewe sangi FIFRA. Eew product nge sabw pesticide ngare product we nge rebwe yaya reel control il fungi, bacteria, viruses, me akkaw microorganisms me invertebrate parasites, nematodes wool aramas me maal, me e labeled accordingly, me products kka yayal nge reel rebwe ayoora tit reel pest access.

3.28 "Private Applicator" faal nge eschay certified applicator iye e yaya pesticide kka e classified bwe restricted use nge reel schagh ebwe ayoora agricultural commodity wool faluw iye yaal me ngare e akkilali (ngare re yaya nge esoor obwoss, lughul trading reel personal services lefiler producers il agricultural commodities) wool faluwal eschay aramas.

3.29 "Restricted Use Pesticide" ngare "RUP" fall nge pesticed, e laap sangi faal eew yayal nge re alegu mereel USEPA faal Federal Insecticide, Fungicide, me Rodenticide Act igha re amendali me ngare mereel DEQ faal atiwligh kkal, me ngare eyoor wool label "restricted use pesticide.

3.30 "Restricted-Entry Interval" faal nge outul mwiril yayal persticide reel rebwe tolong lol igha re safeya iye .

### 3.31 "Use" faal

3.31.1 Alongal mwóghutughut iye e ffil ngalil afalafalil me precautions kka elo wóól label, e toolong me ese bwal aighugh reel afalafalil reel yayal, handling me disposal, precautionary statements, aleghul isis me transportation.

3.31.2 Pre-application activities, e toolong me ese bwal ighugh reel.

- A. Areglal igha rebwe yaya iya pesticide
- B. Mixing il me loading il pesticide; me
- C. Prepora li yayal pesticide, e toolong, arongorongol ngali schóól angang, training il handlers, decontamination, yayal me afalil protective equipment, arongorong kka ebwal ghi atabwal, me heat stress management.

### 3.31.3 Yayal pesticide

3.31.4 Post-application activities kka e nesario ebwe asosolatiw risks il somway me feyengaw reel schóól ffeeri me schóól angang igha re expose ngali pesticide residues durantil restricted-entry interval me 30 raal. Activities kkal nge e tolong, me ese aighugh reel responsabilidod reel working training, arongorong, me decontamination; me ngare

3.31.5 Akkaw mwoghutughutul pesticide, e toolong , me ese bwal aighugh reel, ayoora alilis reel emergency, bwughi me ngare isissil pesticide and akkasch lol sobw lal pesticides, spray mix, equipment wash waters, pesticide containers, me bwal akkaw materiod kka eyoor pesticide.

3.32 "Worker" faal nge inamo iyo(1)e angaang(e bwal toolong ngare self employed) reel inamwo meta na obwoss me (2) e ffeeri angaang, reel, harvesting, weeding me watering, iye e wewe ngali production il agricultural plants wóól lemat, nursery, me greenhouse.

3.33 "40CFR" ebwe awewe bwe Title 40 reel Code of Federal Regulations e liwel wool July 1, 2011.

## **Proposed Pesticide Management Regulations**

### **Part 4 ADMINISTRATION-IL ATIWLIGHIL CNMI PESTICIDE**

Eyoor bwangil Direkktod ebwe mwoghutaghili me amamawa atiwligh kkal.

### **Part 5 MWOGHUTUGHUT KKA ESE BWUNG.**

#### **5.1 General**

- 5.1.1 Reel ese bwal toolong lol Part 5.2. E allugh reel inamo iyo aramas lol CNMI ebwe yaya, bweibwogh long, akkamelo, pati fetal, me diliba me ofresi li ngali aramas
- A. pesticide iye re liweli, misbrand li, e toolong, me ese aighugh pesticide kka ese iisch lól English.
  - B. pesticide kka re aleghu mereel DEQ, me cancel li, suspended me ese register mereel EPA.
  - C. pesticide me device iye e misbranded me ese ffeer lol eew imwal EPA e register.
  - D. inamwo meta pesticide iye DEQ re aleghu bwe ebwe angawa ilighi aramas me faluw.

#### **5.1.2 E alugh reel inamo iyo aramas**

- A. ebwe ati, liweli, angawa,, me ffeerey lo, alongal ngare eghus, reel labeling, ngare schagh bwe Direkktod e ischii bwe e apreba li reel rebwe awelalo label me ngare labeling.
- B. ese mwuschel ebwe isis rekkood kka e required sangi atiwligh kkal, ebwe mwut ngali rebwe inspection lil rekkood, mwut ngali Direkktod me iye e afali bwe ebwe ppiiy yayal pesticide, isisil me akkasch lol, mwut ngali Direkktod me iyo e afaliy ebwe investigate li yaya ngawal pesticide, me bweibwoghul samples pesticides me pesticides residues igha re bwungu mereel lay reel inamo meta yayal nge e fiti aleghul atiwligh kkal.
- C. yayal pesticide nge ese wel ngali yaal label.
- D. Ebwe atay aleghul sangi atiwligh me Act.
- E. Ebwe violate li reel ban me restriction reel yayal, bweighbwogh longol, isisiwowul, akkamelol pesticide me ngare device isisiwow mereel DEQ.

- F. U ghuley bwe e mis alongal ngare eghus wool application reel certification, license, importation reel yayal, me rekkod faal atiwlich kkal.
- G. Akkamelo, distribute restricted pesticides ngare schaagh bwe e licensed mereel DEQ.
- H. Akkamelo me ngare distribute pesticide ngali eschay aramas lughul malle e licensed dealer me applicator iye e certified mereel DEQ.
- I. yaya, isali, transport, mix me akkaschlól pesticide me ngare leliyal igha ebwe angawa limilimil iligh me weleyor.
- J. yayal restricted pesticides ngare schagh bwe re certified mereel DEQ me elo faal supervision il certified applicator.
- K. yayal pesticides reel commercial ngare schagh bwe re supervised faal eschay certified applicator.
- L. Abwari confidential information ikka re bwughi mereel administration il atiwlich kkal reel formulas reel products ngali eschay aramas lughul proper officers me employees il DEQ, U.S. Governments, me ngare ngali kkoti reel subpoena, dokkto, ngare lol emergencies, ngali pharmacists me akkaschay qualified aramas reel ffeeril antidotes me ngare yayal confidential information reel personal advantage.
- M. Ngare u atay atiwlich kkal, e toolong me ese bwal aighul reel requirements Reel storage, use, record keeping, worker's protection ikka a affatiw lol atiwlich kkal, label, eew permit, order me certification me ngare,
- N. Ffeer pesticide, e tolong re-packaging, refilling me relabeling reel rebwe akkamelo me resale lol CNMI.

5.13. Ngare e nesisitay permit application mwal yayal pesticide, nge ra ghomwal yaya pesticide nge esoor permit , e atay aleighul atiwlich kkal. Application ne ebwe atabwey aleighul wóól permit

## 5.2 Exemption

### 5.2.1 Penalties kka eyoor reel violation reel Part 5.1 nge ese bwal apply nagli

- A. carrier iye e lawfully ship, transport, deliver reel shipment il pesticide me device nge e in violation bwe igha ese ghuley bwe e kki ship li illegal pesticide me device, ngare carrier we e ngaley school angangal DEQ bwe rebwe copy li alongal yaal rekkod reel pesticide me device;
- B. yayal pesticide iye e schuu fengal nge e atabwey standard il 40 CFR § 167.3 reel custom blenders, igha aramas we e yaya reel pesticide wool faluwal,
- C. public official iye e ffeeru yaal angang reel official duties reel public official.
- D. aramas iye e yaya, me eyoor yaal experimental permit mereel EPA sangi federal law me re apreba li mereel DEQ reel yayal pesticed.
- E. Aramas iye a ship li substance me ngare mixture il substance ikka re test li reel yaar rebwe detetmina li yaal value reel pesticide purposes me ngare detetminali

yaal toxicity me akkaw properties me ngare school yaya we esabw risibi benefit reel yayal pest control we.

F. aramas iye e attabwey order mereel Direkktod bwe ebwe asiwlo pesticide me lol CNMI.

5.2.2 Section 5.1.1.B nge esebwal ngali products kka ese registered mereel EPA ngare distribution me sale nge esoor registration nge e autoriza mereel EPA mereel 40 CFR 152.20 (pesticides kka re regulated mereel bwal eew federal agency); 40 CFR 152.25 (pesticide iye yaal character nge ese bwal nesisitay yaal FIFRA registration); me ngare 40 CFR 152.30(e), (f) me (g) pesticide iye emwal rebwe transfer li, akkamelo, me distribute inamo ngare esoor registration)ngare schaagh bwe product we ese banned mereel DEQ me(b)yayal eew pesticide iye ese register nge ffeerul nge ese bwal atay alughul Section 5.1.1.N nge ese banned mereel DEQ, ese transfer, distributed, sold lol violation il FIFRA.

## **Part 6 BWEIBWOGHLONG**

DEQ e regulate li bweibwoghlongil pesticide lol Commonwealth. Bweibwoghlongil pesticide me pesticide device kka re aleghu me e misbranded nge e atay alegh faal §5.1.1. Bweibwoghlongil pesticide kka rese register li, nge saabw pesticide device nge e atay alughul atiwligh kkal.

Pesticide kka e alugh, misbranded, ese register, pesticide device kka esoor yaal establishment number, pesticide kka re afanga nge ese atabwey aleghul atiwlighil pesticide, emwal rebwe amwuschu lo, resabw atolongow ngali extend permitted mereel alugh, mereel Direkktodil DEQ, me school angangal Custom, me Agricultural Quarantine.

## **POMWOL ATIWLIGHIL PESTICIDE MANAGEMENT**

6.1. Shipment kka e nesisitay ghomwal arong.

DEQ e regulate li bweibwoghlong il pesticide lol Commonwealth, specifically reel yayal pesticide kka e toolong CNMI mereel akkaw faluw; pesticide me pesticide device kka e ffeer nge ra afanga mereel eew foreign country; termiticide, etoolong reel yayal ngat, crevice, me spot treatment, me alongal yayal pesticide reel pests wool frutta, ghollay me bwal akkaw agricultural products.

6.1.1. Notice of Intent

A. Restricted Use Pesticide(RUP)Aramas iye emwuschel ebwe bweibwoghlong Restricted Use Pesticide(RUP)mereel eew faluw inamwo igha e to meya me ngare yaal quality nge ebwe ghomwal isisilong yaal notice of intent ngali Direkktod wool schéél la re ayoora reel awewe yeel. Schéél yeel nge ebwe schuu me Material Safety Data me eew kkopial pesticide label.Ngare ra apreba li RUP, importer we emwal ebwe le ffeeri

yaal importation arrangements. Reel bwulul section yeel, pesticide kka re yaya nge re aleshu mereel DEQ, nge emwal rebwe import li long lol CNMI, ebwe ghommwal yoor advance notice igha e affat lol part yeel. Import il banned pesticide nge ebwal alugh reel Import nge ebwal violate li section yeel.

#### B. General Use Pesticide(GUP)

1. Aramas iye emwuschel ebwe import li long lol CNMI pesticide me pesticide device sangi eew faluw lughúl United States me U.S. Territories ebwe isisilong notice of intent ngali Direkktod wóól eew schéél iye re ayoora re aweewe lal. Scheel yeel nge ebwe schuu me Material Safety Data Sheet me kkopial pesticide label. Ngare ra apreba li GUP, nge importer we emwal ebwe le ffeeru yaal importation arrangements.
2. Aramas iye emwuschel ebwe import pesticide iye rebwe yaya reel agricultural plants, hospital-grade disinfection, fumigation, me termite control e toolong crack, crevice me spot treatment lol iimw, apartment buildings, hotel, restaurants, gakko, tenda , warehouse me bwal akkaw industrial buildings, rebwe isisilong notice of intent ngali Direkktod wool scheel la re ayoora, Aramas kka re lo lol commercial iye re awevey lol § 3.9, ngare resorts, farmers me exterminators, rebwe bwal isisilong notice of intent ngare rebwe bweibwoghlong pesticide reel yayal commercial. Scheel yeel ebwe schuu me Material Safety Data Sheet me kkopial pesticide label, ngare ra apreba li GUP, importer emwal ebwe bwulu yaal importation arrangements.

Esche Notice of Intent to Import (“NOI”) ebwe afata ebwe faisul yayal pesticide, bwe DEQ rebwe ensure li bwe re atabwey aleshul lay, mwal ebwe itto pesticide we. Pappit we ebwe schuu fengal me Material Safety Data Sheet me kkopial pesticide label. Ngare ra apreba li NOI, pesticide me device nge emwal rebwe odali me afanga. Importer ebwe isalilong reel DEQ label me MSDS reel eew me eew pesticide me device kka e imported long nge iyel aeewal lol calendar year. Ngare ebwal mwuschel ebwal import long maas pesticide me device durantil lol calendar year we nge a takkal isisilong alongal dokkomento kka e nesisitay, nge ese bwal nesisitay ebwe bwal isalilong sefal label me MSDS.

#### 6.1.2. Notice of Arrival

Ngare a tutto pesticide me ngare device iye e affat lol section 6.1.1, Rebwe aronga Direkktod mereel importer nge ebwe wóól schéél la re ayoora mereel DEQ. Notice of Arrival nge resabwe liweli ngali Notice of Intent to import. Esabw yoor pesticide ngare device re bwe atowoway lol CNMI ngare rese apreba li lol iisch Notice of Arrival mereel DEQ. Approval of Intent me ngare Notice of Approval nge esabw eew defense against liability me esebwal aighughu mwoghutughut DEQ reel atiwligh kka re violate lil.

#### 6.2 Shipments Arriving Without Notice

Ngare eew shipment-il pesticide me device e affat lol section 6.1 e toolong lol CNMI nge esoor yaal Notice of Intent me ngare Notice of Arrival, shipment we rebwe amwuschuló me resabw atolongow lol CNMI. Direkktood ebwe deteminali ngare pesticide we ebwe toolong lol CNMI me ebwe ayoora afal reel ebwe faisul yaal disposition shipment we.

### **6.3 Inspection**

#### **6.3.1 Inspection**

DEQ me akkaw agencies kka re bwunguw mereel Direkktood emwal rebwe inspection li shipment il pesticide me device.

#### **6.3.2 Inspection il Shipments kka ebwe yoor Arong.**

Ngare e itto shipments il pesticide me device ikka ebwe yoor arong faal section yeel, DEQ me bwal akkaw agencies me ngare layur personnel igha e bwunguwlo mereel Direkktood, rebwe inspect li pesticide me device nge ra awewey fengali meta re weri wool entry papers ngali information kka re ayoora mereel consignee/importer wool scheel arong we ngali DEQ. Ngare esoor meta iye re weri bwe ese weel me esoor violations re weri, emwal rebwe released li shipment we, ngare eyoor weriyer violations me meta kka ese ghatch, rebwe amwuchu lo shipment we nge re weti ngali Direkktood bwe ebwe awela meta kkewe ese ghatch me deteminali pesticide me ngare device we yaal esabw toolong, ebwe asefal rebwe fereilo sangi §6.4.

### **6.4 Detained, Denied, and Impounded Shipments**

Alongal óbwóss mereel detainment, denial, impoundment me akkatch lol pesticide me device shipment bwele igha rese atabwey atiwligh, e toolong me ese bwal aighugh reel bwal oral isisilongol Notice of Intent me Notice of Arrival, importer ebwe mwéli alongal .

Reel shipment kka re detaine li, ebwe yoor oleigh ráll sangi igha e tooto reel rebwe asefali me akkasch lol pesticide me device lol mwoghutughut iye re apreba li mereel Direkktood. Ngare importer/consignee ese asefali, feerey lo pesticide me device lol oleigh raal tempo, Direkktood emwal ebwe amwéwlo, ataralo, feerey lo pesticide me device we lol mwoghututghut iye e ffil ngali alúúgh me alongal obwoss reel storage, cartage, labor, shipping me disposal nge consignee/importer ebwe obwoosu, ngare bwe ese obwossu ebwe eew lien ngali importer/cosignee reel pisegh kka ebwe bweibwoghlóng lol raal kka e mwoto.

Ngare consignee/importer ese satisfy li alongal liens ngali imports lol 60 ráll mwuril arong lol iisch reel lapal mwél liens, Direkktood ebwe afala Attorney General bwe ayoora mwoghutughut iye ebwe transfer lo ownership il imports ngali CNMI Government bwe ebwe satisfy li liens. Section yeel nge ese bwal preclude li recovery il akkaw obwoss kka emwal ebwe expended mereel government.

### **6.6 Obwoss**

**6.6.1** Aramas iye emwuschel ebwe bweibwoghlom Restricted Use Pesticides nge ebwe obwossu Limeigh dolla (\$50) non refundable fee reel eew me eew shipment, nge ebwe schuu ngali schéél we Notice of Arrival (NOA)

**6.6.2** Aramas iye emwuschel ebwe bweibwoghlom General Use Pesticide nge ebwe obwossu Seigh me Limwoow dolla (\$15) reel eew me eew shipment, nge ebwe schuu ngali scheel Notice of Arrival (NOA).

## **Part 7 YAYAL PESTICIDES**

DEQ sangi yaal discretion, sangi factors reel acreage, tapal pesticides, lapal pesticides. Location, me geological features, e toolong proximity ngali surface water me schalul uul, ebwe yoor isisilongil intergrated pest management plan ngali DEQ reel rebwe apreba. Intergrated pest management plan eew mwoghutughut reel manage il pest reel rebwe aschu biological, cultural, physical me chemicals tools igha rebwe aghitighitativ economic, health me environmental risks. DEQ emwal ebwe ayoora schéél reel submission il plano yeel. Plano yeel nge rebwe apreba mereel DEQ mwal rebwe yaya pesticide. Plano yeel nge rebwe liweli me isis sefalong faal eew lol ruwoow raagh reel rebwe apreba li me DEQ. Applicator nge ebwe atabwey plano la e apreba ngare ebwal yoor meta iye e welefesang nge re nesisitat rebwe apreba li ghom mereel DEQ. Ngare rese atabwey plano we nge rebwe kkonsiderali bwe e attay atiwligh kkaal.

### **7.1. Termiticide Treatment Permit**

#### **7.1.1 Permit**

Reel alongal structures kka rebwe safeya reel termites lol foundation me ngare pwel arol me faal foundation, applicator we ebwe isisilong application reel structural treatment ngali Direkktood wool scheel la re ayoora reel bwulul yeel, ebwe schuu fengal me limeigh dollar (\$50) non refundable fee. Tingoril permit nge rebwe isisilong ruweigh (20) rálil angaang mwaal raalil application. DEQ e ayoora seigh (10) rálil angaang ebwe process li permit. Permit nge e valid lol 6 maram mwir rálil we re isaliwow.

#### **7.1.2 Arong**

Applicator nge e debi bwe ebwe aghuley ngali DEQ reel iisch 48 hours mwal yayal termiticide ikka e ffeer faal approved permit. Ngare schagh bwe e pre-approved mereel DEQ. Termiticide treatment nge esabw ghilighilitiw ngali eew structure. Termiticide application kka re apreba lil nge ebwe ffeer durantil yaal DEQ normal working hours. Applicator e debi bwe ebwe ayoora arong lol iisch reel rálil application, ital me registration number iye re yaya reel eew iimw me ngare business iye e lo lol fisiigh me limwoow (75) feet reel proposed application. Kkopiaal arong yeel rebwe isalilong reel DEQ mwal application il termiticide.

#### **7.1.3 Pre-Construction**

7.1.3.1 Ikkal information kka rebwe ayoora bwe part il application permit reel pre-construction termiticide application.

- A. Numerol EPA Registration(me kkopial labels. Ngare re tingor) reel pesticide products kka rebwe yaya.
- B. Raalil me ótol proposed application
- C. Ital eschay me eschay applicator me pesticide company
- D. Certification number il eschay applicator iye ebwal lo lol project.
- E. Address il application site.
- F. Description il site
- G. Iapal area la rebwe safeya
- H. Application Method me
- I. Moppa , e abwari schaal lol 100 feet igha rebwe yaya termiticide.

7.1.3.2. Reel esabw contaminate surface water, ikkal alegh kka rebwe attabwey.

- A. Mwuril ra takkal safey, tampila treatment site reel esabw yoor runoff ngare e Punguschow; Note. Applicator we I mille ebwe tampiy pwel we me ngare ayoora iisch reel arong ngalil contractor we reel alegh kkaal me aramas iye e commission li application(ngare eschay lughul contractor) ngare eyoor arong ngali contractor we me aramas we e commission li application nge re responsibilidad rebwe ghi afeli bwe. 1)Ngare ese mwal bwe rebwe alapa concrete slab wool pwel iye re sefeya lol 24 hours il application nge rebwe tampi ngali eew waterproof coverinig(ngare polyethylene sheeting), me 2)tampi pwel ngare re mangi bwe precipitation ebwe ffis mwal yaar schedule li reel rebwe alipa concrete slab.
- B. Resabw safeya pwel iye e water-saturated
- C. Resabw safeya pwel ngare e punguschow
- D. Resabw mwut ngali treatment bwe ebwe runoff mereel treatment area.
- E. Resabw yaya lol 10 feet sangi storm drainage
- F. Resabw yaya lol 25 feet sangi schaal, aquatic habitats(ese bwal aighugh reel lakes, reservoirs, lagoon, permanent streams, marshes me ponds, estuaries, me commercial fish farm ponds.
- G. Esabw yoor on-grade application ngare yááng e nnguu sangi 10 mph me(application site) reel noozle end height, me
- H. Attabwey alongal alegh kka re ayoora wool permit mereel DEQ.

#### 7.1.4

#### Post-Construction

- A. application ngali pwel kka arol  
Information kkal nge rebwe ayoora ngare part il application permit reel post-construction termiticide application reel pwel kka e lo arol structures.
  - 1. EPA Registration Numbers(me kkopial labels ngare re tingor)reel presticide products kka rebwe yaya.
  - 2. Raalil me oral yayal application
  - 3. Ital eschay applicator me kkompaniyal pesticide.

4. Certification number reel ita escay applicator iye e lo lol project.
5. Address il application site
6. Description il site
7. Lappal area la rebwe safeya
8. Method of application me
9. Moppa, ebwe abwari schaal lol 100 feet reel area igha rebwe yaya iya termiticide.

#### B. Fumigation

Fumigation nge yayal vapor ngare gas iye e wewe reel rebwe amabwu, lilo me mitigate li termites. Fumigant nge inamwo meta na pesticide iye vapor ngare gas nge e ffeeri eew product iye a vapor ngare gas igha re yaya me yaal method of action nge gaseous state.

Information kkal nge rebwe ayoora bwe part il permit application reel post-construction termiticide fumigation.

1. EPA Registration Numbers(me kkopial labels ngare re tingor)reel pesticide products kka rebwe yaya.
2. Raalil me oral yayal application
3. Ita escay applicator me kkompaniyal pesticide.
4. Certification number reel ita escay applicator iye e lo lol project.
5. Address il application site
6. Description il site
7. Description il equipment rebwe yaya
8. Description me uruwowul kkompaniya igha reghal ffeeri fumigation
9. Description il ngare eyoor problema mwal reel yayal fumigations
10. Health me Safety plan
11. Moppa e abwari alongal iimw me businesses kka e lo lol 25 feet mereel application site
12. Fumigant Management Plan me bwal akkaw information kka re nesisitay reel product label
13. Applicator ebwe ayoora iisch reel arong ngaliir alongal iimw me businesses kka re lo lol fisiigh me limwoow (75) feet igha rebwe pomwoli application we.

#### 7.1.5 Termiticide application kka ese bwal nesisitay permitting requirements

- A. Injection long lol structural voids
- B. Spot, ngat, crevice treatments me
- C. Treatment kka re yaya enclosed baiting system.

#### 7.2 Aerial Pesticide Application

7.2.1. Aerial pesticide application nge reghal ngaler wool case by case me e alugh ngali application sites kka e 150 acres me ngare e laap lo. Inamwo iyo aramas iye e

apply pesticide nge ebwe yaya pleen nge ebwe yoor valid Aerial Pesticide Application license (pilot license ngare ebwe yaya aerially pesticide) mereel state ngare territory il United States. Pleen iye rebwe yaya reel aerial pesticide nge ebwe attabwey aleghul and atiwlighil Federal Aviation Administration.

#### 7.2.2 Aerial Pesticide Application Permit

Reel alongal leli iye rebwe ayoora aerial pesticide treatment, applicator ebwe ghomwal isisilong application ngali Direkktood wool scheel la re ayoora reel aweewe yel, ebwe schuu me \$500 non-refundable fee. Tingorel permit mereel DEQ nge ebwe ruweigh (20) ralil angaang mwal ralil we rebwe pomwoli application. Ngare ra risisbi li Aerial Pesticide Application Permit, DEQ eyoor reer seigh (10) ralil angaang reel rebwe angang wool permit. Permit nge a valid lol 6-maram mwiril ralil we re isaliwow.

Information kkal nge rebwe ayoora bwe part il permit application reel post-construction termiticide fumigation.

- A. EPA Registration Numbers (me kkopial labels ngare re tingor) reel pesticide products kka rebwe yaya.
- B. Bwulul application, e tolong description of alternatives
- C. Raalil me oral yayal application
- D. Ital eschay applicator me kkompaniyal pesticide, me infotmation il pilot
- E. kkopial certification il applicant me pilot/applicator, ngare ese wewe sangi applicant
- F. kkopial yaal lisensia pilot
- G. Address il application site
- H. Description il site, ebwe tolong moppal application site, ebwe abwari schaal, aquatic habitats, residential homes, gakko, ispitol me businesses kka e lo lol 1000 feet reel application site.
- I. Description il equipment kka rebwe yaya
- J. Description me uruwowul company's experience igha re ffeeru aerial treatments
- K. Description il ngare eyoor problema reel pesticides, me
- L. Health me Safety plan

Direkktood il DEQ emwal esabw isisiwow Aerial Application Permit ngare e detitminali bwe pomwol aerial pesticide application nge ebwe angawa health il aramas me environment.

#### 7.2.3 Arong

- A. Applicator e nesisitay ebwe aghuley ngali DEQ reel iisch 48-oras mwal yayal aerial application iye a lo faal approved permit. Ngare schaagh bwe e pre-approved mereel DEQ. Aerial application nge esabw ghilighilitiw. Aerial pesticide application iye re feeri e lo faal permit iye re apreba li nge ebwe ffeer durantil yal

DEQ normal working hours. Applicator ebwe bwal ayoora iischil le aroong reel rallil me oral application me ital brand me yaal common name me EPA registration reel pesticide la rebwe yaya ngali eew me eew iimw me business kka re lo eew-miza radius reel igha rebw pomwoli application . Kkopiaal iischil arong nge rebwe isalilong reel DEQ mwal yayal pesticide.

B. Ebwe yoor yaar rebwe fferu fischi reel control il pesticide drift durantil aerial pesticide application.

### 7.3 Isisil Pesticide

7.3.1 Alongeer certified pesticide applicators me licensed dealers rebwe isis pesticide nge rebwe atabwey afalal pesticides wool yaal label me federal requirements, me rebwe atabwey isisil pesticide:

- A. lol eew leli iye a kkondolu, ventilated, patapal, pwas me ese til ngali alet.
- B. leliy iye e lemweylo sangi mwungo, feed, seed me mwal
- C. lol yaal original container
- D. lol leliy iye e attawey olightat me mwal
- E. absorbent materials, ngare ppi me absorbent clay iye ebwe absorb li alongal ngare e lipilo
- F. leliy iye a taaw sangi incompatible chemicals.
- G. leliy iye e taaw sangi flammable liquids, solids, me arol flammable source.
- H. leliy iye e taaw sangi personal protective equipment
- I. igha eyoor fire extinguisher
- J. schuu me Material Safety Data Sheet (MSD) reel pesticide iye re yaya .
- K lol manner iye ngare e lip nge esabw angaw ground me surface water. Ngare re isis laap sangi seigh me ruwoow(12) gallon me ebwughuw(100) pound il pesticide inamo ilet, isali pesticide wool impermeable surface, reel concrete slab, nge wa mókka li reel eew skull me crossbones bwe ebwe affat bwe eyoor pesticides me
- L. lol manner iye e wewe ngali yaal labeling.

### POMWOL ATIWLIGHIL PESTICIDE MANAGEMENT

7.3.2 Alongeer cetified pesticide me licensed dealers nge rebwe isali pesticide kka e alugh me general use pesticide lol leli iye e appasch warning sign iye e ira alongal me ngare akkaw me e schuu fengal.

- A. "Warning"
- B. "Danger"
- C. "Pesticide Storage Area"
- D. "Poison Storage Area"
- E. "All Unauthorized Persons Keep Out" me ngare
- F. "Keep Door Locked When Not In Use"

7.3.3 Retailers, wholesalers me dealers rebwe isis me abwari pesticides lol wewe kkai

- A. Alongal pesticides kka rebwe amwewlo nge ebwe lo lol yaal registrant's approved container rebwe label li igha e required mereel federal law.
- B. Alongal restricted use pesticide nge rebwe asangilo sangi general use pesticide ngare rebwe amwewlo ngali toulap.
- C. alongal pesticide(general me ngare restricted use ) wool display ngali toulap, ebwe display reel minimum distance reel 10 feet mereel alongal fresh, soft, loosely packaged me wal akkaw tappal mwungo, me ngare feed items kka emwal ebwe absorb li bwol mereel pesticides. Examples e toolong me esebwal aighugh ngali, pwon, pasteries, bwotatas, kkani, kkeso, pughas, pasta, chips me kkandy. Alongal pesticides ngare display nge ebwe minimum distance faawu(4) feet mereel latariya me bwal akkaw mwungo.
- D. leliyal pesticide kka e sumi me ngare feyir rebwe asuwlo mereel display area ngali igha outol ebwe contained ngare e toto bwe kkonditionil aghi ngaw lo. Yayal "overpack" me ngare bwal eew device iye ebwal wewe ngali nge ebwal ghatch. Pesticide material iye e lip lo nge rebwe aghasaghasalo reel appropriate decontamination method. Leliy egha a bwal lip lo pesticide nge rebwe bwal decontaminated reel mwoghutughut iye e ffil ngali tappal material la e lip.

7.3.4. DEQ storage permit e nesisita reel isis il pestices kka e lu sangi 500 gallons me ngare 4,000 lbs me ngare e combination il liquids me solids me rebwe atabwey moghutughut kkal.

- A. Schoo kka yaar me operators il facilidood we rebwe apply ngali Direkktood reel storage permit wool scheel la re ayoora mereel Direkktood ebwughuw ruweigh (120) raal mwal rebwe yaya fasilidood we reel storage iye e affat lol section yel.
- B. Permits rebwe apreba li ngare schagh bwe containment me secondary containment e atabwey 40 CFR §§ 165.80-97 (Ulyo 2007), igha containment me secondary containment e nesisita reel alongal fasilidood me e toolong yayal specific materials me ebwe toolong technical design standards. Direkktood ebwe require bwe alongal plano reel mil ffee fasilidood nge ebwe ffeer sangi eschay certified engineer.
- C. Storage permit nge e ghatch lol limwoow (5) raagh sangie ralil isisiwowul, me applicant ebwe obwossu DEQ reel \$100 processing fee.

## 7.4 Transportation

7.4.1 Alongal Restricted Use Pesticide nge rebwe transport li lol wewe kkal

- A. resabw transport li nge rebwe schuu me aramas, maal, mwungo, feed, simiya, mwungogh me consumer goods; me
- B. alongal containers nge rebwe aleighuw ghatchuw me loaded nge esabw feyir durantil transport, me yaal labels esabw saghegh lo me resabw mwoghut me toor wow me lol gharetta.

7.4.2 Pesticide lol gharetta kka re yaya reel pest control nge resabw yaya le transport lol leliyal passenger me aramas, maal, mwungo, feed , simiya, mwungogh me consumer goods.

7.4.3 Alongal pesticide nge rebw transport li igha e required reel yaal label.

### **7.5 Akkatch lol(Disposal)**

Pesticide, containers kka e soor outol, equipment kka e yoor me efasul yoor pesticide lol. Nge esabw kkasch lol reel igha ebwe angawa aramas, mwal, mwungo, feed, crops me property. Pesticide containers kka e empty my non-refillable nge rebwe talu faal eluuw nge ra ngatali bwe resabw yaya lo. Akkasch lol non-refillable pesticide container kka ese mwel rebwe taluu faal eluuw nge ebwe atabwey directions wool pesticide label. Akkasch lol pesticide containers kka e refillable me non-refillable ikka ese mwal rebwe talu faal eluuw me ngatalir) school yaya rebwe atabwey afal wool label me akkaw aleghul federood.

### **7.6 Isisil Rekkood( Recordkeeping)**

Commercial,Applicators, Private Applicators me Licensed Dealers rebwe isis rekkod lol outol esabw ghititiw sangi eluuw (3) raagh.

7.6.1 Commercial applicators nge rebwe isis rekkood kka e wel me bwung reel yayal ii mwe ruwoow restricted use me general use pesticide, e bwal toolong information kkal.

- A. Ital(brand me common) me EPA registration number me product.
- B. Lapal yayal product, me ngare product we e schuu fengal me wal akkaw substance mwal yaya, ital substance me lapal mixture e ffeer.
- C. Ralil, oral, me bwuley me method il application
- D. total area covered
- E. targeted area me bwal akkaw lely me
- F. targeted pest(s)

7.6.2 Private applicators nge rebwe isis rekkood kka e wel me bwung reel yayal ii mwe ruwoow restricted use me general use pesticide, e bwal toolong information kkal.

- A. Ital(brand me common) me EPA registration number me product.
- B. Lapal yayal product, me ngare product we e schuu fengal me wal akkaw substance mwal yaya, ital substance me lapal mixture e ffeer.
- C. Ralil, oral, me bwuley me method il application
- D. total area covered
- E. targeted area me bwal akkaw lely me
- F. targeted pest(s)

7.6.3 Licensed dealers rebwe isis rekkoodil akkamwelo me isisiwowul restricted used pesticide, e toolong information kkal:

- A. Ital, address, me certification number me ngare dealer's license (ngare e ffil) number il aramas kka re amwew me resibi li pesticide.
- B. Ralil igha re amwewlo me distribute lil
- C. yaal brand name, EPA registration number, lapal product re amwew lo me distributed.
- D. Yaal signature aramas we e amwewlo me distribute li pesticide; me
- E. label il pesticides.

## 7.7 Worker Protection Standards

### 7.7.1 Applicability me Scope

CNMI Worker Protection Standard requirement e ffeer ta reel ebwe ayoor agricultural me bwal akkaw school angang me schoo kka reghal angang li pesticide reel protection sangi exposure me harm reel pesticide lol leliyal angaang. CNMI Worker Protection Standards nge ngaley agricultural establishment, me bwal akkaw commercial application reel pesticides.

### 7.7.2 General requirements reel agricultural establishments me commercial application, Faal provisions il CNMI Worker Protection Standard, employers rebwe atabwey

- A. Abwari lol bwuley iye emwal rebwe araghi me weeri reer school angang lol mwalili iye rebwe kkomprendi specific information il presticed safety, emergency procedure me recent pesticide application.
- B. Ayoor pesticide safety traning ngaliir school angaang igha e affat lol 40 C.F.R. 170.130 me handlers sang 40 C.F.R. Part 170.230;
- C. Ayoor alilis reel medical treatment ngare e toto bwe eyoor sumway me ngare feyengow ikka e work-related reel pesticide.
- E. Aronga ngali school angang me ngare apasch ta warnings igha rebwe weweti reel areas kka pesticide applications re kke ffeeri me igha e restricted-entry intervals e in a effect.
- F. Schoo kka schagh re trained, properly equipped pesticed handlers emwal rebwe tolong me lo lol leliy ye re safeya.
- G. Ayoor leliyal decontamination reer school angang me handlers reel rebwe talutuw pestices residues me wool payir me ilighir. Ebwe yoor soghul schaal reel tatal me emergency eye flushing me ebwe ssogh abwil me towoza.
- H. ayoor me isali ghatchuw personal protective equipment me rebwe isali ghatchuw, sangi pesticides me akkaw dangerous chemicals, ebwe wel yayal me rebwe atabwey yaal manufactures instruction me label directions. Personal protective equipment e bwal tolong nge ese bwal aighugh ngali
  1. coveralls- a loose-fitting eew ngare ruwoow piece garment, minimum, e tampiy alongal illighil arams nge saabw, schimw, paay, pische, e ffeer sangi cotton me ngare cotton polyester blend fabric, me rese chemical-resistant. Wool pesticide lable nge emwal ebwe ira bwe emwal rebwe yaya

mwongogh failil overall. Ngare chemical-resistant re liweli ngali coverall, emwal resabw bwal yaya mwongogh failil.

2. chemical-resistant suit- e loose-fitting eew me ngare ruwoow piece chemical-resistant garment e tampiy, alongal ilighil aramas, saabw schiimw, paay, me pische.
3. chemical-resistant gloves-gloves kkal nge e ffeer sangi chemical-resistant materiood.
4. chemical-resistant footwear-tabwotos, boots, me tampil tabwatos, boots iye e ffeer sangi chemical-resistant materiood. Ngare chemical resistant footwear kka e propio reel yayal lol rough terrain ese yoor nge emwal rebwe yaya leather boots.
5. chemical-resistant aprons- apron iye e chemical resistant me e bwaliw sangi esoobw aingal mwetiw reel bwughuwal pische.
6. chemical-resistant headgear- hood me ngare parung iye e schee lap yaal brim me a ffeer sangi chemical resistant materiood.
7. protective eye wear- goggles, face shield; safety glasses, brow me temple protection; me ngare full face respirators, me
8. respirators- device iye a protehi li respiratory system me e 1)tappal iye e lista tiw wool pesticide label 2)more protective me e ffil ngali reel pesticide la rebwe yaya me activity iye rebwe ffeeru.

I. Abwungur alongeer school angaang meta iye e wel reel yayal personal protective equipment.

J. Abwungur alongeer school angaang meta iye e wel reel yayal application equipment.

K. Pippiy fischi bwe alongeer school angang re kkomprendi alongal label requirements.

L. Pippiy fischi bwe handlers il pesticide kka eyoor skull me crossbones symbols wol label nge rebwe lol le monitor liir alongal ora reel visually me voice communication

M. ayoor bwal akkaw aleigh mereel amwelil direkktood il DEQ.

7.7.3 Akkaw bwal requirements. Alongeer agricultural establishments( maat, lleemal, nursery me greenhouse) rebwe attabwey federal Worker Protection Standard reel 40 C.F.R Peigh 170.

7.7.4 Ngare eyoor fitighoogho reel Worker Protection Standard, meta requirement iye eghi impotanti rebwe attabwey ngali.

## **Part 8 Training me Certification**

### **8.1. Training**

8.1.1 Qualification il School Afal.Aramas iye ebwe ayoor certification training nge ebwe yoor yaal requirements kka faal.

- A. ebwe ghaw yaal pesticide education, training, me experience reel ebwe exercise li professional judgment me eyoor bwangil ebwe afal me communicate effectively ngaliir student-applicators reel ebwe amweliir reel proper performance reel yaar angaang; me
- B. pass li written pesticide safety examination(test li applicant reel ghuleyal reel labeling, safety factors, environmental consequences, pest identification me characteristics, pesticide types, formulations me dilutions, equipment maintenance me calibration, proper storage, use, me disposal il pesticides me containers, pesticide application techniques, local me federal pesticide laws me regulations, recordkeeping, worker protection standards, me bwaal akkaw relevant information ikka e nesisitay, e toolong me ese bwal aighugh reel new developments me bwal akkaw.)

#### 8.1.2 Instructor Responsibilities

- A. Plannol Training, Ayoora hands-on, interactive training plan e toolong me ese aighugh reel labeling, safety factors, environmental consequences, pest identification me characteristics, pesticide types, formulations me dilutions, equipment maintenance me calibration, proper storage, use, me disposal il pesticides me containers, pesticide application techniques, local me federal pesticide laws me regulations, recordkeeping, worker protection standards, me bwaal akkaw relevant information ikka e nesisitay, e toolong me ese bwal aighugh reel new developments me bwal akkaw.)
- B. Core Training Duration/Schedule. Training ebwe eew(1)rall (8 oras ) il afal nge ebwe toolong me esebwal aighugh ngali lecture, practicum, me exam preparation.
- C. Arongorongol Training me Registration. Rebwe arongawow training reel local media (newspaper, radio, television me bwal akkaw wewe)mwal eluuw(3) sumwola mwal ebwe bwel training.
- D. Materiood il training. School afal ebwe ayoora matiriood(tilighi, handouts etc.) reel workshop me update alongal matiriood(tilighi, handouts etc. igha re nesisitay me e required.

8.1.3 Repod, School afal ebwe aronga ngali Division of Environmental Quality mwiril eew quarter (Dec 31, Mótso 31, Unnyo 30 me Septembre 30).

## 8.2 Required Certification

- 8.2.1 Aramas kka reghal supervise li yayal pesticide reel commercial purposes nge rebwe bweibwogh yaar certification mereel DEQ.
- 8.2.2 Aramas kka re yaya, akkamwelo, me isisiwow restricted use pesticide nge rebwe bweibwogh yaar certification mereel DEQ.

## 8.3 Categories il Commercial Applicators, Private Applicators me Licensed Dealers

### 8.3.1 Commercial Applicators

Categories il applicators (saabw private) ikka e affat faal.

- A. Agricultural pest control
  - (i) Plant. Category yeel nge e toolong school commercial applicators kka re yaya me supervise yayal pesticide reel prodokktol agricultural crops, e toolong esebwal aighugh reel tobacco, peanuts, cotton, feed grains soybeans me forage; gholay; fruuta ghikkit; torongkkol fruuta me nuts; bwal grasslands me non-crop agricultural lands.
  - (ii) Maal. Category yeel e toolong commercial applicators kka re yaya me supervise yayal pesticides wool maal, e toolong nge ese bwal aighugh reel milikkewe ghom, beef cattle, dairy cattle, swine, sheep, ghubwayo, sibwa, poultry, me livestock, me lol me igha leliyal maal. Dokktol Veterinary Medicine e lo lol businessil ebwe apply li pesticide reel hire, me re aghuley ngali toulap bwe iir school pesticide applicators, e lo lol large-scale yayal pesticides re toolong lol category yeel.
- (B) Forest pest control. Category yeel e toolong commercial applicators kka re yaya me re supervise li yayal pesticide lol forest, forest nurseries, me forest seed product areas.
- (C) Ornamental and turf pest control. Category yeel e toolong commercial applicators kka re yaya me supervise li yayal pesticide reel control pests reel maintenance il me prodokktol ornamental trees, shrubs, floris, turf, me e toolong maintenance il resort grounds, golf courses, me green house.
- (D) Seed treatment. Category yeel e toolong commercial applicators kka re yaya me supervise li yayal pesticide wool simiya.
- (E) Aquatic pest control. Category yel e toolong commercial applicators me supervisors kka re yaya pesticide nge re purposefully apply ngali standing me running water, ese toolong applicators reel mwoghutughut kka public health iye e affat lol section 8.3.1 G.
- (F) Right-of-way pest control. Category yel e toolong commercial applicators me supervisors kka re yaya pesticides reel maintenance il yaal, dengkki, pipelines, railway, rights-of-way me bwal akkaw.
- (G) Industrial, institutional, structure me health related pest control. Category yeel e toolong commercial applicators me supervisors kka re yaya pesticide lol, wool me arol food handling facilities, imwer aramas, institutions, ngare gakko me ispitol, industrial facilities, e toolong

warehouses me grain elevators, ma akkaw structures e lo arol, public me private, me protection il sored, processed, me manufactured products.

- (H) Public health pest control. Category yeel e toolong governmental employees kka re yaya me supervise li yayal pesticides lol public health programs reel management me control il pests nge eyoor medical me public health importance.
- (I) Regulatory pest control. Category yeel e toolong governmental employees kka re yaya me supervise li yayal pesticides reel rebwe control li regulated pests.
- (J) Demonstration me research pest control. Category yeel e toolong aramas iye e pomwoli ngali toulap e wel yayal me techniques il yayal pesticides me supervise li demonstration, me aramas iye e ffeeru field research reel pesticides, reel ffeffer kkal, e yaya me supervise li yayal pesticides. E toolong a eewal gurupo, reeel extensioin specialist me county agents, commercial representatives kka re powmoli pesticides products. Me schoo kka re pomwoli methods kka re yaya lol progrommal toulap. A ruuschayil gurupo nge State Federal, commercial me akkaschay aramas kka re ke ffeeru field research me yaya pesticides.

#### 8.3.2 Private Applicators

Inamwo iyo aramas e yaya me supervise yayal restricted use pesticide reel ebwe ffeer agricultural commodity (amwari 40 CFR §171.2(a)(20) wool faluw iye yaal me ngare ekke akkila li, me ngare re apply li nge esoor obwoss lughul trading il personal services lefiler producers me agricultural commodities wool faluwal eschay, nge ebwe classify bwe private applicator. "Agricultural Commodity" faal nge plant, eghus sangi, animal product, ffeer sangi aramas (e toolong school ammat, ranchers, plant propagators, aqua-culturists, flori-culturist, orchadists, foresters, me akkaschay aramas iye rebwe amwemwe, consumption, propagation, me yayal reel aramas me ngare maal.

#### 8.3.3 Licensed Dealer

Aramas iye ekke bweibwoghlone, akkamwelo, isisiwow restricted use pesticide nge rebwe classify ngare licensed dealer me ebwe certified away schagh commercial applicator.

### 8.4 Standards of Competency

- 8.4.1 Pesticide safety me education training kka re ayoora lol CNMI e toolong me ese bwal aighugh reel.
  - A. labeling
  - B. safety factors
  - C. awewel weleyor

- D. pest identification me characteristics
- E. tapal pesticides, formulations me dilutions
- F. equipment maintenance me calibration
- G. Isisil, yayal me akkasch lol pesticide me leliyal
- H. pesticide application me techniques
- I. Atiwlighil me aleghul pesticide
- J. Isisil rekkood
- K. worker protection standards, me
- L. bwal akkaw arong kka e nesisitay, e toolong me ese bwal aighugh reel mil féé me akkaw wewe.

#### 8.4.2 Examinations

- A. Aramas iye emwuschel ebwe eschay pesticide applicator me ngare dealer ebwe abwari wool written examination bwe e bwang ngali.
- B. Passing grade il exam nge fiisigh percent (70%). Competence reel yayal me handling il pesticide nge ebwe detetmina sangi writtine exami, me meta e ffil, performance testing nge sangi standards kka e affat faal. Examinations me testing nge ebwe toolong general standards kka e applicable ngali alongal categories me bwal akkaw standards kka e specifically identify reel eew me eew category me subcategory igha applicator we ebwe classified, me ngali pesticide me tappal pesticides kka e lo faal yaal aramas we certification.
- C. Examinations nge reghal ayoora ngare re nisisitay; tingoral examination nge ebwe ffeer wool scheel iye re ayoora mereel DEQ reel wewe yeel.

#### 8.4.3 Determination reel Competency reer Commercial Applicators

- A. General Standards- il Competency  
Alongéer applicators rebwe pomwoli ghuleyer reel principles me practice reel pest control me safe use reel pesticides kka e described me faal. Testing nge ebwe sangi tappal problema me situations kka e ffil ngali category me ngare subcategory we reel yaal applicator we certification me bwal akkaw areas il competency:
  1. Label me Labeling Comprehension. Factors kka e toolong general format reel labels me terminology kka re yaya wool pesticide label me labeling; Affal, arongorong, terms, symbols, me akkaw arong kka elo wóól pesticide labels; Classification il product kkal, general me ngare e alugh, me yayal ngare e ffil ngali yaal label.
  2. Safety. Factors kka e toolong: Pesticide toxicity me hazard ngali aramas me yaal; Tappal pesticides me accidenti kka e common; Precautions kka e nesisitay rebwe afali reel feyengaw reer applicators me bwal akkaschay kka re lo arol me ngare re taw sangi igha re safeya ; Rebwe yaya protective clothing me equipment, meta kka e abwari bwe re beneno reel pesticide, First

Aid me akkaw mwoghutughut kka rebwe atabwey ngare eyoor pesticide accident, me Proper identification, isis, transport, handling, mwoghutughutul mixing me akkasch lol pesticides men leliyal pesticides, e toolong precautions kka rebwe ffeeri reel olight reel esoobw yoor yaar access ngali pesticides me leliyal pesticides.

3. A wewel weleyorol reel yaya me yaya ngawey pesticides, e toolong influential factors reel; Weather me climatic conditions; tappal terrain, pwel me akkaw substrate; iigh, wildlife me akkaw non-target organisims; drainage patterns.
  4. Pests. E toolong factors reel Common features il pest organisms me ululul reel damage iye e nesisitay reel pest recognition, Recognition rrel relevant pests; me pest development me biology iye emwal ebwe ffil ngali identification il problema me control.
  5. Pesticides, E toolong factors reel, tappal pesticides, tappal formulations; Meta iye e wewe ngali, synergism, persistence me mwal me ura toxicity il ffeerul. Hazards me residues kka e associated ngali yayal, Factors kka e influence li mamawal me ngare e ayoora ta problemal igha e resistance ngali pesticide; me mwoghutughutul dilution, e toolong calculation il ebwe wel application rate.
  6. Pisegh, e toolong factors reel: Tappal pisegh ghatchul me aighughul reel eew me eew tappal; me yayal, amwelil me calibration.
  7. Application techniques, e toolong factors reel: Tappal mwoghutughut iye re yaya ngali ffeerul pesticides, solutions, gas, e schuu fengal me ghuleyal reel meta tappal technique il application ebwe yaya lol eew situation; Relationship il discharge me placement il pesticides reel yayal, ese nesesario, ngawal yayal, me atippa bwe ete maal me atchigh lol weleyor.
  8. Alongal aleghul local me federóód.
- B. Specific Standards of Competency. Applicators rebwe pomwoli bwangir me rebwe qualified reel standards kka faal.

1. Agricultural Pest Control

(a)Úra, Applicators rebwe pomwoli ghuleyer reel ira kka re ffoot me tappal pests kkar schelal ura kkal igha rebwe yaya RUPs. Impotantil competency eghi tumogh reel meta kka e toolong, lappal pesticides re nesisitay, me yayal reel mwungo me feed. Practical knowledge e nesisita reel problemal pwel me schaal, pre-harvest intervals, re-entry intervals, phytotoxicity, me emwal ebwe yoor ngawal weleyor, non-target injury me problema lol

kkominidod reel yayal restricted use pesticides lol agricultural areas.

(b)Maal. Aramas kka re yaya pesticides wool maal nge rebwe pomwoli ghuleyer reel maal kkal me meta tappal pests kka e schuu ngalir. Practical knowledge ebwe yoor reel specific pesticide toxicity, me residue potential, igha maal kkal nge re yaya reel mwungo. Applicator ebwe bwal ghuley meta relative hazards kka ebwal schuu ngali factors kkal reel, formulation applicators techniques, raghir maal , stress me extend il treatment.

2. Pest Control il leyil Walawal. Applicators rebwe pomwoli ghuleyer reel tappal walawal, forests nurseries, me ffeerul simiya lol Northern Marianas me pests kka e toolong. Ebwe yoor ghuleyer reel cyclic occurrence reel akkaw tappal pests me specific population dynamic ngare basis il reel programming pesticide applications. Ebwal yoor ghuleyer reel relative biotic agents me iffa mama wer reel pesticides kka rebwe yaya. Bwe igha forest stands e toolong aquatic habitats me harbor wildlife, awewel pesticides kka rebwe yaya ebwe weires le rebwe assess li. Applicators rebwe pomwoli ghuleyer reel control methods iye ebwe aghitighitativ secondary problems reel unitended effects wool wildlife. Pomwol yayal pisegh ebwe wel, bwe igha emwal ebwe arap ngali meteorological factors me faluw kka arol.
3. Ornamental me Turf Control. Applicators rebwe pomwoli ghuleyer reel problemal pesticide kka e schuu ngali production me maintenance il ornamental trees, shrubs, planting me turf, e toolong cognizance reel phytotoxicity sangi sooghul tappal plant material, drift, me persistence e alugh sangi tempo we e affat reel pest control. Bwele reel arapal leliyer aramas ngali mwoghutughutul application, applicators lol category yeel rebwe pomwoli ghuleyer reel application methods kka ebwe aighughu me atipa feyengaw ngalir aramas, maal me akkaw domestic animals.
4. Seed Treatment. Applicators rebwe abwari ghuleyer reel tappal simiya kka e nesisitay chemical protection sangi pests me akkaw factors reel seed coloration, carriers, me surface active agents reel influence pesticide binding me emwal ebwe affecta li germination. Rebwe pomwoli ghuleyer reel hazards kka e associated ngali, handling, sorting me mixing, me misuse il treated seed reel introduction il treated seed long lol mwungo me feed channels, me proper disposal simiya kka e treated nge rese yaya.

5. Aquatic Pest Control. Applicators rebwe pomwoli ghuleyer reel secondary effects kka emwal ebwe bwel mereel improper application rates, ese wel formulations, me ese wel yayal restricted use pesticides kka re yaya lol category yeel. Rebwe bwal pomwoli ghuleyer reel akkaw tapal yayal schaal me potential downstreat effects. Me, rebwe ghuleyer reel potential pesticide effects wool ura, iigh, paluma, beneficial insects me akkaw organisms kka emwal rebwe lo lol aquatic environment. Applicators kkal rebwe pomwoli ghuleyer reel principles il limited area application.
6. Right-of-way Pest Control. Applicators rebwe pomwoli ghuleyer reel soghul tappal weleyor bweigha emwal rights-of-ways nge ebwe toolong lol soghul tappal faluw, e toolong yalil schaal. Rebwe pomwoli ghuleyer reel problemal runoff, drift, me e toolong control measures me procedures, me excessive foliage destruction me ability to target organisms. Rebwe bwal pomwoli ghuleyer reel nature of herbicides me igha rebwe nesisitay rebwe contain li pesticides kkal lol right-of-way areas, me impact il application areas kka e lo arol me kkomindod.
7. Industrial, Institutional, Structural me Health Related Pest Control
  - (a)General me Structural Pest Control. Applicators rebwe pomwoli ghuleyer reel soghul tappal pest bwal yaar lifecycle, me bwal tappal formulations kka e ffil ngali yaar control me methods il application bwe ebwe atipa contamination il mwungo me habitat, me exposure reer aramas me maal. Bweigha human exposure, espesiot ghogho, olighat, maal bwobwo, me tuufey, nge eghi sow eew problema, applicators rebwe pomwoli ghuleyer reel specific factors kka emwal ebwe mwet ngali hazardous conditions, me e sobwosobw lo schagh exposure lol akkaw tapal situations kkal lol category yeel. Bweigha health related pest control kkal emwal ebwe sangi outdoor applications, applicators lol category yeel rebwe pomwoli ghuleyer reel environmental conditions kka e wewe ngali mwoghutughut yeel.
  - (b)Structural me Commodity Fumigation. Lol subcategory yeel, tappal structures e toolong me ese bwal aighugh reel inhabited buildings, containers , bwoot. Applicators rebwe pomwoli ghuleyer reel alesh kka reel fumigant ame fumigation, yayal alesh, basic principles il fumigant use, reer handler me worker safety requirements espesiot reel safety training il pesticides, preventing

heat-related illness, reel fumigant labels, efaisul rebwe awewey me atabwey affal wool label me aleghul. Applicators rebwe pomwoli ghuleyer reel hazards kka sangi yayal fumigant me atipa human exposure, environmental contamination, off-site movement;drift, me phytotoxicity, reel safe fumigant handling practices, proper PPE selection, yayal me afalil, me responding fumigant emergencies. Applicators rebwe pomwoli ghuleyer reel proper fumigant application procedures, afil me yayal application me pisegh me yaal calibration iye e ffil, me bwal akkaw hazards me safe use practices.

- (c) Fumigation il pwel. Applicators rebwe abwari ghuleyer reel core requirements reel yayal fumigant me fumigation alegh, me atiwlighil, basic principles reel yayal, handler me worker safety requirements espesiotmenti safety training-il pesticide, preventing heat-related illness, reel fumigant labels, efaisul rebwe awewey me atabwey affal wool label me aleghul. Applicators rebwe pomwoli ghuleyer reel hazards kka sangi yayal fumigant me atipa human exposure, environmental contamination, off-site movement;drift, me phytotoxicity, reel safe fumigant handling practices, proper PPE selection, yayal me afalil, me responding fumigant emergencies. Applicators rebwe pomwoli ghuleyer reel proper fumigant application procedures, afil me yayal application me pisegh me yaal calibration iye e ffil, me bwal akkaw hazards me safe use practices.
8. Public Health Pest Control. Applicators rebwe pomwoli ghuleyer reel impotantil pests reel public health, vector-disease relationship me etiology rel disease-host relationship, igha ssoghul tapelal pest rebwal toolong, pests kka rebwe ghuley me rekkonisa li mereel public health control applicators, me yaar life cycles me habitats rebwe ghi ghuley ghatchuw. Applicators kka rebwe mataf reel sooghul tapelal kkonditionil weleyor sangi saschugh ngali dwellings. Rebwe ghuley reel non-chemical control methods reel sanitation, waste disposal, me drainage. Applicators rebwe pomwoli ghuleyer reel regulated pests, alugh kka e ffil ngali quarantine me bwal akkaw atiwlighil pests, me impact wool weleyor reel restricted use pesticides kka re yaya reel suppression me eradication programs. Rebwe pomwoli ghuleyer reel factors kka e influence li introduction, spread, me population dynamics il pest kka e ffil.
9. Regulatory Pest Control. Applicators rebwe pomwoli ghuleyer reel alugh kka e ffil, safety, regulated pest, pesticide me impact il

restricted use introduction, spread, me population dynamics kka e ffil ngali pest kkewe. Applicators rebwe pomwoli ghuleyer nge ebwe laap sangi meta iye e required bweigha yaar immediate duties igha emergency measures nge e nesisitay me individual judgemetns lol situations kkal nge ebwe ghal ffeer.

10. Pomwol me Research Pest Control. Aramas iye e abwungur safe me effective use il pesticides ngalir akkaschey applicators me toulap re expectali be ebwe meet li comprehensive standards kka ebwe reflect li broad spectrum il yayal pesticides. Eghis ssogh tapelal problema kka emwal rebwe schuungi lol course il activities kkal iye e ffil ngali pomwol, ghuleyer reel problema, pests, me population level kka e ffig lol eew me eew demonstration situation nge e nesisita. Rebwe bwal pomwoli yaar weweyti pesticide-organism interaction me impotantil intergrating pesticide me akkaw methods. Applicators kka re ghal ffeeru demonstration il pest control work, ffeerul field research me method improvement work reel RUPs nge ebwe yoor ghuleyer reel alongal general standards kka e ischitiw lol 8.4.3 A. Bwal toolong, rebwe bwal ghuley specific standards kka lol section 8.4.3 B igha emwal ebwe bwal applicable ngaly mwoghutughut we.

C. Specific Standards of Competency. Private applicators rebwe pomwoli bwe eyoor ghuleyer reel problemal pest kka e schuu ngali yaar agricultural operations. Private applicators nge rebwe

1. Rekkoniza li common pests kka rebwe controlled me damage kka re ffeeru.
2. Areghi me kkomprendi label me yaal affal, e toolong, ital pesticides iye e yaya, pest(s) kka rebwe control li, outol, me methods il application, safety precautions, pre-harvest me ngare re-entry alugh, me mwoghutughutul akkasch lo.
3. yaya pesticides nge rebwe atabwey afal me arong wool label, e toolong bwangil yaar rebwe mwel le ffeeru proper concentration il pesticide iye rebwe yaya faal eew particular circumstances reel leli iye rebwe yaya me lapal lol eew period of operation.
4. Rebwe rekkoniza li weleyor outol rebwe yaya bwe ete yoor contamination.
5. Rebwe rekkoniza li poisoning symptoms me procedures ngare eto bwe eyoor pesticide accident.

D. Specific Standards of Competency. Licensed Dealers nge rebwe pomwoli bwal akkaw bwangir me ghuleyer reel, e toolong nge ese bwal aighugh reel.

1. pesticide legislation, aleigh me guidelines
2. safety me toxicology
3. akkasch lol
4. isisil me transportation
5. Effects wool maal, ura, weleyor, iigh, me wildlife
6. factors kka e affecta li yayal pesticides
7. classification me formulations il insecticides
8. fungicides, herbicides, me bwal akkaw pesticides me yayal
9. Faal
10. recommendations il yayal pesticides; me
11. poisoning symptoms me mwoghutughutul iye rebwe attabwey re eyoor accidental pesticide.

## 8.5 Application Forms, Duration me Renewals

8.5.1 Application il certification reel pesticide applicator me licensed dealer nge ebwe ffeer ngali Direkktood wool scheel la re ayoora reel wewe yel.

### 8.5.2 Lalayil Certification me Renewals

- A. alongal certification nge ebwe valid lol outol eluuw(3) ragh sangi ralil we e isisiwow me ngare be emwutukkay lo be re suspended me revoked mereel direkktood.
- B. Application il renewal nge ebwe ffeer ngali direkktood wool scheel la re ayoora reel wewel yeel.
- C. Emwal applicants rebwe renew li yaar certification reel rebwe taabwey class il continuing education (CE), kka e ffil ngali yaar category , iye re ayoora mereel U.S. state me ngare territory, renewals sangi classes kkal nge emwal rebwe kksiderali ngare applicant we e bweibwogh CE classes durantil outol certification lol category iye e wewe ngali me ngare ekke ghuta.
  - i. Commercial applicators nge rebwe bwughi minimum reel seigh me ruwoow (12) continuing education classes reel renewal il yaal certification.
  - ii. Private applicators nge rebwe bwughi minimum reel eluuw (3) continuing education classes reel renewal il yaal certification.
- D. Ngare e tooto bwe applicator we esemwel ebwe tabwey CE classes, e debi bwe ebwe pass li eew examination iye e wewe ngali tapal e required reel renewals reel certification reel igha ebwe asiguru lib we e meet li requirements il liwelil technology me ebwe asiguru lib we ebwe sobwey

lo level il competency me bwangil reel yayal pesticides safely me properly.

- E. Ngare e tooto bwe applicant emwuschel ebwe appascha ngali me ngare liweli yaal certification category ebwe pass li me pomwoli competency lol mil ffe category.

**8.6 Standards reel Supervisory il Non-Certified Applicators mereel Certified Applicators**  
Eschay non-certified nge e lo faal lemelemil eschay certified applicator emwel ebwe apply general use pesticide lol wewe iye ebwe require li application mereel eschay certified applicator. Ngare eyoor me active supervision reel certified applicator ebwe ngali schaagh hazard il situation we me yayal pesticide. Non-certified applicator nge ebwe yaya schaagh restricted use pesticides faal amwelil certified applicator iye ebwe lo reel leli we. Responsibilidoodil yayal general me ngare restricted use pesticide nge ebwe lo reel non me certified applicator kkewe.

### **8.7 Reciprocity ngaliir akkaw Jurisdiction me Temporary Certification**

Direkktood emwal ebwe isisiwow temporary certification ngali eschay aramasz iye eyoor yaal valid pesticide applicator's certification mereel eew state me ngare territory il United States me bwal state plan iye re apreba li. Temporary certification nge ebwe lo reel lol lalayil outol underlying certification e valid.

### **8.8 Extension, Denial, Suspension me Revocation, me Appeal**

- 8.8.1 Ngare direkktood e detetmina li be e nesisita eew tapal pesticide applicator me lol ghatchul interes il CNMI, emwal ebwe extendi li lo validity il temporary certification. Iischil application reel temporary certification me ebwe ffeer ngali direkktood wool scheel iye re ayoora reel awewe yeel. Temporary certification ebwe aighugh ngali tapal me category il pesticide iye rebwe yaya me igha applicant e certified lol akkaw state me ngare territory. Ngare faal akkaw bwulul, direkktood emwal ebwe rekkonisa li, eew temporary pesticide applicator certificate nge ebwe non-renewable.
- 8.8.2 Direkktood emwal ebwe deny li, suspend, me revoke li certicate me ebwe ayoora criminal/me civil penalties reel yaya ngaw il pesticide me rekkood kka ese wel kka rebwe isis mereel certified applicator.
- 8.8.3 Direkktood emwal ebwe deny li certification ngali
  - A. aramas iye yaal certification e suspended me revoked.
  - B. aramas iye re schungi be a atay aleghul atiwligh kkal.
  - C. aramas iye ese pass li yaal proficiency test.
  - D. aramas iye ese obwossu fees.

8.8.4 Certification kka re isisiwow sangi peigh yeel nge rebwe amwari reel suspension me revocation mereel direkktood ngare eyoor condition-il certificate me atiwligh kka re violate li, me ngare criminal conviction faal section 14 (b) igha re amendaali FIFRA, final order iye re impose li civil penalty faal Section 14 (a) re amendaali FIFRA, me ngare CNMI enforcement action.

8.8.5 Aramas iye rese ngaley certification sang part 8.8 me ngare yaal certificate re suspended me revoked li emwal ebwe tingorey DEQ ebwe asangi lo denial , suspension, revocation sangi mwoghutughutul Administrative Procedure Act, 1 CMC §§9101, et seq. Mangamangil direkktood lol iisch wool mwoghutughut yeel nge ebwe le iwe schaagh nge appeal nge ebwe yoor me atabwey laay.

## **8.9 Obwoss**

8.9.1 Aramas iye emwuschel ebwe bwughi examination reel ebwe bweibwogh yaal certification mereel Division of Environmental quality nge ebwe obwossu seigh dolla (\$10) non-refundable fee.

8.9.2 Commercial applicators rebwe obwossu limeigh dollar (\$50) reel processing il application.

8.9.3 Private applicators rebwe obwossu seigh dolla (\$10) non-refundable reel processing il application.

8.9.4 Obwossul Government Applicators nge emwal ebwe waived, ngare be Applicator we e yaya application reel Government projects.

8.9.5 Restricted use pesticide dealers nge rebwe obwossu fee reel limeigh dollar (\$50) reel processing il application.

8.9.6 Alongal renewal il certification (commercial applicator, private applicator, RUP dealer) rebwe obwossu processing fee kka re ayoora.

## **Part 9 LISTAL ALONGAL PESTICIDES KKA E BANNED ME RESTRICTED ME ARONGOL LIWEL LOL STATUS**

### **9.1 Pesticides kka re aleghu**

DEQ emwal ebwe aleghu yayal pesticide ngare e weeri be ebwe angawa limilimil aramas me weleyor. Ngare DEQ e detitminali bwe eew pesticide nge eew Ristricted Use Pesticide ("RUP"), yayal nge e aighugh ngali certified applicators reel alongal, igha e ititiw lol Part 8. Yaar responsabilidod applicators bwe rebwe detitminali ngare pesticide nge eew RUP faal alegh kka. Ngare yayal pesticide nge e alughu mereel U.S. EPA, ebwe kkayil eew RUP faal section yeel,

inamwo ngare pesticide we e lo wool lista la elo reel direkktood. Ngare eyoor conflict reel status il lista reel pesticide, meta e maas ghi stringent classification rebwe atabwey.

## **9.2 Banning il Pesticides**

DEQ emwal ebwe prohibit li bweibwoghlolongol, akkamwelo, isisiwowul, me yayal pesticide me prohibit li yayal eew tappal pesticide ngare yayal nge ebwe angawa human health me weleyor. Reel bwulul kkal, atiwligh , me pisegh kka e suspended me cancelled mereel EPA me ngare registrant faal FIFRA ebwe ayuwlo yayal inamwo ngare e lo wool lista ree Direkktood me bwulasiyol DEQ. Ngare eyoor fitighoghol status il pesticide, meta ye eghi maas stringent classification rebwe attabwey.

## **9.3 Arongorong reel liwelil Status**

Direkktood ebwe isali listal pesticides kka e alugh mereel DEQ lol CNMI lol bwulasiyool DEQ me wool Seipel, nge ebwe lo me ebwe updated, ngare eyoor fitighogho, resabw atabwey listal restriced use pesticides kkewe mwal. Ngare eew pesticide kkewe e alugh rebwe apascha me ngare asiwlo mereel listal CNMI, DEQ ebwe isisiwow arongorong lol local newspaper me DEQ website.

Saabw yaal responsabilidod DEQ bwe ebwe aronga ngali toulap bwe EPA me ngare registrant ra ayuwlo yayal eew tapalal pesticed me ngare ra afeli bwe restricted use. Ngare ese ghow arong nge esabw eew defense ngare eyoor action sangi DEQ.

## **9.4 Responsibilidóód- il Applicators/Dealers/Importers**

Responsibilidood-il aramas kka re yaya, isisiwow, akkamwelo, me bweibwoghlolongol pesticides bwe rebwe mataf reel yaal current status pesticide we faal FIFRA mwal rebwe yaya, isisiwow, akkamwelo, me bweibwoghlolongol.

Bwal lapalol yaal responsabilidod aramas iye e yaya, isisiwow, me ngare akkamwelo, bweibwoghlolongol pesticeds bwe rebwe metaf reel yaal current status il pesticide we faal Lay il CNMI mwal rebwe yaya, isisiwow, akkamwelo me bweibwoghlolongol.

## **9.5 Experimental Use Permits**

Experimental Permits reel yayal Pesticides nge emwal rebwe yaya ngare schaagh bwe eyoor permit mereel EPA igha e nesisitay faal FIFRA § 5 40 CFR Part 172 Subpart A (igha emwal ebwe amenda), me ebwe bwal bwungubwung mereel DEQ.

# **Part 10 ENFORCEMENT ME PENALTIES**

## **10.1 Pomwol féffér**

Emwal Direkktood ebwe amamawa aleigh kkal lol Chapter yeel reel ebwe ayoora administrative action, me tingor rebwe bwuluw eew civil me criminal case lol Commonwealth Imwal Awewe sangi Commonwealth Environmental Protection Act, 2 CMC § 3131.

## 10.2 Inspections

10.2.1 Lol facilidood iye pesticides re bweibwoghlone, akkamwelo, yaya, isis, transported me ngare akkaschlo, Direkktood me ngare layul aramas iye e afeli emwal ebwe ayoora inspection, toolong lol bwuley we, amwari rekkood, me bweibwogh samples sangi mwoghutughutul 2 CMC § 3132 reel ebwe amamawa aleigh kkal reel ebwe afali limilimil iligh me weleyor il CNMI.

10.2.2 Direkktood emwal ebwe isisiwow reel iisch me ngare printed "stop sale, use or removal ngali aramas iye e yali, lemelem, me e amwuschu eew misbranded pesticide, mwuril ra risibili arong yeel, esoor aramas iye emwal ebwe akkamwelo, yaya, me asuwlo pesticide iye re affata lol order ngare schagh re atabwey ngali provisions il order.

## 10.3 Administrative Orders

Direkktood emwal ebwe isisiwow administrative order me ebwe ayoora administrative action, reel ebwe ayoora remedial action me isisiwowul penalties sangi lol 2 CMC § 3131. Mwoghutughutul Administrative nge rebwe feeru sangi Administrative Procedure Act, 1 CMC §§ 9101 et seq.

### Mwoghutughutul Administrative Orders

10.3.1 Direkktood emwal ebwe isisiwow me order li aramas ebwe obwossu civil fine nge esabw laap sangi \$25,000.00 reel eew alugh rese atabwey. Atiwligh kka re adaptaali sangi Act yeel, me permit me license re isisiwow sangi mwoghutughutul yeel me atiwligh kkal. E raal igha e sobwosobwlo violations kka igha ra takkal isisiwow arong reel iisch mereel Direkktood me ngare malle e afili me expiration il corrective action period nge bwal eew offense.

10.3.2 Direkktood emwal ebwe bwuluw administrative action, respondent emwal ebwe tingor administrative hearing lol fisuuw (7) calendar days igha e risibi li order. Ischil tingor reel hearing nge a fis bwe opil ngali yaal DEQ administrative order me ngare complaint. Tingorol hearing me ngare "answer" ebwe affata, admiti li, deny, me awewey eew factual allegations kka elo lol complaint igha respondent we e ghuley. Ngare respondent we esoor ghuley reel eew factual allegations iwe allegations kkewe ebwe denied. Palawal ebwe bwal ira

- (i) Circumstances me awewe kka re allege lil me grounds of defense me
- (ii) facts kka responded emwuschel bwe ebwe lo bwe issue.

10.3.3 Ngare rese admiti-li, deny, me awewey material factual allegations kka e lo lol complaint nge ebwe ffeer bwe a admitili allegations kkal. Apalawal lol kkepas emwal reel outol hearing ngare eyoor tingor.

10.3.4 Respondent emwal ebwe tingor informal settlement conference. Informal settlement conference nge ese bwal affectali obligational respondent ebwe file li tingorol hearing. Ngare e yoor settlement reer patida iwe rebwe afanga eew pomwol consent order ngali direkktood reel ebwe apreba li.

10.3.5 Ngare re kkondukta li hearing, direkktood me ngare iyo e afali ebwe amweli hearing. Direkktood ebwe lemelem reel bweibwoghil testimony me evidence me ebwe ayoor audio, audio-video, me ngare stenographic rekkod il hearing. Tapal rekkod iye e ffeer nge ebwe lo faal lemelemil direkktood. Evidence kka re presentali reel hearing nge ese bwal nesisita ebwe attabwey alughul evidence, nge emwal ebwe aighugh sangi direkktood lol mwoghutughut iye e deteminali bwe a iwe e ffil me a iwe le sobwolol awewe. Direkktood ebwe isisiwow iischil yaal mangemang lol seigh me limwow (15) rallil angang me sobwolol enforcement hearing. Disision ebwe toolong me ebwe iischi weryer reel facta me conclusion laay. Standard me proof il hearing me disision nge lo wool preponderance of evidence.

10.3.6 Ngare ra isisiwow iischil mangemang, respondent emwal ebwe ghuta relief sangi disision il direkktood. Tingorol relief rebwe file li lol seigh(10) rall mereel rallil we re isisiwow disision. Tingor ebwe affata specific objections ngali disision we. Esoor bwungul reel rebwe review me ngare rehearing mwal direkktood. Emwal direkktood ebwe review li cases me isisiwow mangemang reel ebwe amenda me ngare alegghu yaal disision ngare e tipeli. Ebwe isisiwow yaal ischil disision lol eliigh(30)rallil lol kkalendario

10.3.7 Disision il direkktood nge a iwe schagh. Appeal sangi final enforcement disision nge ebwe ngali Commonwealth Superior Court lol eliigh (30) calendar days mwuril service il yaal agency final disision.

10.3.8 Reel filing deadline , paapal rall ebwe bwel wool rallil we mwuril ra resibi li administrative order me ngare complaint, ngare rallil filing e pung wool Soobwal, Ghubwul me ngare Commonwealth holiday, rallil filing nge ebwe extendi ngali rallil la mwuril.

#### 10.4 Seizures

Direkktood emwal ebwe amwuchulo pesticide kka e banned, adulterated, misbranded me rese registerli igha e atay alughul atiwiligh kkal, ngare pesticide ebwe angawa public welfare me weleyor, emwal ebwe ffeeru mwoghutughut kka e ffil mereel alugh bwe ebwe atipa feyengaw ngali limilimil iligh me ngare welfare.

## 10.5.2 Penalties

Aramas iye e attay alugh me ese mwuschel ebwe attabwey provisions il atiwlich kkal lol Chapter me certification, standard, arong, permit, order re isisiwow mereel Direkktood-il Division nge rebwe amwutali ikka e affat lol 2 CMC §3131.

## **PART 11 APPLICATION IL LAAY**

Ngare eto bwe eyoor fitighogho reel legally applicable standards, , meta iye eghi maas eghi stringent ebwe aplikka.

## **PART 12 SEVERABILITY**

Ngare eyoor part, section, paragraph, sentence, clause, phrase, me ngare application il alegh kkal re deklaro li bwe e unconstitutional me ese valid reel mangemang mereel eschay aramas iye e competent, lusul me ngare akkaw application reel alegh me atiwlich kkal esabw pwal inaffectali.



# STATE BOARD OF EDUCATION

Commonwealth of the Northern Mariana Islands — *Public School System*

PO Box 501370 Saipan, MP 96950 • Tel. 670 237-3027 • Fax 670 664-3711



*Herman T. Guerrero*  
CHAIRPERSON

*Lucia L. Blanco-Maratita*  
VICE-CHAIRPERSON

*Janice A. Tenorio*  
SECRETARY/TREASURER

MEMBERS  
*Marylou S. Ada*  
*Denise R. King*

STUDENT REPRESENTATIVE  
*Audrey Jay Ada*

NON-PUBLIC SCHOOL REP.

TEACHER REPRESENTATIVE

## PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS OF The Commonwealth State Board of Education

### PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER AS PROPOSED REGULATIONS Volume 34, Number 10, pp 033041-033046

#### Regulations of the State Board of Education

**ACTION TO ADOPT PROPOSED RULES AND REGULATIONS:** The Commonwealth of the Northern Mariana Islands, State Board of Education (“the Board”), HEREBY ADOPTS AS PERMANENT rules and regulations the Proposed Rules and Regulations, which were published in the Commonwealth Register at the above-referenced pages, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Board announced that it intended to adopt them as permanent, and now does so. The Regulations would become effective 10 days after final adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

The Special Education Program Rules and Regulations as published, such adopted rules and regulations are true, complete and correct copy of the referenced Proposed Rules and Regulations, and that they are being adopted without modification or amendment.

**PRIOR PUBLICATION:** The prior publication was as stated above. The Board adopted the Rules and Regulations as final at its Special Board meeting of January 16, 2013.

**MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY:** None.

**AUTHORITY:** The proposed amendments to PSS regulations are promulgated pursuant to the Board’s authority as provided by Article XV of the CNMI Constitution, Public Law 6-10 and the CNMI Administrative Procedures Act.

**EFFECTIVE DATE:** Pursuant to the APA, 1 CMC sec. 9105(b), these adopted rules and regulations are effective ten (10) days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which, in this instance, is 10 days after this publication in the Commonwealth Register.

**COMMENTS AND AGENCY CONCISE STATEMENT:** Pursuant to the APA, 1 CMC sec. 9104(a)(2), the agency has considered fully all written and oral submissions respecting the proposed regulations. Upon this adoption of the regulations, the agency, if requested to do so by an interested person, either prior to adoption or within thirty (30) days thereafter, will issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption. Please see the following pages for this agency's concise statement, if there are any, in response to filed comments.

**ATTORNEY GENERAL APPROVAL** for non-modified regulations or regulations with NON-material modification: The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC sec. 2153(e) (To review and approve, as to form and legal sufficiency, all rules and regulations to be promulgated by any department, agency or instrumentality of the Commonwealth government, including public corporations, except as otherwise provided by law).

**I DECLARE** under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 29 day of January 2013, at Saipan, Commonwealth of the Northern Mariana Islands.

This regulation was approved at the State Board of Education Special Meeting of April 16, 2012.

Certified and  
ordered by:

Herman T. Guerrero  
HERMAN T. GUERRERO  
Chairperson, State Board of Education

1/29/13  
Date

Filed and  
Recorded by:

Esther M. San Nicolas  
Esther M. San Nicolas  
Commonwealth Register

01-29-2013  
Date



# STATE BOARD OF EDUCATION

Commonwealth of the Northern Mariana Islands — *Public School System*

PO Box 501370 Saipan, MP 96950 • Tel. 670 237-3027 • Fax 670 664-3711



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NON-PUBLIC SCHOOL REP.

TEACHER REPRESENTATIVE

## PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS OF The Commonwealth State Board of Education

### PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER AS PROPOSED REGULATIONS

Volume 34, Number 10, pp 033035-033040

#### Regulations of the State Board of Education

**ACTION TO ADOPT PROPOSED RULES AND REGULATIONS:** The Commonwealth of the Northern Mariana Islands, State Board of Education (“the Board”), HEREBY ADOPTS AS PERMANENT rules and regulations the Proposed Rules and Regulations, which were published in the Commonwealth Register at the above-referenced pages, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Board announced that it intended to adopt them as permanent, and now does so. The Regulations would become effective 10 days after final adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

The Early Intervention Program Rules and Regulations as published, such adopted rules and regulations are true, complete and correct copy of the referenced Proposed Rules and Regulations, and that they are being adopted without modification or amendment.

**PRIOR PUBLICATION:** The prior publication was as stated above. The Board adopted the Rules and Regulations as final at its Special Board meeting of January 16, 2013.

**MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY:** None.

**AUTHORITY:** The proposed amendments to PSS regulations are promulgated pursuant to the Board’s authority as provided by Article XV of the CNMI Constitution, Public Law 6-10 and the CNMI Administrative Procedures Act.

**EFFECTIVE DATE:** Pursuant to the APA, 1 CMC sec. 9105(b), these adopted rules and regulations are effective ten (10) days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which, in this instance, is 10 days after this publication in the Commonwealth Register.

**COMMENTS AND AGENCY CONCISE STATEMENT:** Pursuant to the APA, 1 CMC sec. 9104(a)(2), the agency has considered fully all written and oral submissions respecting the proposed regulations. Upon this adoption of the regulations, the agency, if requested to do so by an interested person, either prior to adoption or within thirty (30) days thereafter, will issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption. Please see the following pages for this agency's concise statement, if there are any, in response to filed comments.

**ATTORNEY GENERAL APPROVAL** for non-modified regulations or regulations with NON-material modification: The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC sec. 2153(e) (To review and approve, as to form and legal sufficiency, all rules and regulations to be promulgated by any department, agency or instrumentality of the Commonwealth government, including public corporations, except as otherwise provided by law).

**I DECLARE** under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 29 day of January 2013, at Saipan, Commonwealth of the Northern Mariana Islands.

This regulation was approved at the State Board of Education Special Meeting of April 16, 2012.

Certified and  
ordered by:

Herman T. Guerrero  
HERMAN T. GUERRERO  
Chairperson, State Board of Education

1/29/13  
Date

Filed and  
Recorded by:

Esther M. San Nicolas  
Esther M. San Nicolas  
Commonwealth Register

01.29.2013  
Date



# STATE BOARD OF EDUCATION

Commonwealth of the Northern Mariana Islands — *Public School System*

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TEACHER REPRESENTATIVE

## PUBLIC NOTICE OF CERTIFICATION AND ADOPTION OF REGULATIONS OF The Commonwealth State Board of Education

### PRIOR PUBLICATION IN THE COMMONWEALTH REGISTER AS PROPOSED REGULATIONS Volume 34, Number 10, pp 033047-033058

#### Regulations of the State Board of Education

**ACTION TO ADOPT PROPOSED RULES AND REGULATIONS:** The Commonwealth of the Northern Mariana Islands, State Board of Education (“the Board”), HEREBY ADOPTS AS PERMANENT rules and regulations the Proposed Rules and Regulations, which were published in the Commonwealth Register at the above-referenced pages, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The Board announced that it intended to adopt them as permanent, and now does so. The Regulations would become effective 10 days after final adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

The Restraint and Seclusions of Students Rules and Regulations as published, such adopted rules and regulations are true, complete and correct copy of the referenced Proposed Rules and Regulations, and that they are being adopted without modification or amendment.

**PRIOR PUBLICATION:** The prior publication was as stated above. The Board adopted the Rules and Regulations as final at its Special Board meeting of January 16, 2013.

**MODIFICATIONS FROM PROPOSED REGULATIONS, IF ANY:** None.

**AUTHORITY:** The proposed amendments to PSS regulations are promulgated pursuant to the Board’s authority as provided by Article XV of the CNMI Constitution, Public Law 6-10 and the CNMI Administrative Procedures Act.

**EFFECTIVE DATE:** Pursuant to the APA, 1 CMC sec. 9105(b), these adopted rules and regulations are effective ten (10) days after compliance with the APA, 1 CMC §§ 9102 and 9104(a) or (b), which, in this instance, is 10 days after this publication in the Commonwealth Register.

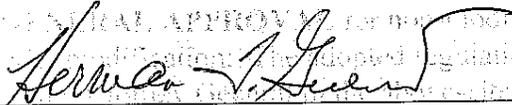
**COMMENTS AND AGENCY CONCISE STATEMENT:** Pursuant to the APA, 1 CMC sec. 9104(a)(2), the agency has considered fully all written and oral submissions respecting the proposed regulations. Upon this adoption of the regulations, the agency, if requested to do so by an interested person, either prior to adoption or within thirty (30) days thereafter, will issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption. Please see the following pages for this agency's concise statement, if there are any, in response to filed comments.

**ATTORNEY GENERAL APPROVAL** for non-modified regulations or regulations with NON-material modification: The adopted regulations were approved for promulgation by the Attorney General in the above-cited pages of the Commonwealth Register, pursuant to 1 CMC sec. 2153(e) (To review and approve, as to form and legal sufficiency, all rules and regulations to be promulgated by any department, agency or instrumentality of the Commonwealth government, including public corporations, except as otherwise provided by law).

**I DECLARE** under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 29 day of January 2013, at Saipan, Commonwealth of the Northern Mariana Islands.

This regulation was approved at the State Board of Education Special Meeting of April 16, 2012.

Certified and  
ordered by:

  
HERMAN T. GUERRERO  
Chairperson, State Board of Education

1/29/13  
Date

Filed and  
Recorded by:

  
Esther M. San Nicolas  
Commonwealth Register

01.29.2013  
Date

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
OFFICE OF THE CIVIL SERVICE COMMISSION



1211 CAPITOL HILL ROAD  
P.O. BOX 5150  
SAIPAN, MP 96950  
TEL. NO. (670) 322-4363



**PUBLIC NOTICE OF EMERGENCY REGULATIONS  
WHICH ARE AMENDMENTS TO THE RULES AND REGULATIONS OF  
THE CIVIL SERVICE COMMISSION**

**EMERGENCY ADOPTION AND IMMEDIATE EFFECT:** The Commonwealth of the Northern Mariana Islands, Civil Service Commission ("CSC") finds that:

(1) the attached rules and regulations regarding exempted positions from the civil service system, shall be adopted immediately on an emergency basis because the public interest so requires, for the reasons stated below (1 CMC § 9104(b), (c); 1 CMC § 9105(b)(2)).

**AUTHORITY:** The CSC is empowered by the Legislature to adopt rules and regulations for the administration and enforcement of the statute governing its activities PL 17-80 §§ 8117( rules and regulations), 8134(exempted service).

The Administrative Procedure Act provides that an agency may adopt an emergency regulation upon fewer than 30 days' notice if it states its reasons in writing:

(b) If an agency finds that the public interest so requires, or that an imminent peril to the public health, safety, or welfare requires adoption of a regulation upon fewer than 30 days' notice, and states in writing its reasons for that finding, it may, with the concurrence of the Governor, proceed without prior notice or hearing or upon any abbreviated notice and hearing that it finds practicable, to adopt an emergency regulation. The regulation may be effective for a period of not longer than 120 days, but the adoption of an identical regulation under subsections (a)(1) and (a)(2) of this section is not precluded.

(c) No regulation adopted is valid unless adopted in substantial compliance with this section.

1 CMC § 9104(b), (c).

**THE TERMS AND SUBSTANCE:** These Rules and Regulations provide for the hiring, appointment, reassignment, transfer, promotion, demotion, regulation or otherwise change status of, and to remove from the government service employees who are excepted from the Commonwealth Personnel Service System.

The Emergency Regulations are attached.

**THE SUBJECTS AND ISSUES INVOLVED:** These rules and regulations:

1. Address the ability of the CNMI Government to hire, reassign, transfer, promote, demote, or otherwise regulate and change the status of employees of the Commonwealth Government excepted from the Personnel Service System.

2. Provide a system for the hiring, retention, management, discipline and regulation of exempted service position.

**ADOPTION OF EMERGENCY REGULATIONS FOR 120 DAYS:** The CSC has followed the procedures of 1 CMC § 9104(b) to adopt these Proposed Regulations on an emergency basis for 120 days.

**REASONS FOR EMERGENCY ADOPTION:** The CSC finds that the public interest requires adoption of these regulations on an emergency basis, for the following reasons:

1. On August 31, 2012 PL 17-80 was signed into law repealing Section 3 of PL 13-1. Title 1 CMC Division 8 Part 1 was repealed and reenacted pursuant to PL 17-80.
2. PL 17-80 also repealed Northern Mariana Island Administrative Code Title 10, Chapter 10-10, 6 Excepted Service Personnel Regulations and Title 120, Chapter 120-10, Excepted Service Personnel Regulations
3. PL 17-80 repealed section 8131(a)(2) was the provision that employees who perform special, unique and essential functions for the public interest. Under the current statutory scheme, these employees, many of who have been "hired" and have started to work since August 31, 2012, have not been paid because the Office of Personnel Management lacks the statutory or regulatory framework to finalize processing their contracts; conversely some are being paid without statutory or regulatory approval.
4. The sections of the Administrative Code that were repealed fully govern and regulate excepted service personnel working for the Commonwealth Government. Without these provisions it is impossible to hire, retain, manage, regulate, and discipline excepted service employees.
5. It is absolutely critical that regulations exist to (1) hire excepted service personnel who perform special and unique duties, and (2) to provide for a system regulating all excepted service personnel.
6. For example, there is currently no authority to terminate an excepted service employee for cause. Similarly, there is currently no prohibition on excepted service employees maintaining a drug free workplace, and there is no prohibition against sexual harassment in the workplace. These are just some of the controls that previously existed that now no longer exist. Currently, no regulation of any excepted service employees exists in Commonwealth law.
7. Without the re-promulgation and expansion of these regulations, it is impossible for the Commonwealth Government to hire many types of excepted service employees, and it is impossible for the Government to regulate all excepted service employees conduct.

**DIRECTIONS FOR FILING AND PUBLICATION:** These Proposed Rules and Regulations shall be published in the Commonwealth Register in the section/s on

emergency and proposed regulations (see 1 CMC § 9102(a)(1)) and posted in convenient places in the civic center and in local government offices in each senatorial district. (1 CMC § 9104(a)(1))

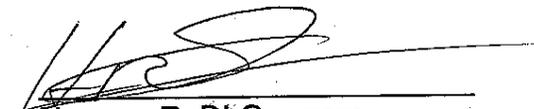
The CSC shall take appropriate measures to make these Rules and Regulations known to the persons who may be affected by them (1 CMC 9105(b)(2)).

**IMMEDIATE EFFECT:** These emergency rules and regulations become effective immediately upon filing with the Commonwealth Register and delivery to the Governor. (1 CMC § 9105(b)(2)) This is because the CSC has found that this effective date is required by the public interest or is necessary because of imminent peril to the public health, safety, or welfare. (*Id.*)

**TO PROVIDE COMMENTS:** No comments are required for these emergency rules and regulations. However, the related Notice of Proposed Rules and Regulations will specify comment procedures. Please see the notice regarding these emergency regulations being presented as proposed regulations, in the January, 2013, Commonwealth Register.

These emergency regulations were approved by the Commonwealth Civil Service Commission on January 24, 2013.

Submitted by:

  
\_\_\_\_\_

Herman R. DLGuerrero  
Chairman  
Civil Service Commission

\_\_\_\_\_

Date

  
\_\_\_\_\_

Eric L. Plinske  
Vice Chairman  
Civil Service Commission

1/24/2013

Date

  
\_\_\_\_\_

Charles M. Calvo  
Member  
Civil Service Commission

1/24/13

Date

  
\_\_\_\_\_

Augustina I. Kukkun  
Member  
Civil Service Commission

1/24/13

Date

Received by:

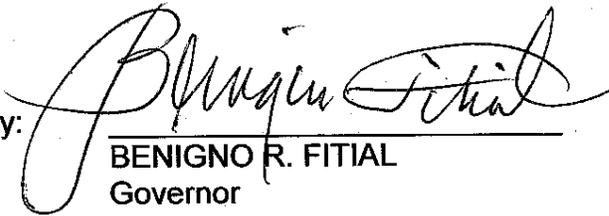
  
\_\_\_\_\_

Esther S. Fleming  
Special Asst for Administration

1/28/13

Date

Concurred by:

  
BENIGNO R. FITIAL  
Governor

1/29/13  
Date

Filed and  
Recorded by:

  
ESTHER M. SAN NICOLAS  
Commonwealth Register

01/29/2013  
Date

Pursuant to 1 CMC § 2153(e) (AG approval of regulations to be promulgated as to form) and 1 CMC § 9104(a)(3) (obtain AG approval) the proposed regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General and shall be published (1 CMC § 2153(f) (publication of rules and regulations)).

Dated the 29<sup>th</sup> day of January, 2013.

  
Joey P. San Nicolas  
Attorney General

# TITLE 10 CIVIL SERVICE COMMISSION

## CHAPTER 10-10 EXCEPTED SERVICE PERSONNEL REGULATIONS

Chapter Authority: PL 17-80.

### Part 001 - General Provisions

#### 10-10-001 General

(a) This chapter provides the regulations to hire, appoint, reassign or transfer, promote or demote, or otherwise change status of, and to remove from the government service employees who are excepted from the Commonwealth Personnel Service System pursuant to PL 17-80 §§ 8131, 8134 and Amendment 41 of the Constitution of the Northern Mariana Islands. This chapter also provides the full range of personnel administration for the service of personnel employed under the excepted service, and provides for administration of the sick leave bank for all government employees.

(b) To the extent necessary, the obligations, rights and entitlements of employees are specifically defined in several parts hereof.

#### 10-10-005 Organization

(a) This chapter is organized in several parts and sub-parts, each describing and defining policies and practices appropriate to the nature of the excepted service to which individuals may be appointed.

(b) The parts are comprised of:

- (1) Part I - Appointments to the Excepted Service
- (2) Part II - Other Excepted Service Appointments
- (3) Part III - Sick Leave Bank

(c) Contents of the parts are devoted mainly to those aspects of personnel policies in the government service which differ from elements in the competitive service. To the extent necessary and in those instances where the regulations apply equally to both services, the specific part or sub-part of the regulations for the competitive service are referenced rather than rewritten herein.

(d) Part III provides for administration of the sick leave bank created by Public Law 8-25. Its provisions are applicable to all CNMI government employees.

### Part 100 - Appointments to Excepted Service

#### 10-10-101 Purpose

The regulations in this part provide for the employment, payment of salary, allowances, benefits, and separations of persons excepted from the personnel service system.

#### 10-10-105 Eligibility

All persons, otherwise qualified, are eligible for appointment pursuant to the provisions of this part and applicable law.

#### 10-10-110 Policy

It is declared to be the policy of the Commonwealth government to encourage the professional, technical and skilled-trade education and training of resident citizens in filling positions in the government service whether by appointment, transfer or promotion. It is also declared for the purpose of this policy that residents of the Commonwealth be given preferential treatment, whether by appointment, transfer or promotion, unless otherwise waived by the Governor.

#### 10-10-115 Search for Qualified Persons

(a) Upon receipt of a request for personnel action from an authorized management official who seeks to fill a vacant position, the Director of Personnel Management will initiate a search for available and qualified persons to fill the vacancy. The Director of Personnel Management shall use the examining system provided for under the Personnel Service System Rules and Regulations, title 10, subchapter 20.2, part 200, subpart A.

(b) A position is deemed to be vacant upon expiration of the present employment contract. The position shall be announced sixty days before the termination of such contract before the incumbent is offered the position. The appointing authority may request that the Director of Personnel Management waive announcement of the position.

#### **10-10-120 Effective Dates**

##### **(a) Appointments**

- (1) Appointments from outside the Commonwealth shall be effective on the date of departure from place of residence for direct travel to the duty station, adjusted for stop-overs en route for the convenience of the employee.
- (2) Appointments from within the Commonwealth shall be effective the date of entrance of duty with a stipulated time limit.
- (3) The Governor and the Director of Personnel Management are authorized to provide conditions of employment to excepted service contracts not inconsistent with the provisions of these regulations.

(b) **Without Cause Separation.** Any separation, without cause, from duty station shall be effective upon arrival of employee at his place of residence after travel by the most direct route from the duty station, adjusted for en route stop-overs, not to exceed more than three days, for the convenience of the employee. Should the employee decide to go some place other than his place of residence at the time of hire, his separation date will be computed using his return to the place of hire as a maximum. If any additional cost is involved in his travel to the place of choice, it is borne by the employee. If the termination date is to be advanced ahead of the date shown on the appointment form by the government, the government shall provide a minimum of two weeks advance written notice.

#### **10-10-125 Duty Station and Work Assignment**

- (a) The employee is employed for the specific position and assigned to a specific duty station as identified in the employment contract. However, upon employers consent, an employee may be assigned to another related employment position and to another duty station when it is in the best interest of the government to do so.
- (b) In the event of a transfer of employment and duty station, the employee shall be entitled to transportation for self and dependents, if any, to shipment of household effects not to exceed 1,500 pounds for single status and 3,000 pounds for employee with dependent(s), and to shipment of one privately owned automobile.

#### **10-10-130 Compensation and Work Schedules**

- (a) Salary shall be negotiated based on the qualifications of the individual, labor market conditions and other pertinent factor used in the selection processes, and will be expressed in terms of the gross amount to be paid on a bi-weekly basis.
- (b) The employee shall earn his salary, as stated in his appointment, on the basis of a twelve month year consisting of twenty-six bi-weekly pay periods. When not actually engaged in work, as assigned, the employee may be in leave status, with or without pay as appropriate.
- (c) The employees workday and workweek may vary from time to time according to the needs of the government. Every effort shall be made to maintain a reasonable five day, forty hour workweek. Excepted service employees shall be eligible for or exempt from overtime and compensatory time as provided in the Personnel Service System Rules and Regulations, NMIAC 10-20.2-340 and their personnel actions and other relevant documents endorsed accordingly.

#### **10-10-135 Employee Benefits**

- (a) **Household Goods.** Shipment and storage of household goods and personal effects may be authorized in the conditions of employment for excepted service employees.
- (b) **Housing.** An employee recruited under the excepted service may receive either housing or housing allowance, but not the two simultaneously.
  - (1) The employee is responsible for utility and trash collection costs.
  - (2) The employee is responsible for returning government and furniture/appliances to the Director of Personnel Management at the termination of his contract of employment, in a similar condition as that at the beginning of his occupancy of government housing, ordinary wear and tear excepted. The employee will be assessed a deposit fee payable to the government within 45 days subsequent to his occupancy of government housing, to cover the costs of any damage to premises and/or furniture/appliances, or clean-up. At the termination of the employees contract, the subsequent to the employees departure from the premises, the Director of Personnel Management or his designee shall inspect the premises. If no repairs or cleanup are required by the government, the employees deposit shall be refunded in his final payroll check.
  - (3) The employee is responsible for taking reasonable action to protect government housing entrusted to the employee from damage caused by a storm.
  - (4) The employee shall comply with any housing regulations promulgated by the Director of Personnel Management.

(5) Government housing is intended for the use of the employee and the employees dependent. No person who is not a dependent may occupy government housing unless it is approved, in writing, by the Director of Personnel Management.

(c) Workmens Compensation. In the event of work related injury or illness, the employee shall be entitled to benefits under the Workmens Compensation insurance coverage currently in force in the Commonwealth government. The employee is responsible to promptly submit a written report to his or her supervisor of any work related injury or illness.

(d) Group Insurance. Group health and group life insurance coverage are available for those who wish to apply. The government will pay part of the cost of this insurance, in accordance with the current agreement between the government and the insurance carriers.

(e) Limitation on Insurance. The government provides no insurance except that as provided in subsections (c) and (d) above, and the government assumes no liability for loss or damage to household goods and personal effects of the employee and his dependents located in housing furnished by the government or otherwise present in the Commonwealth.

(f) Annual Leave.

(1) Annual leave, or vacation, shall be granted for the purpose of rest and relaxation. Employees who have less than three years of creditable service shall earn annual leave at the rate of four hours per pay period; except that newly appointed or recruited employees shall undergo a waiting period of ninety calendar days before being credited with annual leave. Employees with three but less than six years of creditable service shall earn annual leave at the rate of six hours per pay period. Employees who have six or more years of creditable service shall earn annual leave at the rate of eight hours per pay period.

(2) Annual leave accrual rate per pay period for excepted service employees in the Department of Public Health and Environmental Services, gubernatorial appointees (personal secretaries and special assistants of Governor and Lt. Governor), legal profession practitioners, resident department heads, and principal boards and commissions shall be:

(i) Determined at the time of initial employment by the appointing authority and the Director of Personnel Management;

(ii) Specific to each employee;

(iii) Based upon:

(A) The critical need to fill the position;

(B) The availability of qualified applicants; and

(C) The amount and quality of related training and experience possessed by the employee; as determined by the Director of Personnel Management;

(iv) Between four and eight hours; and

(v) On a scale that provides a maximum of eight hours to an employee who is maximally qualified and 7, 6, 5 and 4 hours to an employee with maximal to minimal qualifications.

(3) Employees occupying excepted service positions shall accrue annual leave at the appropriate rate set forth above for each biweekly pay period in which they are in pay status for the entire ten days; otherwise there shall be no accrual for such period.

(4) Annual leave requests for more than three working days must be made in advance on a leave request form. All annual leave requests must be approved by the employees immediate supervisor. In smaller organizations where divisions may not exist, the heads of such organizations shall approve annual leave. A denial of request for annual leave is subject to employees grievance rights.

(5) Employees serving on government boards and commissions and who elect to take leave without pay during such performance on a board or commission shall accrue annual leave for that service time.

(6) An employee permanently separated from excepted service employment for any reason shall receive a lump-sum payment for all annual leave accrued to his or her credit at the time of separation and payable to him or her at the next regular pay period. However, where an offer and acceptance for a new period of employment with the government is agreed upon under a new employment contract, all accrued and unused annual leave credits from the prior contract shall be carried over under such employment contract, or may be paid to the employee at the next regular pay period upon the employees request. The lump-sum payment for such carried over accrued and unused annual leave credits shall be paid at the salary rate at which they were earned.

(g) Sick Leave. Sick leave shall accrue to the employee at the rate of four hours per pay period, provided the employee has been in pay status for the entire ten days; otherwise there shall be no accrual for such period.

Government employees serving on government boards and commissions who elect to take leave without pay (LWOP) during such performance shall accrue leave for that service time.

- (1) The employee is entitled to use sick leave from the time sick leave is first earned.
- (2) Any absence on sick leave where the employee misses more than three continuous days of work must have the illness verified by a note from a medical doctor in order to claim sick leave.
- (3) Upon completion of an employment contract or termination of employment, whichever occurs first, no payment will be made for accrued and unused sick leave credits.
- (4) Where an offer and acceptance for a new period of employment is agreed upon under a new employment contract, all accrued and unused sick leave credits from the prior contract will be carried over, provided that if such employee is separated from government service for a period longer than three years, he shall be divested of accumulated sick leave.
- (5) If the employees supervisor believes the employee is misusing sick leave, or requesting sick leave for purposes other than illness, the supervisor may request proof of illness for a period of less than three days. If the proof is not provided, or is unpersuasive, the supervisor may deny the request for sick leave.
- (6) Sick leave may be accumulated without limit.
- (h) Leave Without Pay. Leave without pay for 90 days or less may be taken only after obtaining the written approval of the department director. Leave without pay in excess of 90 days must be approved by the Director of Personnel Management upon recommendation by the employees department director.
- (i) Administrative Leave With Pay. Administrative leave with pay is granted by the Governor only in exceptional circumstances such as typhoons and state funerals. Administrative leave with pay may be granted by the employees department director to an employee serving on government boards and commissions, provided the employee does not receive compensation from the boards and commissions.
- (j) Holidays. The employee shall be released from work on all legal holidays, except during emergencies without loss of pay or charge to leave account.
- (k) Advance Leave. Where, for good reason, the employee requires an advance of annual or sick leave, the Director of Personnel Management may grant leave in advance up to a maximum of one-half of the total earnable leave credits for one year from the date the request is approved or for the remainder of the employment contract, whichever is shorter. Subsequent leave earnings shall serve to replace the amount of advance leave granted and taken. In the event an employee resigns from his employment, any annual or sick leave overdraft must be paid as part of the final clearance of the employee.
- (l) Court Leave. The government encourages its employees to fulfill their obligations as citizens and residents of the Commonwealth. Thus, employees who are called upon to serve as jurors may, at their option, be granted court leave for such period as the jury may be impaneled. Employees who are called to jury duty shall present their juror summons to their immediate supervisor together with a completed request for leave for his signature and processing. Employees who serve as jurors using court leave to cover the period of absence shall turn over to the Commonwealth treasurers such jury fees (as distinct from expense allowances) as they receive from the court. Expense allowances paid the employee for whatever purpose may be retained by the employee to defray the expenses for which granted. An employee subpoenaed as witness, except a government witness, shall charge such absence to annual leave or leave without pay. Court leave shall be granted to an employee subpoenaed in litigation in which the government has no interest, to serve as a witness in his official capacity as a government employee, and who will be required to present government records in testimony. Such employee must inform his department director of the required testimony as soon as possible after being subpoenaed.
- (m) Compassionate Leave. Full-time excepted service employees may be granted compassionate leave of no more than five consecutive days in cases of death in the immediate family of the employee. For the purpose of this section, the term immediate family shall include an employees mother, father, brother, sister, spouse, immediate offspring (natural and culturally or legally adopted), still born child, grandfather, grandmother, grandchild, mother-in-law, or father-in-law. Compassionate leave must be taken within eighteen days after the death of the immediate family member. The appointing authority is responsible for granting compassionate leave requests.
- (n) Maternity Leave. Maternity leave shall be granted to a female excepted services employee who is absent from work because of confinement for childbirth. The appointing authority shall have the responsibility for approving maternity leave requests. Such maternity leave shall not exceed fifteen work days, shall be in addition to any accumulated sick leave, and shall be any fifteen work days encompassing the date of childbirth. Any additional leave taken for such childbirth purposes shall be charged against accumulated sick leave.
- (o) Paternity Leave. Paternity leave shall be granted to a male excepted services employee who is absent from work because of his wifes confinement for childbirth. Such paternity leave shall not exceed two work days encompassing the date of childbirth. The appointing authority shall have the responsibility for approving paternity leave requests.

(p) Tardiness. Tardiness shall be charged to leave without pay (LWOP) at the end of the pay period. The timekeeper shall determine the total number of minutes the employee has been late at the end of the pay period, and charge LWOP to the nearest hour.

(q) Military Leave. Military leave may be granted to excepted service employees as provided in the Personnel Service System Rules and Regulations, NMIAC 10-20.2-620(i).

(r) Extended Military Leave. Extended Military Leave shall be granted to excepted service employees as provided in the Personnel Service System Rules and Regulations, NMIAC 10-20.2-625(e).

(s) FMLA Leave. Leave under the federal Family and Medical Leave Act of 1993 (FMLA) shall be granted to excepted service employees as provided in the Personnel Service System Rules and Regulations, NMIAC 10-20.2-625(f).

#### **10-10-140 Termination of Services to the Government**

(a) The government may terminate the employee without cause upon written notice sixty days in advance of termination of employment. This time may be shortened only by specifying in the employment contract a lesser period of advance notice.

(b) The government may terminate the employee with cause upon written notice seven days in advance of termination of employment.

(c) When resigning, the employee must give sixty days advance written notice in terminating employment. This time may be shortened by specifying in the employment contract a lesser period of advance written notice, or at the time of resignation, the employees department director may waive the advance written notice requirement.

(d) For compelling reason(s), the Governor may permit an employee an early resignation of employment upon employees satisfactory proof for such resignation, and upon request of the employees department, agency, or office head and recommendation of the Director of Personnel Management.

#### **10-10-145 Employees Obligations and Conduct**

(a) Outside Employment, Incompatible Activities and Conduct. The employee and his dependents are subject to the laws, rules and regulations of the Commonwealth as they concern conduct and activities while living in the Commonwealth.

(b) Employment Status and Tax Obligations. All persons appointed or recruited under the excepted service employment are employees of the Commonwealth government and not the United States government or any other government. They are subject to the applicable CNMI income tax laws.

(c) Code of Ethics. All persons in government service must comply with the code of ethics published in the Commonwealth Register, volume 6, no. 7 and provided under part V.D of the Personnel Service System Rules and Regulations [NMIAC, title 10, subchapter 20.2, part 400, subpart D].

#### **10-10-150 Employees Dependents Defined**

Employees dependent(s) means spouse, minor children, unmarried and under 21 years of age, physically or mentally handicapped children incapable of supporting themselves regardless of age, wholly dependent parents of employee or spouse, or children by previous marriage for whom the employee or spouse have legal custody. Children by a previous marriage who are primarily domiciled by court order in other than the employees household are not considered dependents. With respect to the foregoing, if a household member of an employee reaches the age of 21 years, such member, at government expense, will be returned to employees point of recruitment upon his or her consent.

#### **10-10-155 Nepotism**

There shall be no limit to the number of members of the same household who may be employed under other excepted service appointments, provided:

(a) No member of the same household may supervise another.

(b) All other qualifications for employment are met.

(c) No costs, other than for salary and employment benefits as provided by regulation, shall accrue to the government as a result of hiring persons from a household containing another employee.

#### **10-10-160 Performance Evaluation**

All excepted service employees other than gubernatorial, mayoral, board and commission appointees, staff physicians, dentists, veterinarians, and attorneys shall be subject to the performance evaluation system described in

the Personnel Service System Rules and Regulations, NMIAC, title 10, subchapter 20.2, part 700, except that 10-20.2-735 shall not apply.

## **Part 200 - Creation and Regulation of Other Excepted Service Appointments**

### **10-10-201 Purpose**

This part provides the regulations appropriate to the several categories of excepted service appointments prescribed by PL 17-80 §§ 8131, 8134 and Amendment Number 25 of the Constitution of the Northern Mariana Islands. Excepted service positions created under this part are done so pursuant to the authority granted the Civil Service Commission under PL 17-80 § 8134.

### **10-10-202**

PL 17-80 § 8134. The Civil Service Commission hereby exempts the following positions from the classification system to meet the needs of the Commonwealth:

- (a) Persons or organizations retained by contract where the appointing authority, with the concurrence of the Governor, has certified that the service to be performed is special and unique and is essential to the public interest, and that, because of the degree of expertise or special knowledge required and the nature of the services to be performed, it would not be practical to obtain personnel to perform such service through normal public service recruitment procedures.
- (b) Positions of a part-time nature requiring the services of four hours or less a day but not exceeding one year in duration.
- (c) Positions of a temporary nature which involve special projects having specific completion dates which shall not exceed one year.

### **10-10-205 Emergency Appointments and Temporary Positions for 90 Days**

- (a) PL 17-80 § 8131(3). Positions of a temporary nature needed in the public interest where certified by the Director of Personnel Management and when the need for the same does not exceed 90 days. If a major disaster is declared by the Governor, the Director of Personnel Management may extend the 90-day period for a maximum of an additional 180 days for positions engaged in relief, repair, or rehabilitation as a result of such disaster.
- (b) Department directors may appoint personnel under the provisions of this part with certification by the Director of Personnel Management. Pay shall be established by the Director of Personnel Management commensurate to the work to be performed.
- (c) These employees receive no benefit except workmens compensation in event of work related injury or illness.

### **10-10-210 Household and Domestic Employees of the Governor**

PL 17-80 § 8131(4). These employees are selected by and serve at the pleasure of the Governor, after submission of proper applications for employment. The Director of Personnel Management will establish the reasonable rates of pay. These employees are entitled to workmens compensation in the event of work related injury or illness. These employees are also entitled to annual and sick leave hours pursuant to subsections 10-10-135(f) and (g) of this chapter. These employees shall have the opportunity to enroll in or waive group life insurance coverage.

### **10-10-215 Election Inspectors, Election Clerks and Other Election Employees**

PL 17-80 § 8131(5). Persons in this category, except full-time employees occupying permanent positions, are employed by the Board of Elections and paid at a rate and under conditions established by it. They have no standing rights, benefits or privileges of personnel service system employees. Civil service employees who serve in any of the positions in this category may take leave with or without pay and are entitled to be paid at the rate established for election workers.

### **10-10-220 Persons Appointed by the Governor**

PL 17-80 § (2). Persons appointed by the Governor to fill executive positions serve at the pleasure of the Governor. They may be terminated by the Governor with or without cause and without prior written notice. They are entitled to earn annual and sick leave at the prescribed rates in 10-10-135 of this chapter, workmens compensation, to enroll in or waive the group life insurance coverage, and to such other benefits and allowances stipulated in their appointment or as provided by law. They have no rights under adverse action procedures or reduction-in-force regulations.

**10-10-225 Intermittent Appointments**

PL 17-80 § 8131(8). Persons appointed to fill positions involving intermittent performance which does not require more than 40 hours in any one month are given an appointment-intermittent. Under this type of appointment, the employee works only when called upon to do so. He has no entitlement to benefits or other rights except coverage by workmens' compensation for work related injury or illness.

**10-10-230 Positions of a Part-time Nature Requiring Services of Four Hours or Less Per Day**

PL 17-80 § 8134; NMIAC 10-10-202(b). Positions in this class are filled not to exceed one year. Any person given, or appointed to, a part-time position must meet the minimum qualifications for the class of position to which they are given or appointed to. An appointee to a part-time position who serves for less than twenty hours per week shall not be entitled to group life insurance coverage; however, an appointee shall be entitled to workmens compensation for work related injury or illness.

**10-10-235 Positions of a Temporary Nature**

PL 17-80 § 8134; NMIAC 10-10-202(b). Appointments are made to positions of a temporary nature which involve special projects having specific completion dates which shall not exceed one year. The employees are entitled to earn annual and sick leave at the rates prescribed in 10-10-135 of this chapter, provided the employee has been in pay status for the entire ten days, otherwise there shall be no accrual for such period; workmens compensation coverage; and the opportunity to enroll in or to waive group life insurance. They have no rights under adverse action procedures or reduction-in-force regulations.

**10-10-240 Positions of Resident Department Heads**

Section 3(g) and section 17(b) of Amendment Number 25 of the Constitution of the Northern Mariana Islands mandate that the mayors of Rota and Tinian and Aguigan shall appoint, in consultation with the head of the respective executive branch department, all resident department heads and that public services on Rota, and Tinian and Aguigan shall be headed by a resident department head in the department providing the services, respectively.

These employees are appointed by and serve at the pleasure of the appointing mayor. These employees are entitled to earn annual and sick leave at the rates prescribed in 10-10-135 of these regulations, to workmens compensation, and to enroll in or waive group life insurance coverage. They have no rights under adverse action procedures or reduction-in-force regulations.

**10-10-245 Applicability of Federal Employment Laws**

Various federal employment laws, such as the Fair Labor Standards Act of 1938 (except its minimum wage provisions), Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Family and Medical Leave Act of 1993, and the Uniformed Services Employment and Reemployment Act, may apply to some or all of the categories of employees included in this part. Appointing authorities, servicing personnel offices, and payroll offices are cautioned to comply with all applicable federal law.

**TITLE 120 OFFICE OF PERSONNEL MANAGEMENT**

**CHAPTER 120-10 EXCEPTED SERVICE PERSONNEL REGULATIONS**

Chapter Authority: Chapter Authority: PL 17-80.

**Part 001 - General Provisions**

**120-10-001 Authority**

(a) The Excepted Service Personnel System is limited to employees filling those positions that have been specifically exempted by law from the Civil Service System, as authorized by article XX of the CNMI Constitution. The CNMI Constitution and PL 17-80 § 8131 designate specific positions as exempted from the Civil Service System. PL 17-80 § 8134 also allows the Civil Service Commission itself to create additional exempt categories through rules and regulations to meet the needs of the Commonwealth. The Commonwealth Supreme Court held that exemption from the Civil Service System means an exemption from the authority of the Civil Service Commission and thus, constitutes an exemption from the Personnel Service System Rules and Regulations [NMIAC title 10, subchapter 20.2] or any other rules promulgated pursuant to the Commissions authority, per *Manglona v.*

*Civil Service Commission*, 3 NMI 248 (1992). Jurisdiction for the administration and regulation of the Excepted Service Personnel System rests with the Office of the Governor for all executive branch activities.

(b) PL 17-80 § 8117 endowed the Civil Service Commission with the authority to promulgate rules and regulations for administration of the Civil Service System and the Excepted Service System.

(c) Nothing in the Excepted Service Personnel Regulations will be construed as amending the provisions of the Nonresident Workers Act, as amended. Any conflict that may arise in applying the regulations in this chapter in conformity with the Nonresident Workers Act shall be resolved in accordance with the provision of the Nonresident Workers Act and applicable regulations there under.

#### **120-10-005 Applicability**

(a) The regulations in this chapter shall apply to employment of personnel in all excepted service positions within the Commonwealth government. However, nothing in these regulations shall be construed to apply to the payment of compensation and benefits, termination or service of elected officials, executive branch department heads, resident department heads, members of boards, commissions and councils, or other gubernatorial appointments.

These regulations do not apply to the administrative staff of the Judicial and Legislative Branches of the government. The Excepted Service Personnel Regulations promulgated by the Office of Personnel Management apply only to positions within the departments, offices, boards, commissions, councils and agencies of the executive branch, as defined in *Marianas Visitors Bureau v. Commonwealth of the Northern Mariana Islands*, Civil Action 94-0516 (June 1994). Agencies within the executive branch can be exempted from these regulations if the agency is specifically authorized by law to administer and regulate its personnel system. The executive branch includes resident departments, offices, and agencies in the First and Second Senatorial Districts, including the Offices of the Mayors and Municipal Councils. These regulations are not applicable to any agency or activity specifically authorized by law to establish its own personnel rules and regulations.

(b) It is not the intention of the regulations in this chapter to create any legally protected property interests in excepted service employment or any employment right or benefit not explicitly stated in these regulations or the employment contract. All excepted service employment in the executive branch, as defined in *Marianas Visitors Bureau v. Commonwealth*, of the Commonwealth government, may be terminated at the will of the employee and/or employer pursuant to the terms of the contract and these regulations.

(c) Publicly elected officials, department heads, including resident department heads, other constitutional or statutory gubernatorial or mayoral appointments, and individuals on independent service contracts or other contracts processed through the procurement system are not excepted service employees. Appointed members of boards and commissions are not members of the excepted service unless the position is established as a budgeted full time employee of the government.

#### **120-10-010 Purpose**

The regulations in this subchapter establish regulatory direction for employing, compensating, providing employee benefits and effecting other personnel actions for excepted service employees. These regulations shall be construed and applied to promote the following underlying purposes and policies:

(a) Simplify, clarify, and modernize the excepted service employment policies and practices of the Executive Branch, as defined in *Marianas Visitors Bureau v. Commonwealth*, of the Commonwealth government.

(b) Establish consistent excepted service employment policies and practices among various departments, offices, agencies and activities of the executive branch, as defined in *Marianas Visitors Bureau v. Commonwealth*, of the Commonwealth government.

(c) Create increased public confidence in the procedures followed in excepted service employment.

(d) Ensure the fair and equitable treatment of employees within the Excepted Service Personnel System of the executive branch of the Commonwealth government.

(e) Provide safeguards for the maintenance of an excepted service personnel system of quality and integrity.

#### **120-10-015 Definitions**

For purposes of this subchapter, the following terms shall be defined as follows:

(a) Dependent(s): Spouse, minor children, unmarried and under 21 years of age, physically or mentally handicapped children incapable of supporting themselves, regardless of age, wholly dependent parents of employee or spouse, or minor children by previous marriage, unmarried and under 21 years of age, for whom the employee or spouse have legal custody. Children by a previous marriage who are primarily domiciled by court order in other than the employees household are not considered dependents.

(b) Employee: As used in this subchapter, an excepted service employee.

- (c) Employer: Any executive branch official with hiring authority; a hiring official.
- (d) Excepted Service Contract: Employment contract entered into by the employee and employer for a term not to exceed two years, subject to the availability of funds, budgeted FTEs and any statutory limitations.
- (e) Excepted Service Employee: A contracted employee holding a position that is exempted from the Civil Service System, pursuant to the laws of the Commonwealth.
- (f) Excepted Service Employment: Employment contracted within the executive branch, as defined in *Marianas Visitors Bureau v. Commonwealth*, in a position that is exempted from the Civil Service System, pursuant to the laws of the Commonwealth.
- (g) FTE: Full-time employee.
- (h) Willful Abandonment: When an excepted service employee is absent without authorized leave for a combined total of ten days without valid reason during a twelve month period.
- (i) Termination for Cause: Termination for cause before the end of the contract term may be for any of the following reasons:
  - (1) Failure or inability to perform competently
  - (2) Willful misconduct
  - (3) Willful abandonment of job
  - (4) Substantial or repeated violation of law, or of this subchapter, or of department or agency rules or policies
  - (5) Willful failure or inability to plan, manage or evaluate employee or unit performance in a timely or effective manner
  - (6) Conviction of a felony or other crime involving moral turpitude
  - (7) Other good cause that adversely affects the employees ability to perform the job or that may have an adverse effect on the department or agency if employment is continued.

**Part 100 - Staffing and Administration**

**120-10-101 Recruitment and Selection Procedures**

- (a) An employer who seeks to fill a vacant position will initiate a request for personnel action (RFP) for recruitment. Upon certification of the availability of funds by the Department of Finance and the availability of a FTE by the Office of Management and Budget, the Director of Personnel will authorize a vacancy announcement to initiate a search for a qualified and suitable person. The terms for the position shall be in accordance with the position description. The recruitment and selection process will follow procedures established by the Director of Personnel.
- (b) An existing position is deemed to be vacant upon expiration of the present employment contract. The position can be announced sixty days before the end-date of the current employment contract if the intent is not to renew the incumbent.
- (c) There is no requirement for the employer to renew an excepted service employment. If the employer elects to renew the employment contract of an excepted service employee, the employer may request the Director of Personnel to waive the announcement of the position, unless the incumbent is a non-resident employee and the announcement is required by the Nonresident Workers Act, as amended.
- (d) Newly established or otherwise unfilled positions will be announced. Provided, however, when necessary for the provision of essential services, as justified by the employer with concurrence of the Governor, the Director of Personnel may waive the requirement of a vacancy announcement for selection of a candidate for any position within the excepted service. However, prior to waiving the vacancy announcement, the Director of Personnel shall require certification of the availability of funds by the Secretary of Finance and availability of a FTE by the Office of Management and Budget for the position to be filled. Such waivers cannot be granted for non-resident workers, as per the Nonresident Workers Act, as amended.
- (e) Deputy secretaries, division directors, special assistants and executive secretaries to the heads of the principle executive branch departments, ungraded directors of offices or agencies, and the special assistants and executive secretaries to the heads of commissions, boards, councils, government corporations and autonomous agencies may be appointed without announcement. These unannounced appointments must meet reasonable minimum qualification requirements recommended by the hiring authority and approved by the Director of Personnel, if requirements have not already been established by statute or regulation.
- (f) Upon selection of an applicant the employer will submit a request for personnel action. The selected candidate will not be authorized to begin work until the action and contract have been fully routed and approved, a negative report has been received for the pre-employment drug test, all other requirements have been met and the Director of Personnel has made payroll certification that the employee has been employed in accordance with relevant statutes and regulations.

(g) The Director of Personnel may authorize a properly selected candidate to begin work while the hiring documents are still undergoing processing, if the employer has approved the hire and has justified the essential nature of the services requiring the immediate need for the employee. Such authorizations to work for the provision of essential services shall be limited to a ninety-day period and no services may be performed thereafter until completion of the processing of the hiring documents. A negative report for the pre-employment drug test must have been received for the employee before work authorization can be granted.

#### **120-10-105 Effective Dates**

- (a) **Employment Start Date.** Employment for all excepted service employees, whether residing inside or outside the Commonwealth at the time of hire, shall be effective on the first day the employee reports to work. Expatriation travel time is outside the employment period and will not be compensated.
- (b) **Separation.** Separation upon completion of the term of employment shall be effective on the last day of the term of the employment contract.
- (c) **Early Termination.** Early termination of employment, with or without cause, shall be effective on the date of termination stated in the termination letter. Repatriation travel time is outside the employment period and will not be compensated.

#### **120-10-110 Duty Station and Work Assignment**

- (a) Duty stations are defined as Saipan, Rota, Tinian and the Northern Islands.
- (b) The employee is employed for the specific position and assigned to a specific duty station as identified in the employment contract. However, with the employee's consent, the employee may be assigned to another related employment position and to another duty station, based upon the needs of the government.
- (c) If the transfer of employment and duty station involves a permanent move for a period in excess of six months to another island, the employee shall be entitled to transportation for self and dependents, if any, and shipment of household effects, not to exceed 1,500 pounds for a single status employee or 3,000 pounds for an employee with dependents. This benefit is available only in cases where the transfer is initiated by the government.
- (d) Temporary assignments to another duty station for periods of not more than ten consecutive workdays do not require the employee's approval, if the assignment is required by the needs of the government.

#### **120-10-115 Compensation and Work Schedules**

- (a) The salary will be subject to budget appropriations and will be expressed in terms of the gross amount to be paid during a twelve-month annual period, and for each of the twenty-six bi-weekly pay periods.
- (b) Periods of compensable time shall include time worked during the assigned work schedule, overtime for overtime-eligible employees, legal holidays, and approved annual, sick, administrative and other leaves, as defined herein. Periods of absence without leave (AWOL) and leave without pay (LWOP) will not be compensated and will be subject to appropriate timekeeping and administrative action.
- (c) The standard government workweek is Monday through Friday with the standard workday from 07:30 a.m. to 4:30 p.m. The employee's specific workday and workweek may differ from the standard workweek on a permanent basis, or vary from time to time, according to the needs of the government. Every effort shall be made to maintain a reasonable five-day, forty-hour work schedule, but the schedule is subject to variation, to include required overtime for overtime-eligible employees, extra hours for overtime-exempt employees, shifts of differing duration and broken periods of duty, according to the needs of the government.
- (d) All employees are covered by the Federal Fair Labor Standards Act (FLSA). Under the FLSA, the Commonwealth is considered to be a single employer. Employees cannot waive their rights under FLSA. An employee will be designated by the Director of Personnel as overtime-eligible or overtime-exempt based upon the duties performed and in accordance with the federal FLSA. Such designated executive, administrative and professional employees are exempt from, and shall not be paid, overtime payment. These terms have the meanings given them in the federal Fair Labor Standards Act. The employee's overtime eligibility status is stated in the excepted service contract.
- (e) Overtime for overtime-eligible employees shall be approved in accordance with a procedure established by the department or activity. The employer shall also establish a policy to address administrative actions for unauthorized overtime work. However, prohibition of unauthorized overtime does not relieve the employer of the requirement to pay for time actually worked. Overtime is that time a non-exempt employee is directed or permitted to work in excess of the 40 hours during a standard work week (168 consecutive hours in seven consecutive days). Employers may apply different work periods for health care employees, or different work periods and overtime thresholds for

law enforcement and fire employees, as permitted by federal law. Such overtime hours are paid at 1 times the regular rate of pay, as defined in the Fair Labor Standards Act.

(f) Compensatory time-off can be used to replace monetary payment for overtime-eligible employees, at the discretion of the employer. In such cases replacement will be at the rate of one and one-half hours of compensatory time-off for each one hour of overtime worked. The employee's acceptance of excepted service employment serves as an agreement to receive compensatory time-off in lieu of paid overtime. The employer can require the employee to use the compensatory time-off that they have earned, rather than allowing it to excessively accumulate or paying it as overtime. Restated, this means that the employer can schedule compensatory time-off periods and require the employee to take that time-off. This does not prevent an employee from also scheduling time off at a time of his or her choosing, as long as approving the request does not unduly disrupt government operations.

(g) The Director of Personnel may approve compensatory time or extra payment to an overtime-exempt employee, at the recommendation of the employer, in exceptional situations. Such situations will be considered the exception, not the rule, and will be limited to declared emergencies and extraordinary work requirements. In such cases compensatory time-off or extra payment will be on a one-to-one regular base pay basis.

#### **120-10-120 Special Excepted Service Employment**

Employees hired to fill excepted service positions of a special nature that are needed in the public interest pursuant to PL 17-80 § 8134 and NMIAC 10-10-202(a), or under other statutory authorities, shall be hired in accordance with the provision of the authorizing statutes, the terms of the regulations in this chapter and the employment contract signed by the employer and employee. Benefits shall be provided pursuant to the terms of the employment contract.

### **Part 200 - Employee Benefits**

#### **120-10-201 Expatriation and Repatriation**

Expatriation and repatriation benefits are only provided to excepted service employees hired from outside the Commonwealth or those excepted service employees hired within the Commonwealth and transferred to a post outside the Commonwealth. Benefits will not be duplicated in situations where both spouses are employed by the government, regardless of employing entity. The government does not provide any insurance coverage for periods of expatriation or repatriation travel and assumes no liability for injury or loss or damage of property.

(a) Expatriation. Travel and transportation expenses shall be paid by the employer as follows:

(1) Coach or tourist class air transportation costs by the shortest direct route for the employee and the dependents from the point of recruitment to the CNMI.

(2) No salary will be paid during the period of travel.

(3) Upon request by the employer and approval by the Director of Personnel, shipment of household goods and personal effects may be authorized for positions that are considered hard to fill. This authorization shall be limited to the following:

(i) The employer shall pay the cost for one shipment by sea of household goods and personal effects, not to exceed 3,000 pounds net weight for an employee with accompanying dependents, or 1,500 pounds for an employee without accompanying dependents, from the employee's point of recruitment to his or her duty station.

(ii) The employer is not responsible for any amount exceeding the authorized benefit or for any additional personal shipments made by the employee.

(iii) The shipment must originate within six months of the date of entry on duty, unless extended by the Director of Personnel for just cause. In the event temporary storage of household goods and personal effects intended for shipment to the duty station is necessary at the point of recruitment after pick-up by the carrier and prior to departure by sea, the government will pay the cost of such temporary storage.

(iv) Only those items may be shipped which are not restricted by Commonwealth or Federal laws or regulations. Household goods and personal effects are defined as personal property of the employee and his immediate family at the time of shipment that can be transported legally in interstate commerce. The term may include household furnishings, equipment and appliances, clothing and other personal or household items. It does not include automobiles, boats, motorcycles, any other vehicle or trailer, or any pet or animal. It also does not include property that is for resale or disposal, for use in conducting a business or other commercial enterprise, or for any purpose other than the direct use of the employee and his or her immediate family.

(v) The employee is encouraged to self-pack and to ship his or her household effects by the United States Postal Service (USPS) by first class mail. If this option is elected, no sea shipment will be authorized. All limits and restrictions of the sea shipment otherwise apply. The employee is advised that USPS receipts showing weight and cost of each package must be provided for reimbursement.

(vi) The employer shall reimburse up to \$300.00 for an air shipment (USPS) or accompanied baggage to an employee with accompanying dependents, and up to \$150.00 to an employee without accompanying dependents, upon presentation of receipts. If the employee self-packs and ships the main shipment through USPS, this amount will be in addition to the 3000 or 1500 pound limit.

(vii) The employer is not responsible for the cost of insurance or for any damage or loss of shipped items, whether transported by sea shipment or USPS.

(b) Repatriation. Upon completion of the agreed upon period of service under this contract or any subsequent excepted service contract entered into after the expiration of this contract, the government shall pay the benefits set out above in subsection (a) with the following conditions:

(1)(i) The employer will provide a one-way coach-class ticket to the point of recruitment for the employee and each authorized dependent. Employees may also receive their return ticket in cash at the lowest economy excursion fare to their point of hire, unless ticketing of the employee is required by law. This ticketing benefit will only be provided upon the employees full separation from government employment.

(ii) If a minor child of an employee reaches the age of 21 years, such dependent, at government expense, will be eligible for repatriation to point of recruitment upon his or her consent. However, the employer will be discharged of this responsibility if repatriation benefits are not utilized within one year of the dependent attaining the age of 21 years.

(2) No salary will be paid during the period of travel.

(3) The repatriation shipment of household goods and personal effects will be subject to the conditions of subsection (a)(3), and limited to the actual weight shipped upon recruitment. The employer will be discharged of the responsibility for repatriation of household goods if the benefit is not utilized within one year from the termination date.

(c) Check-out. Before repatriation benefits are afforded and the final paycheck is issued, the employee must complete check-out procedures as established by the Office of Personnel Management.

(d) Carry Over of Benefits. An employee who has earned the contractual repatriation benefits may carry over these benefits to any subsequent employment within the executive branch or to any other employer within the Commonwealth government and will be eligible to receive them at the end of employment with the Commonwealth government. No benefit will be duplicated, regardless of the number of contract periods.

(e) Early Termination of Contract. Early termination occurs where the employee resigns or willfully abandons his/her position or is terminated for cause prior to the end of the contract term.

(1) If an employee terminates the contract within the first year:

(i) The employer will not be liable for any repatriation expenses.

(ii) The employee must repay the cost to the employer of the expatriation benefits enumerated in this section, and other costs paid by employer related to recruitment.

(iii) The Director of Personnel, with the recommendation of the employer, may waive (e)(1)(i) or (e)(1)(ii) and provide repatriation benefits including shipping and airfare to point of recruitment on a compassionate basis.

(2) If an employee on a two-year contract terminates the contract after completing one year of service, the employer will not be liable for any repatriation expenses.

(f) Re-employment. An employee who has separated from government service and has utilized contractual repatriation benefits will not be eligible for expatriation or repatriation benefits in a new contract if rehired by the Commonwealth government within six months from the date of separation.

(g) Transition. Those employees on contract on the effective date of the regulations in this chapter shall retain their contractual personal effects and household goods shipping benefits until their utilization at the end of employment. The household goods storage benefit will be continued as it is on the current contract and will be renewed for not more than two years.

#### **120-10-205 Housing**

Housing benefits shall apply only to excepted service employees whose point of recruitment is outside the Commonwealth of the Northern Mariana Islands and those excepted service employees hired within the Commonwealth and transferred to a post outside the Commonwealth. An excepted service employee recruited outside the Commonwealth shall receive either housing or housing allowance at the election of the employee, but not the two simultaneously. If the employee elects housing, it is provided pursuant to a revocable license and not as a tenancy or leasehold. The housing allowance shall not exceed \$600 per month for an employee without dependents and \$800 per month for an employee with dependents.

(a) If government housing is unavailable and private housing has not been arranged for the employee, the employer shall pay a temporary lodging allowance to the employee not to exceed the governments established per diem rate

for travel at the duty station, for a period not to exceed thirty days. When the Director of Personnel has determined that this period is insufficient to move into permanent housing, a longer period may be authorized.

(b) Government housing is intended for the use of the employee and his or her dependents. No person who is not a dependent may reside in government housing for more than thirty days, unless it is approved in writing by the Director of Personnel.

(c) No employee whose contract has been terminated or has expired shall remain in the provided quarters longer than fourteen days after that termination or expiration, unless continued residence is approved by the Director of Personnel upon request of the employer.

(d) The employee is responsible for utility and trash collection costs.

(e) The employee is responsible for returning government furniture/appliances to the employer at the termination of his contract of employment, in a similar condition as that at the beginning of his occupancy of the government housing, ordinary wear and tear excepted. At the termination of the contract, subsequent to the departure from the premises, the employer or his designee shall inspect the premises. If cleanup or repairs, due to the employees actions or neglect are required, the employee will be assessed the cost of the corrective action.

(f) The employee is responsible for taking reasonable action to protect government housing entrusted to the employee from damage caused by a storm. Election of housing creates an assumption of risk by the employee and creates no warranty of habitability or quiet enjoyment.

(g) Any housing benefit, regardless if it is in the form of housing or housing allowance, shall not exceed five consecutive years from the date of initial employment. For all current employees the five year term of this benefit will start at the effective date of this chapter.

(h) The housing benefit will not be duplicated in situations where both spouses are employed by the government, regardless of the employing entity.

(i) The employee shall comply with all housing regulations promulgated by the Office of Personnel Management.

#### **120-10-210 Annual Leave**

(a) Annual leave, or vacation, shall be granted for the purpose of rest and relaxation. Except as provided in this section, employees who have less than three years of creditable service shall earn annual leave at the rate of four hours per pay period. Employees with three but less than six years of creditable service shall earn annual leave at the rate of six hours per pay period. Employees with six or more years of creditable service shall earn annual leave at the rate of eight hours per pay period.

(b) Activity heads, division directors, deputy secretaries, executive secretaries, special assistants of the Governor, Lieutenant Governor and department heads, medical doctors, practicing attorneys and executive directors of principal boards and commissions shall earn annual leave at the rate of eight hours per pay period.

(c) Annual leave accrual rate per pay period for health care professionals, engineers and other professionally qualified excepted service employees with advanced degrees and/or exceptional skills or experience shall be at a rate not to exceed eight hours, and:

(1) Based, specific to each employee, upon:

(i) The critical need to fill the position;

(ii) The availability of qualified applicants; and

(iii) The amount and quality of related education, training and experience possessed by the employee.

(2) An employee employed in the first year of the initial contract shall not be entitled to use annual leave during the first ninety days of employment. Annual leave earned during this period will be credited to the employee upon completion of this initial period. This restriction does not apply to employees employed on an immediately subsequent contract.

(d) Excepted service employees shall accrue annual leave at the rate set forth in their employment contract. If the employee takes leave without pay (LWOP) or is in an absence without leave (AWOL) status there will be no leave accrual for that pay period.

(e) Annual leave may be used only upon prior written approval of the employer and will be scheduled based upon the needs of the employer. Annual leave requests must be made in advance, except in cases of bona fide emergencies, on a leave request form provided by the Office of Personnel Management. All annual leave requests must be approved by the immediate supervisor and division director. In smaller organizations where division may not exist, the heads of such organizations shall approve annual leave. The employer will approve all properly submitted leave requests unless the needs of the government prevent the absence of the employee.

(f) Employees serving on government boards and commissions who elect to take leave without pay during their performance of duties on a board or commission shall accrue annual leave for that service time.

(g) Annual leave must be utilized during the contract period. Except as provided in subsections (h), (j) and (k) below, any annual leave not utilized will be converted to sick leave at the end of the employment term. No cash payment will be made for unused annual leave, except as provided for in subsections (j) and (k) below.

(h) If an offer and acceptance for a new employment contract is agreed upon, or if an excepted service employee accepts conversion to civil service status, accrued and unused annual leave credits from the prior period of employment, not to exceed 160 hours, shall be carried over to the new employment contract, or status in cases of conversion to civil service status. Notwithstanding this limit on leave, in order to comply with the 160-hour limit, due to the critical nature and need for the services by the Commonwealth government, the employer may allow, with the approval of the Director of Personnel, the employee to accumulate up to 240 hours of annual leave and carry this amount over into a subsequent employment period. Unused annual leave in excess of the limits cited above will be converted to sick leave.

(i) Employees converting from the civil service to excepted service status will be authorized to carry over not more than 160 hours of annual leave. Hours in excess of this amount will be converted to sick leave if not used prior to conversion.

(j) The Director of Personnel may, upon the recommendation of the employer and with the concurrence of the Governor, approve a lump-sum cash payment of up to 160 hours of unused annual leave in cases of involuntary separation due to reasons of bona fide personal emergency beyond the control of the employee.

(k) Transition Provision: Excepted service employees employed at the time that the regulations in this chapter become effective will not lose accumulated annual leave at the end of the current contract. The provision of the existing contract that allows lump-sum cash payment or carry-over will be honored. Employees are encouraged to carry over any leave balance rather than requesting a lump-sum cash payment. If an employee elects to carry-over the annual leave balance, a transition period of two years, without loss of annual leave, will be allowed to reduce the balance to 160 hours. At the end of this two year grace period the provisions of subsection (g) above will apply. The employees decision to carry-over the current leave balance must be made prior to entering into a subsequent period of employment. This election is irrevocable and cannot be subsequently changed to request a cash payment.

#### **120-10-215 Sick Leave**

Sick leave shall accrue to the employee at the rate of four hours per pay period, provided the employee has been in pay status as required by the excepted service employment contract. If the employee takes leave without pay (LWOP) or is in an absence without leave (AWOL) status there will be no leave accrual for that pay period. Government employees serving on government boards and commissions who elect to take leave without pay (LWOP) during such performance shall accrue leave for that service time.

(a) The employee is entitled to use accrued sick leave from the time sick leave is first earned.

(b) Any absence on sick leave where the employee misses more than three continuous days of work must have the illness verified by a note from a medical doctor in order to claim sick leave.

(c) The employee is not entitled to any payment for accrued and unused sick leave upon completion of an employment contract or termination of employment.

(d) If an offer and acceptance for a new period of employment is agreed upon under a new employment contract/appointment, all accrued and unused sick leave credits from the prior contract/ appointment will be carried over, provided that if the employee is separated from government service for a period longer than three years, the employee shall be divested of accumulated sick leave.

(e) If the employer has reasonable grounds to believe that the employee is misusing sick leave, or requesting sick leave for purposes other than illness, the employer may request proof of illness from a health care professional for any period of illness. If the certification is not provided, or is unpersuasive, the supervisor may deny the sick leave request.

(f) Sick leave may be accumulated without limit.

(g) Excepted service employees are eligible for sick leave bank program pursuant to applicable regulations adopted on October 16, 1997 and published in the Commonwealth Register, Vol. 19, No. 11, on November 15, 1997, at pages 15748-15757. [See NMIAC title 10, chapter 50].

#### **120-10-220 Leave Without Pay**

Leave without pay for 90 days or less may be taken only after obtaining the written approval of the department director. Leave without pay in excess of 90 days must be approved by the Director of Personnel upon recommendation by employer.

**120-10-225 Administrative Leave with Pay**

Administrative leave with pay may be granted by the Governor for a public purpose. Administrative leave with pay may be granted by the employer to an employee serving on government boards, councils, and commissions, provided the employee does not receive compensation from the board, council, or commission, and, if deemed for an employment related purpose, for a period of not to exceed ten days per annum.

**120-10-230 Holidays**

The employee shall be released from work on all legal holidays, except during emergencies, without loss of pay or charge to leave account.

**120-10-235 Advance Leave**

Where, for good reason, the employee requires an advance of annual or sick leave, the Director of Personnel may grant leave in advance up to a maximum of one-half of the total earnable leave credits for one year from the date the request is approved or for the remainder of the employment contract/appointment, whichever is shorter. Subsequent leave earnings shall serve to replace the amount of advance leave taken. In the event an employee resigns from his or her employment, any annual or sick leave overdraft must be paid as part of the final clearance.

**120-10-240 Court Leave**

The government encourages its employees to fulfill their obligations as citizens and residents of the Commonwealth and the federal government. Thus, employees who are called upon to serve as jurors and witnesses may, at their option, be granted court leave for such period as required by the court. Employees who are called to jury duty or as witnesses shall present their summons to their immediate supervisor together with a completed request for leave for his signature and processing. Employees using court leave to cover the period of absence shall turn over to the Commonwealth Treasurer such jury or witness fees (as distinct from expense allowances) as they receive from the court or summoning party. Expense allowances paid the employee for whatever purpose may be retained by the employee to defray the expenses for which granted.

**120-10-245 Compassionate Leave**

Full-time excepted service employees may be granted compassionate leave of no more than five workdays, not necessarily consecutive, in cases of death in the immediate family of the employee. For the purpose of this section, the term immediate family shall include a mother, father, brother, sister, spouse, immediate offspring (natural and culturally or legally adopted), stillborn child, grandfather, grandmother, grandchild, mother-in-law, or father-in-law. Compassionate leave must be taken within eighteen days after the death of the immediate family member.

**120-10-250 Pregnancy Disability Leave**

Pregnancy disability leave shall be granted to an excepted service employee who is absent from work because of childbirth or the subsequent convalescence. Such pregnancy disability leave shall not exceed thirteen work days, shall be in addition to any maternity leave or accumulated sick leave, and shall be any thirteen work days encompassing the date of childbirth. Any additional leave taken for such childbirth purposes shall be charged against accumulated sick leave.

**120-10-255 Maternity and Paternity Leave**

Maternity or paternity leave shall be granted to an excepted service employee who is absent from work because of the employee (maternity leave) or the employee's wife (paternity leave) giving birth. Such maternity or paternity leave shall not exceed two work-days and shall be taken within one week of the date of childbirth. Paternity leave will only be granted in cases of legal marriage.

**120-10-260 Military Leave**

Military leave with pay may be granted to excepted service employees for a period not to exceed fifteen working days in any calendar year, regardless of the number of training periods in the year.

**120-10-265 Extended Military Leave**

Extended military leave shall be granted to excepted service employees pursuant to the federal Uniformed Services Employment and Reemployment Act (USERRA).

**120-10-270 FMLA Leave**

Leave under the federal Family and Medical Leave Act of 1993 (FMLA) shall be granted to excepted service employees as provided in FMLA.

**120-10-275 Part-time Accrual**

Part-time or intermittent employees with regular scheduled tours of duty of forty to less than eighty hours during a biweekly period will accrue annual leave and sick leave at a pro rated amount of the full time benefit, rounded off to the nearest quarter hour per pay period, and will be eligible for other paid leaves, provided in this part, at this rate.

Part-time or intermittent employees with regular scheduled tours of duty of less than forty hours during a biweekly pay period will not accrue annual or sick leave or be eligible for the other paid leave benefits. If a part-time or intermittent employee takes leave without pay (LWOP) or is in an absence without leave (AWOL) status for a scheduled duty period there will be no leave accrual for that pay period.

**120-10-280 Transfer within the Executive Branch**

If an excepted service employee transfers to another excepted service position within the executive branch, the new employer will assume any liability for the payment or transfer of all earned contractual benefits. Transfers to similar positions within the executive branch with no change in salary may be affected by the employer with or without the employee's permission.

**120-10-285 Transfer to Other Government Entity**

If an excepted service employee transfers to another government entity, the receiving entity will assume any liability for the payment or transfer of all earned contractual benefits. Similarly, the executive branch will assume a similar liability for the payment or transfer of all earned contractual benefits if it accepts the transfer of an employee contractually entitled to such benefits from another government entity.

**Part 300 - Employee Conduct and Obligations****120-10-301 Mediation Procedure**

Excepted services employees may seek dispute resolution to resolve conflicts and disputes by means of a mediation procedure as provided by the Office of Personnel Management and pursuant to available resources.

**120-10-305 Termination of Services to the Government**

(a) The government may terminate the employee without cause upon written notice sixty days in advance of the date of termination of employment. This time may be shortened only by specifying in the employment contract a lesser period of advance notice. Such notice shall specify the date of termination and be delivered in person to the employee.

(b) The government may terminate the employee with cause upon written notice seven days in advance of termination of employment.

(c) When resigning, the employee must give sixty-days advance written notice in terminating employment. When considered to be in the best interests of the government, this time may be shortened or lengthened by the employer stating in the space provided in the employment contract the specific period of advance written notice that will be required. At the time of resignation, the employer may waive the advance written-notice requirement.

**120-10-310 Non-discrimination Policy**

(a) It is the policy of the Commonwealth government that discrimination, for or against any employee, because of race, creed, color, gender (including sexual harassment), sexual orientation, national origin, age, religion, political affiliation, organizational membership, veterans status or disability is prohibited and will not be tolerated.

(b) All agencies shall maintain every workplace free from unlawful harassment, including sexual harassment. Any employee or official who engages in any act of discrimination or harassment on the basis of any of the above factors violates government policy, and such misconduct will subject the employee to corrective action ranging from counseling to disciplinary action up to and including termination. Such harassment by a non-employee (for example, a client or contractor) is also prohibited. Employers shall not tolerate any such outside harassment and shall take necessary action to prevent its continuation or recurrence.

(c) Any employee who feels that he or she has been discriminated against on the basis of any of the above factors, or sexually harassed, should immediately report such incidents to a supervisor at any level without fear of reprisal.

In cases of sexual harassment, procedures should be followed in accordance with 120-10-315. Confidentiality will be maintained to the extent permitted by the circumstances.

(d) An employer who receives a claim of discrimination or harassment in violation of this policy shall take such complaint seriously and immediately advise the Director of Personnel or the Commonwealth Equal Employment Opportunity (EEO) Coordinator of the situation. The employer, with the assistance of the EEO Coordinator, will ensure that it is investigated promptly, privately, and with as much confidentiality as possible, consistent with the need to determine the facts. The investigation will be documented by an investigative report that will be retained in a confidential file by the EEO Coordinator. Any person accused of a violation shall be allowed the opportunity to rebut the charges.

(e) After determining the facts through the investigation, the employer shall take corrective action as required by the circumstances. This may include counseling any employee, whether or not a violation has occurred; imposing an appropriate sanction, including disciplinary action; making sure that this policy is reiterated to all employees or any group. An employer, or any supervisory staff, who does not take appropriate action also violates this policy and exposes the Commonwealth government to liability.

#### **120-10-315 Non-tolerance of Sexual Harassment**

##### **(a) Applicability**

This policy and procedure applies to all employees of the executive branch of the Commonwealth government and other activities that obtain personnel servicing from the Office of Personnel Management.

##### **(b) Purpose**

This policy and procedure will establish the Commonwealth governments policy of non-tolerance of sexual harassment of any form, by its employees, toward its employees, or by non-governmental agents against the governments clients or employees. It will also provide guidance for the education and training of employees to recognize, avoid and prevent sexual harassment in the workplace. This policy and procedure will provide steps for reporting, investigating and taking administrative action in situations involving sexual harassment.

##### **(c) Definitions**

(1) Sexual harassment is an unwelcome sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature. Sexual harassment occurs when:

(i) Submission to such conduct is made either explicitly or implicitly a term or condition of an individuals employment, or

(ii) Submission or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual, or

(iii) Such conduct has the purpose or effect of unreasonably interfering with an individuals work performance or creating an intimidating, hostility or offensive work environment.

(2) Sexual harassment can be divided into two basic types of misconduct:

(i) When an employee suffers or is threatened with a quid pro quo (this for that) situation. This form of sexual harassment occurs when a supervisor or someone else with authority over the victim makes a put out or get out demand, such as submit to my sexual requests or you will be fired, demoted, passed over for promotion, or in some other way made miserable on the job. This type of sexual harassment can be committed only by someone in the organization structure who has the power to control the victims job destiny.

(ii) When behavior in the workplace creates a hostile environment. This form of sexual harassment occurs when a supervisor, co-worker, or someone else with whom the victim comes into contact on the job creates an abusive work environment or interferes with the employees work performance through words or deeds because of the victims gender. The following kinds of behavior have been recognized by the courts as contributing to a sexually hostile environment:

(A) Discussing sexual activities;

(B) Telling off-color jokes;

(C) Unnecessary touching;

(D) Commenting on physical attributes;

(E) Displaying sexually suggestive pictures;

(F) Using demeaning or inappropriate terms, such as babe, honey, etc.;

(G) Using indecent gestures;

(H) Sabotaging the victims work;

(I) Engaging in hostile physical conduct;

(J) Granting job favors to those who participate in consensual sexual activity; or

(K) Using crude and offensive language;

(L) Wearing provocative, sensual attire, i.e. tight, skimpy, short-length, etc.

(iii) The above listed behaviors can create a liability for the government and any such conduct must be addressed and corrected at its earliest stage before it becomes severe or pervasive.

(3) A workplace environment is considered sexually hostile when conduct occurs that meets the following two conditions:

(i) It must be subjectively perceived as abusive by the person(s) affected, and

(ii) It must be objectively severe or pervasive enough to create a work environment that a reasonable person would find hostile or abusive.

(iii) A determination of whether or not a situation would be construed as sexual harassment should also take into consideration the following factors:

(A) The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex;

(B) The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker or a non-employee;

(C) The victim does not have to be the person harassed, but could be anyone affected by the offensive conduct;

(D) Unlawful sexual harassment may occur without economic injury to the victim;

(E) The harasser's conduct must be unwelcome.

(4) Sexual discrimination is distinguished from sexual harassment in that it reflects biases in employment actions based upon gender, but does not involve the abusive behavior described in subsection (b) above.

(d) Policy

(1) It is the policy of the Commonwealth government that all employees shall enjoy a work environment free from sexual harassment and all forms of discrimination. Sexual harassment is illegal, under Title VII of the Civil Rights Act of 1964, as amended and as implemented by 29 CFR 1604.11, and is prohibited under this chapter and article 1, section 6, of the Commonwealth Constitution.

(2) Sexual harassment is specifically prohibited and will not be tolerated in any form, regardless of whether the offensive conduct is committed by supervisors, managers, non-supervisors (co-workers) or non-employees (consultants, contractors, general public).

(3) All employees are encouraged to report any violation of this policy. If management is not aware of specific incidents of sexual harassment in the workplace it cannot properly address them. If an employee observes or is subjected to sexually discriminatory or harassing behavior in the workplace, it should be reported immediately to the departmental EEO counselor or coordinator so it can be resolved at the earliest possible time. Employees will not be retaliated against for making truthful statements about perceived harassment.

(4) No employee will be denied or will receive employment opportunities and/or benefits because of a sexual relationship with a co-worker or supervisor. No employee or non-employee shall imply to an employee, an applicant for employment, or a client of a government activity, that conduct of a sexual nature will have an effect on that person's employment, assignment, advancement, other condition of employment, or any other relationship with the government. Any incidents of this type, upon verification by investigation, will be subject to disciplinary and corrective action.

(5) The employer, at all supervisory levels, is responsible for the occurrence of acts of sexual harassment in the work place when they know or should have known of the prohibited conduct. As an official of the Commonwealth government, a supervisor's improper action or failure to act creates a liability on the part of the government. All incidents of sexual harassment will be immediately reported to the Equal Employment Opportunity Coordinator, Division Director or Department Head/employer for guidance. Supervisors and managers who knowingly allow harassing behavior to occur, or participate in such behavior, will be subject to disciplinary action.

(6) The Director of Personnel, as the Deputy Commonwealth Equal Employment Officer, will be immediately informed by all Department and Activity Heads of any incident of sexual harassment reported within their organization, or of any charges received from the Equal Employment Opportunity Commission (EEOC).

(7) The Director of Personnel will ensure that all sexual harassment complaints receive swift and thorough investigations. Appropriate action will be taken in situations where the complaint is validated to correct the situation and appropriately discipline the harasser. Complaints determined to be deliberate false accusations will also be treated as potential disciplinary situations. Situations where the victim requests that no investigation be conducted or action taken must also be investigated and acted upon to avoid future liability and to effect consistent enforcement of the Commonwealth's policy of non-tolerance for sexual harassment.

(8) Complaints of sexual harassment should be filed immediately upon occurrence to facilitate a timely response and to minimize the time that an employee would be subjected to such treatment. However, per EEOC statutes complaints may be filed anytime within one-hundred and eighty days of an incident's occurrence.

(9) Incidents of harassment due to an employees sexual orientation, while not covered by law as an Equal Employment Opportunity violation, are a violation of the Commonwealths policy of ensuring that every employee is provided with a work environment that is safe, non-threatening and non- discriminatory. Incidents of this nature comprise misconduct and will be subject to disciplinary action.

(10) The hiring of an employee with a known history of sexual harassment or misconduct could result is government liability for negligent hiring. No applicant for employment with such a history will be employed without a complete background investigation and the specific approval of the Director of Personnel.

(11) Each employer is required to distribute this policy to every employee under his or her authority and to ensure that this policy is posted in an accessible location at all times.

(12) All supervisors will be provided training on identifying and preventing sexual harassment in the workplace. They will also receive training on how to conduct a limited administrative investigation and the reporting procedures far allegations of harassment.

(e) Procedures

(1) Any government official who is aware of an incident or situation involving sexual harassment must report it immediately to his or her Equal Employment Opportunity Coordinator, Division Director, Department Head/ employer. The Commonwealth government has legal liability for any action where a government official subjects an employee to sexual harassment, or is aware that an employee subjects another employee to sexual harassment and fails to take corrective action.

(2) Any employee who is personally subjected to sexual harassment, or is aware that other employees are being subjected to sexual harassment, should report the incident or situation immediately to his or her departmental Equal Employment Opportunity Coordinator, Division Director or Department Head/employer. If the employee does not feel comfortable bringing it to the attention of any of these parties, or the Division Director or Department Head/employer are somehow involved in the harassment, he or she should immediately contact the Commonwealth Equal Employment Coordinator at the Office of Personnel Management, or the Director of Personnel directly. The initial contact does not have to be in writing.

(3) If the sexual harassment incident involves a physical assault, such as rape, attempted rape, assault or other actions involving physical contact, either the employee or the official who becomes aware of the incident should report it immediately to the Department of Public Safety for immediate processing and investigation. Any physical evidence should not be disturbed until the arrival of the Department of Public Safety.

(4) All incidents of alleged sexual harassment must be immediately reported to the Commonwealth Equal Employment Opportunity Coordinator at the Office of Personnel Management or directly to the Director of Personnel as soon as the employer, or other senior official in case of the employers unavailability, becomes aware of it. The complaining employee should be interviewed by the departmental Equal Employment Coordinator, legal counsel, Division Director, or the Department Head/employer to determine the basic facts of the allegation. The Director of Personnel or the Commonwealth Equal Employment Opportunity Coordinator will then be consulted to determine if the investigation will be conducted at the departmental level or if an outside investigator will be appointed.

(5) Due to the potential legal liabilities resulting from sexual harassment situations, the Director of Personnel will assume responsibility for the investigation and assign the investigating official (selected EEO official, manager or legal counsel) or unit (Office of the Attorney General or Department of Public Safety).

(6) All allegations of sexual harassment from employees or perceptions of sexual harassment from third parties or management staff will be reported to the Director of Personnel and will be investigated. Those situations where the victim requests that no investigation be conducted or action taken must also be investigated and acted upon to avoid future liability and to effect consistent enforcement of the Commonwealths policy of non-tolerance for sexual harassment.

(7) The department(s) involved in the complaint and the official or unit appointed to conduct the investigation will cooperate fully with the Office of Personnel Management in the process of investigating, reporting and resolving the complaint.

(8) The department(s) involved in the complaint and the Office of Personnel Management will ensure that no retaliation is taken against the complainant or any witnesses by the alleged harasser or by any other employees.

(9) In the process of investigating the complaint, the following guidance will be followed at all times:

- (i) All complaints will be taken seriously.
- (ii) Guilt should not be presumed on either party. The rights of both parties must be protected.
- (iii) Both parties should be afforded the opportunity to state their side.
- (iv) Confidentiality must be maintained at all times.

(10) An administrative investigation will be completed as expeditiously as possible. The final report will be delivered to the Director of Personnel in the following format:

Summary of Incident

Findings of Fact

Discussion

Conclusions

Recommendations

(11) The Director of Personnel will review the investigative report to ensure that the facts support the conclusions and that the recommendations are reasonable and consistent with the Commonwealths disciplinary policy. The Office of the Attorney General will be consulted to ensure that the resolution is legally appropriate.

(12) The Director of Personnel will forward the final report to the Department/employer with the Office of Personnel Managements recommendations for the resolution of the complaint.

(13)(i) Depending upon the severity of the incident of sexual harassment, the resolution of the situation could involve the following administrative actions:

(A) Conference/counseling

(B) Oral or written warning

(C) Letter of reprimand

(D) Suspension

(E) Demotion

(F) Termination

(ii) Any administrative actions are separate from and not contingent upon any civil or criminal court actions.

(14) The employer will resolve the complaint/grievance based upon the investigation and the recommendation of the Office of Personnel Management. If the Department Head/employer disagrees with the recommended resolution, he or she must immediately meet with the Director of Personnel to resolve their differences. If both parties cannot reach agreement, the case will immediately be brought before the Governor for a final decision.

(15) Either the complainant or the respondent may appeal the final resolution to the Director of Personnel, not later than fifteen days after receiving notice of the final resolution. If the complainant or the respondent are excepted service employees and are not gubernatorial or mayoral appointees, they may appeal the final resolution to the Director of Personnel, not later than fifteen days after receiving notice of the final resolution. Complainants or the respondents who are gubernatorial or mayoral appointees may formally request in writing for the employer to review the decision in their case, but final resolutions approved by the Governor or Mayors on cases involving their respective appointees are not subject to appeal.

(16) The Director of Personnel will conduct a hearing on the appeal and make a final decision on the matter.

(17) Incidents or situations of sexual discrimination that do not involve acts of harassment will be processed through the normal grievance procedure utilized for other Equal Employment Opportunity complaints.

(f) Records and Reports

(1) The Office of Personnel Management will maintain records of all allegations of sexual harassment to include copies of investigative reports.

(2) Records of on-going investigations will be kept in a confidential file separate from the official personnel folder. Upon resolution of the complaint, appropriate records of the resolution or disciplinary action will be placed in the appropriate official personnel folder.

(3) The Office of Personnel Management will report to the Governor annually in its annual personnel report on the number of sexual harassment cases and their resolution.

(g) Responsibilities

(1) All employees will be familiar with the Commonwealths Equal Employment Opportunity and Non-tolerance of Sexual Harassment Policies and will comply with these policies to create a safe, non-threatening and non-discriminatory workplace.

(2) All supervisors, managers and directors will develop and maintain a work environment that is safe, non-threatening and non-discriminatory. They will ensure that all employees know that sexual harassment will not be tolerated and will ensure that any incident of sexual harassment is reported as directed by this policy.

(3) All Equal Employment Program counselors must be knowledgeable concerning equal employment opportunity laws, regulations and policies, both federal and Commonwealth, and will strive to remain up-to-date on current EEO trends and activities. They will make themselves readily available to listen to EEO-related complaints in their department or activity and provide counseling and assistance to affected employees. They will coordinate with the department/activity EEO Coordinator.

(4) All Department/Activity Equal Employment Coordinators must be knowledgeable concerning Equal Employment Opportunity laws, regulations and policies, both federal and Commonwealth and will strive to remain up-to-date on current EEO trends and activities. The coordinators will provide EEO expertise and assistance to the department/activity EEO counselors and management staff. They will coordinate with the Commonwealth EEO Coordinator.

(5) All Department or Activity Heads, as activity Equal Employment Officers, will issue an Equal Employment Opportunity policy statement and establish a departmental Equal Employment Opportunity Program that includes a policy of non-tolerance of sexual harassment. They will hold their supervisors, managers and directors accountable for developing and maintaining a work environment that is safe, non-threatening and nondiscriminatory. They will enforce the Commonwealths policy of non-tolerance of sexual harassment and take reasonable and consistent action in resolution of any sexual harassment situation.

(6) The Director of Personnel, as the Deputy Equal Employment Officer for the Commonwealth, will ensure the development and maintenance of a viable Commonwealth wide Equal Employment Opportunity Program that includes training at all levels in prevention and resolution of sexual harassment situations. The Director of Personnel will initiate administrative investigations for all allegations of sexual harassment and will ensure their appropriate resolution in accordance with this policy and procedure.

(7) The Governor, as the Equal Employment Officer for the Commonwealth, will establish and promote a policy of non-tolerance of sexual harassment in any form. The Governor will hold all Department and Activity Heads accountable for their active support of the Commonwealths Equal Employment Opportunity and non-tolerance of sexual harassment policies, and for their fulfillment of the responsibilities assigned in this policy and procedure.

(h) Equal Employment Opportunity Commission

(1) If an employees sexual harassment complaint is not acted upon to his or her satisfaction, the employee has the option of filing a compliant with the Equal Employment Opportunity Commission (EEOC). Complainants also have the option of filing their complaint directly with the EEOC. It should be noted that there is a statutory limitation of 180 days from the harassing/discriminatory incident during which the complaint may be filed. The EEOC in Hawaii is located at:

300 Ala Moana Blvd.

Room 7123A

Box 50082

Honolulu, Hawaii, 96850

(808) 541-3120

The EEOC in San Francisco, California, is located at:

901 Market Street

Suite 500

San Francisco, California, 94103

(415) 356-5100

(2) Although the Commonwealth government would like to resolve all complaints through its administrative processes, employees will not be subjected to any retaliatory actions for filing a complaint with the Equal Employment Opportunity Commission.

#### **120-10-320 Alcohol and Drug Free Workplace Policy**

##### **(a) Policy**

As an employer, the government recognizes it has a responsibility to its employees and the public it serves to take reasonable steps to assure safety in the workplace and in the community. Furthermore, the government is concerned about the adverse effect alcohol and drug abuses have on safe and productive job performance. It also recognizes that any employee, whose ability to perform safely and productively is affected by the use of alcohol and other drugs, jeopardizes the integrity of the workplace and the achievement of the governments mission. The government realizes that alcoholism, problem drinking and drug addiction are treatable illnesses. The government, therefore, encourages employees who have problems with drugs or alcohol to utilize all available resources to resolve their problems before those problems affect their job performance.

##### **(b) Definitions**

For the purposes of this section, the following definitions apply:

(1) Accident. An event which causes

(i) A fatality,

(ii) An injury to a person requiring professional medical treatment beyond simple at-scene first aid, or

(iii) An economic loss, including property damage, greater than \$2,500.00.

- (2) **Assessment.** A determination of the severity of an individual's alcohol or drug use problem and an analysis of the possible courses of treatment, made by an expert in the field of substances abuse.
- (3) **Breath Alcohol Concentration (B.A.C.).** The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath testing device (E.B.T.).
- (4) **Breath Alcohol Technician (B.A.T.).** An individual authorized to collect breath specimens under subsection (g)(2) and who operates an E.B.T.
- (5) **Consulting Physician.** A licensed physician retained or employed by the government to advise on drug testing.
- (6) **Drug.** A substance
- (i) Recognized in the official United States Pharmacopoeia, the official Homeopathic Pharmacopoeia of the United States, or the official National Formulary, or any supplement to any of them; or
  - (ii) Intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or other animals; or
  - (iii) Other than food, minerals, or vitamins, intended to affect the structure or any function of the body of a human or other animal; or
  - (iv) Intended for use as a component of any article specified in subsection (b)(6)(i), (ii), or (iii) above. Devices or their components, parts, or accessories are not considered drugs under this definition.
- (7) **Evidential Breath Testing Device (E.B.T.).** A device which is
- (i) Approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath; and
  - (ii) Is on the NHTSA's Conforming Products List of E.B.T.s; and
  - (iii) Conforms with the model specifications available from the NHTSA, Office of Alcohol and State Programs.
- (8) **Illegal Drug.** A drug that
- (i) Is not obtained legally; or
  - (ii) Is knowingly used for other than the prescribed purpose or in other than the prescribed manner; or
  - (iii) Is a designer drug or drug substance not approved for medical or other use by the U. S. Drug Enforcement Administration or the U. S. Food and Drug Administration.
- (9) **Invalid Test.** A breath or urine test that has been declared invalid by a Medical Review Officer (M.R.O.), including a specimen that is rejected for testing by a laboratory for any reason. An invalid test shall not be considered either a positive or a negative test result.
- (10) **Medical File.** The file containing an employee's medical examination form, mental health referrals, alcohol and drug test results and other health related documents, maintained by the Office of Personnel Management separate from an employee's official personnel folder.
- (11) **Medical Review Officer (M.R.O.).** A licensed physician, appointed by the government, with specialized training in substance abuse disorders and in the use and evaluation of drug test results. The M.R.O. shall be the only person authorized to receive laboratory drug test results and shall be the primary contact for technical inquiries to the drug testing laboratory.
- (12) **Reasonable Suspicion.** A perception based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of an individual or on specific facts, circumstances, physical evidence, physical signs and symptoms, or on a pattern of performance or behavior that would cause a trained supervisor to reasonably conclude that the individual may be under the influence of alcohol or illegal drugs while on duty.
- (13) **Safety-sensitive.** A word describing activities which directly affect the safety of one or more persons, including the operation of motor vehicles or heavy machinery or the carrying of firearms. Each department, entity or organization head, in conjunction with the Director of Personnel Management, shall identify all positions to be considered safety-sensitive positions due to the amount of time the employee spends performing safety sensitive functions.
- (14) **Statement of Fitness for Duty.** A written statement from a substance abuse professional (S.A.P.), certifying that the named employee is not dependent on alcohol or any drug to the extent such dependence will affect safe and productive work.
- (15) **Substance Abuse Professional (S.A.P.).** A physician, psychologist, psychiatrist, or social worker with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders; or a counselor certified by the National Association of Alcoholism and Drug Abuse Counselors.
- (16) **Under the Influence.** A condition where a person's behavior, attention, or ability to perform work in the usual careful fashion has been adversely affected by the use of alcohol or drugs; intoxicated.
- (17) **Vehicle.** A device in, upon or by which any person or property is or may be propelled or moved on a highway, on a waterway, or through the air.

(c) Prohibited Conduct

(1) Sale, Purchase, Possession with Intent to Deliver, or Transfer of Illegal Drugs. No employee shall

(i) Sell, purchase, or transfer;

(ii) Attempt to sell, purchaser or transfer; or

(iii) Possess with the intent to deliver, any illegal drug while on government property, in any government vehicle or on any government business. It is a defense to this provision that the employee is employed by a law enforcement agency and the conduct occurs as part of the employees assigned duties for the purpose of investigating illegal drug trafficking.

(2) Possession of Illegal Drugs. No employee shall possess any illegal drug on government property, in any government vehicle, or while on government business. It is a defense to this provision that the employee is employed by a law enforcement agency and the conduct occurs as part of the employees assigned duties for the purpose of investigating illegal drug tracking.

(3) Possession of Open Containers of Alcohol. No employee shall possess an open container of alcohol in any vehicle while on duty or in any government vehicle at any time. No employee shall possess an open container of alcohol while at his or her workplace.

(4) Under the Influence of Alcohol or Illegal Drugs. No employee shall be under the influence of alcohol or any illegal drug when at work, or reporting to work with the intention of working. As used in this subsection, alcohol includes any alcohol found in any prescription or non-prescription drug such as cough syrup. An employee is presumed to be under the influence of alcohol or an illegal drug if

(i) The employee has a B.A.C. of 0.02 or more;

(ii) The employee has a detectable amount of any illegal drug in his or her urine;

(iii) The employee uses alcohol or any illegal drug while on call when the employee knows he or she may be called upon to perform safety-sensitive functions;

(iv) The employee uses alcohol or any illegal drug within four hours prior to reporting to work and expects to perform a safety-sensitive duty.

(5) Refusal to Be Tested. No employee required to be tested for drugs or alcohol under any provision of this section shall refuse to be tested. The following conduct shall be considered a refusal to be tested:

(i) Refusing in writing to submit to testing after receiving clear and specific written notice of the requirement to be tested;

(ii) Refusing verbally, in front of at least two witnesses, to submit to testing after receiving clear and specific written notice of the requirement to be tested;

(iii) Failing to timely provide an adequate specimen for testing, without a valid medical explanation, after receiving clear and specific written notice of the requirement to be tested. An M.R.O. or consulting physician shall determine if there is any medical reason for failure to provide an adequate urine sample (shy bladder) or an adequate breath sample (shy lung);

(iv) Engaging in conduct that clearly obstructs the specimen collection process;

(v) Failing to remain available for post-accident testing, or leaving the scene of an accident before a testing decision is made. An employee may leave the scene of an accident only to obtain necessary medical care or assistance in responding to the accident. If the employee leaves the scenes the employee must notify his or her supervisor as soon as possible of his or her location and reason for leaving the scene;

(vi) Consuming alcohol or illegal drugs after an accident and before a testing decision is made;

(vii) Failing to report, during the work shift in which an accident occurred, an accident which could have resulted in a testing decision; and

(viii) Failing to report to the specimen collection site timely after being informed of the requirement to be tested.

(6) Giving False Information. No employee shall give false information about a urine specimen or attempt to contaminate or alter the specimen.

(7) Refusal to Comply with Treatment Recommendations. No employee shall fail to comply with recommendations for treatment or after-care made by an M.R.O. or S.A.P. as a consequence of a prior positive drug or alcohol test result.

(8) Failure to Notify Government of Conviction. No employee shall fail to notify the Director of Personnel Management of any criminal drug statute conviction, within five days of such conviction, if the violation of the criminal drug statute occurred while the employee was conducting Commonwealth business, or while on or using Commonwealth property.

(9) Supervisors Responsibility for Confidentiality. No employer shall knowingly disregard an employees right to confidentiality in matters relating to alcohol or drug testing or otherwise neglect his or her responsibilities under this section.

(d) Penalties and Consequences

(1) Disciplinary Action. An employee committing any act prohibited by subsection (c) shall be subject to an appropriate form of discipline, depending on the circumstances.

(i) Generally. Where an employee commits an act prohibited by subsection (c) without valid reason, the employee shall be disciplined up to and including removal. At a minimum, the employee shall receive a formal reprimand. If the prohibited act committed by the employee relates to the use or possession of alcohol or illegal drugs, the employee shall be referred to an S.A.P. for assessment and treatment.

(ii) First offense, under the influence. An employee found to be under the influence; of alcohol or illegal drugs in violation of subsection (c)(4), for a first offense, shall not be subject to removal solely for being under the influence of alcohol or illegal drugs. However, if the person is also involved in an accident depending on the circumstances, the employer may decide to initiate a disciplinary action for removal, even on a first offense.

(iii) Serious offenses. The following acts, even for a first offense, will result in an immediate disciplinary action for removal:

(A) The sale, purchase, possession with intent to deliver, or transfer of illegal drugs, or the attempt to sell, purchase or transfer illegal drugs in violation of subsection (c)(1);

(B) Being involved in an accident resulting in a fatality while under the influence of alcohol or illegal drugs, in violation of subsection (c)(4);

(C) While performing and about to perform duties in a safety sensitive position, being under the influence of alcohol or illegal drugs, in violation of subsection (c)(4);

(D) An unexcused refusal to be tested, in violation of subsection (c)(5);

(E) Giving false information, contaminating or attempting to contaminate a urine sample, in violation of subsection (c)(6);

(F) Failing to notify the proper authority of conviction for a drug offense in violation of subsection (c)(8);

(G) Testing positive for alcohol or illegal drugs within five years of a prior positive test; and

(H) Breaching any term of a return to duty contract executed under the provisions of subsection (c)(2).

(2) Information Concerning Treatment Options. Those employees not removed from government service after committing any act prohibited by subsection (c) shall be informed of resources available for evaluating and resolving problems associated with the use of alcohol and illegal drugs. At a minimum, the Office of Personnel Managements Alcohol and Drug Free Workplace Coordinator shall give the names addresses, and telephone numbers of local S.A.P.s and substance abuse counseling or treatment programs. The employees will then be required to fulfill all the specified steps of treatment before being considered ready for return to duty.

(3) Report to Department of Public Safety. An employee committing any act prohibited by subsection (c)(1) or (c)(2) shall be reported, by the employer, to the Department of Public Safety for the purpose of possible criminal prosecution.

(4) Duty/Pay Status Pending Disciplinary Action. Unless the employee was involved in an accident resulting in a fatality, an employee subject to a disciplinary action for committing any act prohibited by subsection (c), except for subsection (c)(7), shall be allowed to remain on the job pending resolution of any proposed disciplinary action but shall not be allowed to perform a safety-sensitive function, even if that means assigning the employee duties the employee would not otherwise be performing. An employee subject to a disciplinary action for committing any act prohibited by subsection (c) who was involved in a fatal accident shall be placed on leave without pay pending resolution of the disciplinary action for removal.

(e) Return to Work Procedures

(1) Prerequisites to Returning to Duty. No employee who has tested positive for the presence of alcohol or illegal drugs shall be allowed to return to work until the employee has:

(i) Complied with treatment recommendations of an M.R.O. or S.A.P. and been released for work by an S.A.P. in consultation, when appropriate, with the M.R.O. or a consulting physician;

(ii) Tested negative in a subsequent test paid for by the employee for the presence of alcohol, if the removal from duty was due to alcohol use; or cocaine, marijuana, opiates, amphetamines, and phencyclidine, if the removal from duty was due to drug use; and

(iii) Agreed to execute a return to duty contract.

(2) Return to Duty Contract. The return to duty contract shall include the following provisions:

(i) Aftercare. An agreement to comply with aftercare and follow up treatment recommendations for one to five years, as determined appropriate by the employees S.A.P.;

(ii) Follow-up testing. An agreement to unannounced alcohol or drug testing, depending on the substance which resulted in the removal from duty, paid for by the employee, for one to five years, as determined appropriate by the employees S.A.P., but there shall be no fewer than six tests in the first year after the employee returns to work;

(iii) Compliance with rules. An agreement to comply with government rules, policies, and procedures relating to employment;

(iv) Term. An agreement that the terms of the contract are effective for five years after the employees return to duty; and

(v) Breach of contract. An agreement that violation of the return to duty contract is grounds for termination.

(f) Testing Occasions

(1) Pre-employment Testing. At the time of application, persons applying for any position within the excepted service will be notified that any offer of employment is contingent upon a negative urine test. After receiving an offer of employment, the candidate shall be tested for the presence of cocaine, marijuana, opiates, amphetamines, and phencyclidine in the urine. The test shall be paid for by the candidate. Testing shall be in compliance with subsection (h), below. Applicants who were previously employed by the government and applicants who have had an offer for government employment withdrawn due to a previous positive urine test result, must also provide a written release of drug testing history for the two years immediately preceding the application date.

(i) No new excepted service candidate may be assigned to work in any position until he or she presents the results of a urine test, taken after the offer for employment has been made, that shows negative for the presence of cocaine, marijuana, opiates, amphetamines, and phencyclidine.

(ii) If the candidates test result is positive for the presence of a tested drug, without a legitimate explanation, the offer of employment will be withdrawn.

(iii) If the candidate presents a drug testing history showing a positive drug test within two years prior to the application date, the offer of employment will be withdrawn unless the candidate submits a statement of fitness for duty and agrees to execute an agreement similar to a return to duty contract described in subsection (e)(2).

(2) Reasonable Suspicion Testing. Where there is a reasonable suspicion that an employee is under the influence of alcohol or drugs while at work or about to begin work, he or she shall submit to a breath or urine test for the presence of alcohol, cocaine, marijuana, opiates, amphetamines, and phencyclidine, upon written notice from the employees supervisor. Except as otherwise provided, the government shall pay for the testing.

(i) Properly trained supervisor. Only a supervisor with government-approved training in the physical, behavioral, and performance indicators of probable drug and alcohol use is permitted to make reasonable suspicion testing decisions.

(ii) Objective inquiry. The properly trained supervisor will observe the employee suspected of being under the influence of alcohol or illegal drugs. A decision to request testing shall be based on eye witness reports, facts of the event and observed physical and behavioral characteristics of the employee. Prior to making the decision to require testing, the supervisor will question the employee in a private area to ascertain whether there are any reasons other than alcohol or drug use for any behavior observed.

(iii) Verification. No employee shall be required to submit to a drug or alcohol test based on reasonable suspicion unless the need for the test is verified by a second properly trained government employee. The regained verification shall be done in person.

(iv) Transportation assistance. The employee shall be accompanied to the collection site by a supervisor or manager, and shall be provided transportation home from the collection site. If the individual refuses and demands to drive his/her vehicle, the supervisor or manager shall notify the Department of Public Safety.

(v) Duty pending test results. Until the results of the drug and alcohol test are complete and verified, no employee tested based upon reasonable suspicion shall be allowed to perform or continue to perform a safety-sensitive duty.

(vi) Report. The supervisor ordering reasonable suspicion testing shall put in writing, in detail, the facts leading to the decision. This report shall be considered confidential and will be maintained in the employees medical file, which is confidential, until needed for a disciplinary action. Only at that time will the report be filed in the employees official personnel folder.

(3) Post-accident Testing. As soon as practical after an accident any employee whose action or inaction may have contributed to the accident must submit to breath and urine tests for the presence of alcohol, cocaine, marijuana, opiates, amphetamines, phencyclidine, upon written notice from the employees supervisor. Except as otherwise provided, the government shall pay for the testing.

(i) Supervisor training. Only a supervisor with government-approved training in the physical, behavioral, and performance indicators of probable drug and alcohol use is permitted to make post-accident testing decisions.

(ii) Objective inquiry. A supervisors decision to request testing shall be based on eye witness reports, facts of the event, and observed physical and behavioral characteristics of the employee. Specifically, the properly trained supervisor shall require the driver of any government vehicle or the operator of any government equipment involved in the accident to be tested.

(iii) Transportation assistance. The employee shall be accompanied to the collection site by a supervisor or manager, and shall be provided transportation home from the collection site. If the individual refuses and demands to drive his/her vehicle, the supervisor or manager shall notify the Department of Public Safety.

(iv) Duty pending test results. Until the results of the drug and alcohol test are complete and verified, no employee reasonably suspected of having been under the influence of alcohol or drugs at the time of the accident shall be allowed to perform or continue to perform a safety-sensitive duty.

(v) Report. The supervisor ordering post-accident testing shall put in writing, in detail, the facts leading to the decision. This report shall be considered confidential and will be maintained in the employees medical file, which is confidential, until needed for a disciplinary action. Only at that time will the report be filed in the employees official personnel folder.

(4) Random Testing. During each calendar year randomly selected employees performing safety-sensitive functions will be required to submit to breath tests for alcohol and urine tests for cocaine, marijuana, opiates, amphetamines, and phencyclidine. The testing will be done during on-duty time. Except as otherwise provided, the government shall pay for the testing.

(i) Method of selection. Employees will be selected by a statistically valid method such as a random number table or computer-based random number generator that is matched with employee social security numbers, payroll identification numbers, or other comparable identifying numbers.

(ii) Number to be tested. No more than twenty-five percent of all employees performing safety-sensitive functions in each department or agency each year shall be required to submit to breath alcohol testing and no more than fifty percent shall be required to submit to urine testing. The actual percentage will be determined at the beginning of each fiscal year for each department or agency by the Office of Personnel Managements Alcohol and Drug Free Workplace Coordinator, in consultation with the employer and the M.R.O. after reviewing the departments or agencies prior positive testing rates, reasonable suspicion and post accident events, and referrals for service.

(g) Collecting and Testing Breath Specimens

(1) Collection Site. Breath specimens shall be collected only at a site approved by the Director of Personnel Management or at the scene of an accident if proper equipment and personnel can be made immediately available.

(2) Collection Protocol. Breath specimens shall be collected only by a B.A.T. trained in the collection of breath specimens at a course approved by the United States Department of Transportation in accordance with standard collection protocols as specified in 49 CFR, Part 40(C) Procedures for Transportation Workplace Drug Testing Programs - Alcohol Testing, except as otherwise provided in this section. However, the M.R.O. or a consulting physician, when requested, may assist in facilitating the collection for post-accident testing.

(3) Confirming Test. Breath specimens shall first be subjected to a screening test for alcohol. If that test indicates a probable breath alcohol concentration of 0.02 or greater, a second test confirming the first and providing quantitative data of alcohol concentration, shall be performed. No alcohol test shall be considered positive unless both the screening test and the confirming test show a B.A.C. of 0.02 or greater.

(4) Results. The breath test results shall be transmitted by the B.A.T., in a manner to assure confidentiality, to the employee, to the employees employer, and to the Director of Personnel Management.

(5) Confidentiality. Other than as specified above, no person involved in the testing process shall release the results of breath tests to any other individual without a written release from the tested employee.

(6) Invalid Test. If the Director of Personnel Management determines the test is invalid, using the factors found at 49 CFR, Part 40.79, the test result shall be reported as negative.

(7) Statistical Reporting. The B.A.T. shall compile statistical data, that is not name specific, related to testing results. The B.A.T. shall release the statistical data to the Director of Personnel Management upon request.

(h) Collecting and Testing Urine Specimens

(1) Collection Site. Urine specimens shall be collected only at a site approved by an appropriate government agency, and identified by the Director of Personnel Management.

(2) Collection Protocol. Urine specimens shall be collected by persons trained in the collection process developed by the Substance Abuse and Mental Health Service Administration, United States Department of Health and Human Services, in accordance with standard collection protocols as specified in 49 CFR, Part 40(B), Procedures for Transportation Workplace Drug Testing Programs - Drug Testing, except as otherwise provided in this section. However, the M.R.O. or a consulting physician, when requested, may assist in facilitating the collection for post-accident testing.

(3) Splitting Sample.

(i) After collecting a sample of the employees urine, the sample will be split into two specimens. Both specimens will be shipped to the laboratory selected for performing tests for the government.

- (ii) One specimen, called the primary specimen, shall be tested for the government. The other specimen, called the secondary specimen, shall be the property of the employee, to be tested only upon request of the employee.
- (4) Confirming Test. Primary urine specimens shall first be subjected to a screening test. Only if the screening test shows positive for the presence of a prohibited drug, will a second test be conducted on the same urine specimen to identify the presence of a specific drug or metabolite, using a gas chromatography/mass spectrometry (GC/MS) test. No drug test shall be considered positive unless both the screening test and the confirming test show the presence of one or more of the drugs tested for.
- (5) Results. The laboratory conducting the urine test shall give the results only to the M.R.O. The M.R.O. shall discuss the test result with the tested individual.
- (6) Invalid Test. If the M.R.O. decides that the test is invalid, the candidate shall immediately submit another urine specimen for testing.
- (7) Employee Test. If the governments test shows positive for the presence of a specific drug or drugs, the employee may request that the M.R.O. have the secondary specimen tested at another laboratory certified by the United States Department of Health and Human Services, for the presence of the drug or drugs found in the primary specimen.
- (i) The employee must make the request in writing, within 72 hours of receiving notice of the result of the governments test.
- (ii) The results of the second test shall be given to the M.R.O. who shall discuss the result with the employee.
- (iii) The employee shall pay for the cost of the second test.
- (8) Alternative Explanations for Positive Test Results.
- (i) Upon receiving a report of a positive test results the M.R.O. shall determine if there is any alternative medical explanation for the results including the use of prescribed medication by the employee. Such a determination shall be based on information received from the employee such as the tested individuals medical history and records. If the M.R.O. determines it to be necessary he or she may request pertinent analytical records from the laboratory or require a re-analysis of the specimen.
- (ii) The M.R.O. shall report the urine test result as negative and shall take no further action if he or she determines:
- (A) There is a legitimate medical explanation for a positive test result, other than the use of the specific drug; or
- (B) Based on a review of laboratory inspection reports, quality assurance and quality control data, and other drug test results, the positive drug test result is scientifically insufficient for further action.
- (9) Illegal Use of Opium. If the GC/MS does not confirm the presence of 6-monoacetylmorphine; the M.R.O. shall determine whether there is clinical evidence, in addition to the urine test result, of illegal use of any opium, opiate or opium derivative.
- (10) Report to Government. The M.R.O. shall report all positive and negative urine drug test results, in a manner to assure confidentiality, to the employees employer, and to the Director of Personnel Management.
- (11) M.R.O. and Confidentiality. Other than as specified above, the M.R.O. shall not release the results of drug tests to any other individual without a written release from the tested employee.
- (12) Statistical Reporting. The M.R.O. shall compile statistical data, that is not name specific, related to testing and rehabilitation. The M.R.O. shall release the statistical data to the Director of Personnel Management upon request.
- (i) Employee Awareness and Rehabilitation
- (1) Employee Awareness Training. All employees shall receive information concerning the effects and consequences of drug and alcohol use on personal health, safety, and the work environment; the manifestations and behavioral clues indicative of drug and alcohol use; and the resources available to the employee in evaluating and resolving problems associated with the use of illegal and legal drugs and alcohol.
- (2) Employees Seeking Voluntary Assistance. Government employees shall be allowed to voluntarily seek assistance for alcohol or drug use at any time prior to being required to be tested under the reasonable suspicion, post-accident or random testing procedures.
- (i) Referrals. Employees may request referral to an S.A.P. for treatment, may refer themselves, or may be referred by a supervisor as part of a performance counseling. Such referrals shall only be made a part of the employees medical file and shall not be a part of the employees official personnel folder. Referrals shall be kept confidential.
- (ii) Voluntary referrals. Employees who voluntarily seek assistance in dealing with drug and alcohol problems or accept referrals, before job performance is compromised, shall be provided the same leave benefits for recommended treatment as provided for any other health problem.
- (iii) Accountability for job performance. Regardless of participation in or requests for referrals, employees shall be held accountable for acceptable job performance. In no case where job performance has been compromised will

disciplinary action be waived for employees asking for assistance and referral. However, such requests may be considered a mitigating factor in determining the appropriate form of discipline.

(3) Job Security Maintained. Employees shall not have job security or promotional opportunities jeopardized solely because of a request for a drug or alcohol treatment referral.

(4) Required Documentation. Although voluntary referrals or referrals made prior to testing are kept strictly confidential, documentation of poor performance or disciplinary actions taken due to drug or alcohol abuse shall be included in the employees official personnel folder.

(j) Disseminating Information on Regulations

(1) Distribution to Employees. All current employees shall receive a copy of the regulations in this section at least thirty days before the implementation date. New employees hired after the effective date of this policy will be given a copy of the policy in this section at the time of hire. Each employee shall sign a form prescribed by the Director of Personnel Management which acknowledges the receipt of the policy and the employees understanding that he or she is bound by this policy. This acknowledgment shall be kept in the employees official personnel folder.

(2) Posting. The regulations in this section will be posted in all government workplaces for at least sixty days following their implementation.

(k) Record Retention and Reporting Requirements

(1) Administrative Records. Records relating to the administration of the policy in this section, including policy and program development, employee awareness training, supervisory training, collection site training, program administration, and calibration documentation, shall be kept by the Director of Personnel Management and the M.R.O. for five years.

(2) Records Relating to Collection Process. Records relating to the breath and urine collection process shall be kept by the Director of Personnel Management, the M.R.O., and the specimen collector at the collection site for two years.

(3) Refusals, Referrals and Test Results. The Director of Personnel Management shall keep a copy of all records of refusals to be tested, breath and urine test results, and referrals to an S.A.P. in the employees medical file, not the employees official personnel folder, at least until such time as disciplinary action is taken. The M.R.O. shall keep a copy of all urine test results and the B.A.T. shall keep a copy of all breath test results in a manner to assure confidentiality. No test results shall be available for use in a criminal prosecution of the employee without the employees consent.

(i) Positive test result records, records of refusals to be tested and referrals to an S.A.P. shall be kept for five years.

(ii) Negative test result records shall be kept for a period of one year.

(4) Report to Federal Contract Agency. To comply with the Drug Free Workplace Act of 1988, 41 U.S.C. 701(a)(1)(E), the Director of Personnel Management shall notify the federal contracting agency of the conviction of any employee for selling, manufacturing or dispensing any illegal drug on government business property or government time, within 10 days of the conviction.