

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



COMMONWEALTH REGISTER

**VOLUME 47
NUMBER 1
January 15, 2025**

COMMONWEALTH REGISTER
VOLUME 47
NUMBER 01
JANUARY 15, 2025

PROPOSED

Public Notice of Proposed Amendments to the Public Rights-of-Way and Related Facilities Regulations Department of Public Works	051543
Public Notice of Proposed Revision to the Human Resources Sick Leave Bank Commonwealth Healthcare Corporation	051576



Commonwealth of the Northern Mariana Islands
Office of the Secretary of Public Works
2nd floor - Oleai Joeten Commercial Center
Saipan, MP 96950



Ray N. Yumul
Secretary

Public Notice of Proposed Amendments to the Public Rights-of-Way and Related
Facilities Regulations for the Department of Public Works

Notice of Intended Action: The Department of Public Works, Division of Technical Services hereby approves the publication of the following amendments to its Public Rights-of-Way and Related Facilities Regulations. It intends to adopt these regulations as permanent, pursuant to the Administrative Procedure Act, 1 CMC § 9104(a). If adopted, these amendments will become effective 10 days after publications of the Notice of Adoption in the Commonwealth Register. (1 CMC § 9105(b))

AUTHORITY: These amendments are promulgated under the authority of 1 CMC § 2403(a), which authorizes DPW to maintain public roads, and 1 CMC § 2404, which grants DPW the authority to adopt rules and regulations.

THE TERMS AND SUBSTANCE: The Rules and Regulations outline updates to the schedule of fees and adoption of provisions concerning the Public Right-of-Way and Related Facilities Regulation.

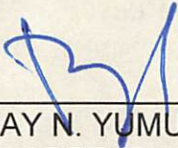
THE SUBJECTS AND ISSUES INVOLVED: These rules and regulations:

1. Amendments to update and modify § 155-20.1-005 under "definitions", and § 155-20.1-330 under "Permit Fees for Public Right of Way (R.O.W.) Temporary Occupancy and Road Cutting and Trenching";
2. Revisions will include re-numbering, re-lettering, deleting, and/or adding provisions for various sections including Purpose and Findings under § 155-20.1-001, Definitions under § 155-20.1-005, Public Right-of-Way: In General under § 155-20.1-101, Prohibition on Encroachments, Impairments, and/or Obstructions under § 155-20.1-110, Power and Authority under § 155-20.1-201, Permits under § 155-20.1-210, Time Limits under § 155-20.1-310, Conditions for Issuance of a Permit under § 155-20.1-320, Fees for Public Right of Way (R.O.W.) Temporary Occupancy and Road Cutting and Trenching under § 155-20.1-330 and Revocation, Suspension, and Penalties under § 155-20.1-335;

DIRECTIONS FOR FILING AND PUBLICATION: These proposed amendments 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)).

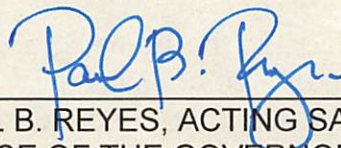
TO PROVIDE COMMENTS: Send or deliver your comments to Mr. Ray N. Yumul, Secretary of Public Works *Attn: Technical Services Division-Right-of-Way Section*, at the above address, fax or email address, with the subject line "Public Rights-of-Way and Related Facilities Regulations". Comments are due within 30 days from the date of publication of this notice. Please submit your data, views or arguments. (1 CMC § 9104(a)(2)).

Submitted by:


RAY N. YUMUL
SECRETARY OF DPW

12/13/24
DATE

Received by:


PAUL B. REYES, ACTING SAA
OFFICE OF THE GOVERNOR

12/17/2024
DATE

Filed and
Recorded by:


ESTHER R.M. SAN NICOLAS
Commonwealth Registrar

01.15-2025
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 17 day of December, 2024.


EDWARD MANIBUSAN
Attorney General

0 NOPR proposed regs on computer software P&S.wpd



Commonwealth Téel Jalúw kka Efáng Ilól Marianas
Bwulasiyol Sekkretóoriyol Public Works
2nd floor - Oleai Joeten Commercial Center
Saipan, MP 96950



Ray N. Yumul
Secretary

Arongorongol Toulap reel Ppwommwol Liwel ngáli Mwóghutughutúl "Public Rights-of-Way" me "Related Facilities" ngáli Bwulasiyol Public Works

Arongorongol Mángemángil Mwóghut: Bwulasiyol Public Works, Division-il Technical Services ra átirowa akkatééwowul liwel ikka e amwirimwiritiw ngáli Mwóghutughutúl "Public Rights-of-Way" me "Related Facilities". Mángemángil nge rebwe adóptááli mwóghutughut kkaal bwe ebwe lléghló, sáangi Administrative Procedure Act, 1 CMC § 9104(a). Ngare re adóptááli, ebwe bwunguló liwel kkaal seigh ráál mwiril aal akkatééwow Arongorongol Adóptaa me Ilól Commonwealth Register. (1 CMC § 9105(b))

BWÁNGIL: Ebwe arongowow liwel kkaal faal bwángil 1 CMC § 2403(a), iye e ayooraí bwángil DPW rebwe ayoora ammwelil aalil toulap, me 1 CMC § 2404, iye e ayoora bwángil DPW reel rebwe adóptááli allégh me mwóghutughut.

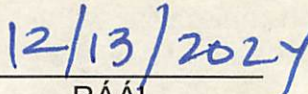
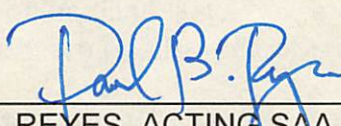
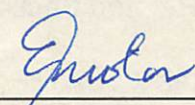
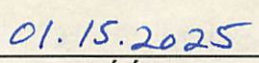
KKAPASAL ME AWEEWEEL: Allégh me Mwóghutughut kkaal e ayoora ffél mwóghutughut ngáli "schedule" reel óbwóss me adóptaal "provisions" ikka e súllúngáli Mwóghutughutúl "Public Right-of-Way and Related Facilities".

KKAPASAL ME AUTOL: Allégh me mwóghutughut kkaal:

1. Liwel kkaal e siiweli § 155-20.1-005 faal "weeweel", me § 155-20.1-330 faal "Permit Fees for Public Right of Way (R.O.W) Temporary Occupancy and Road Cutting and Trenching".
2. Ebwe schuulong llól siiwel ffél telil páápá, ffél isch, siiwel, me/ngare aschuulongol peiráágh ngáli akkááw táilil e schuulong "Purpose and Findings" faal § 155-20.1-001, Weeweel faal § 155-20.1-005, Public Right-of-Way: Llól alongal faal § 155-20.1-101, "Prohibition on Encroachment, Impairments, and/or Obstructions under § 155-20.1-110", "Power and Authority" faal § 155-20.1-201, "Permits" faal § 155-20.1-210, "Time Limits" faal § 155-20.1-310, "Conditions for Issuance of a Permit" faal § 155-20.1-320, "Fees for Public Right of Way (ROW) Temporary Occupancy and Road Cutting and Trenching" faal § 155-20.1-330 me "Revocation Suspension, and Penalties" faal § 155-20.1-335;

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow ppwommwol liiwel kkaal me llól Commonwealth Register llól táilil ppwommwol me ffél mwóghut ikka ra adóptáali (1 CMC § 9102(a)(1)) me ebwe appaschetá llól civic center me bwal llól bwulasiyol gobetnameento llól senatorial district, fengál reel English me mwáliyaasch. (1 CMC § 9104(a)(1)).

REEL ISIISILONGOL KKPAS: Afanga ngare bwughiló yóómw ischil kkapas ngáli Mr. Ray N. Yumul, Sekkretóoriyol Public Works *Attn: Technical Services Division-Right-of-Way Section*, reel féléfél iye e lo weiláng, fax ngare email, ebwe lo wóol subject line bwe “Public Rights-of-Way and Related Facilities Regulations”. Ebwe toolong ischil kkapas llól eligh ráál mwiril aal akkatééwow arongorong yeel. Isiisilong yóómw data, views ngare angiingi. (1 CMC § 9104(a)(2)).

Isáliyalong:	 RAY N. YUMUL SEKKRETÓÓRIYOL DPW	 RÁÁL
Bwughiyal:	 PAUL B. REYES, ACTING SAA BWULASIYOL SOULEMELEM	 RÁÁL
Ammwelil:	 ESTHER R.M. SAN NICOLAS Commonwealth Registrar	 RÁÁL

Sángi 1 CMC § 2153(e) (sángi átirowal AG reel mwóghutughut bwe aa fil reel fféerúl) me 1 CMC § 9104(a)(3) (sángi átirowal AG) reel ppwommwol mwóghutughut ikka e appasch bwe ra takkal amwuri fischiiy me legal sufficiency sángi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (arongowowul allégh me mwóghutughut). Ghikkill wóol _____ ráálil _____, 2024.

EDWARD MANIBUSAN
Soulemelemil Allégh Lapalap

0 NOPR proposed regs on computer software P&S.wpd



Commonwealth Gi Sangkattan Na Islas Mariñas
Ofisinan Sekretariun Public Works
2nd floor - Oleai Joeten Commercial Center
Saipan, MP 96950



Ray N. Yumul
Sekretariu

Nutisian Publiku put i Maproponi na Tinilaika siha gi "Public Rights-of-Way" yan Mañechettun na Regulasi3n Fasilid3t siha para i Dip3ttamentun Public Works

NUTISIAN I MA'INTENSIONA NA AKSI3N: I Dip3ttamentun Public Works, i Dibisi3n Sitbisiun Technical ma'aprueba guini i publikasi3n nu i tinattiyi na tinilaika siha para i iyon-ñiha "Public rights-of-Way" yan Mañechettun na Regulasi3n Fasilid3t siha. Ha intensiona para u ad3pta esti na regulasi3n siha komu petmanienti, sigun gi 3kton Administrative Procedure, 1 CMC § 9104(a). Yanggin ma'ad3pta, esti siha na tinilaika siempri umifektibu gi halum 10 dihas dispues di publikasion nu i Nutisian Adaptasi3n gi halum Rehistran Commonwealth. (1 CMC § 9105(b))

3TURID3T: Esti na tinilaika siha macho'gui gi p3pa' i 3turid3t nu 1 CMC § 2403(a), ni aturisa i DPW para u mantieni i chalan publiku siha, yan 1 CMC § 2404, ni man3'i i DPW i 3turid3t para u ad3pta i areklamentu yan regulasi3n siha.

I TEMA YAN SUST3NSIAN I PAL3BRA SIHA: I Areklamentu yan Regulasi3n siha ha na'r3ya i mamprisenti gi isketyu nu 3pas siha yan adaptasi3n i "provisions" gi intires i "Public Right-of-Way" yan Mañechettun na Regulasi3n Fasilid3t siha.

I SUHETU NI MASUM3RIA YAN ASUNTU NI TINEKKA: Esti na areklamentu yan regulasi3n siha:

1. Amenda para u manaprisenti yan modifika § 155-20.1-005 p3pa' "sust3nsian i pal3bra", § 155-20.1-330 p3pa' "3pas Malisensia para "Public Right of Way" (R.O.W.) Temporary Occupancy yan Road Cutting yan Trenching";
2. Tinilaika siempri kuntodu "re-numbering, re-lettering," mafufunas, yan/pat na'h3lum "provisions" para difirentis na seksiona siha ingklusu Minitu' yan Sinedda' siha gi p3pa' § 155-20.1-001, Sust3nsian i pal3bra gi p3pa' § 155-20.1-005, "Public Right-of-Way": H3lum Hener3t gi p3pa' § 155-20.1-101, Prohibisi3n gi "Encroachments, Impairments," yan/pat "Obstructions gi p3pa' § 155-20.1-110, Fuetsa yan 3turid3t gi p3pa' § 155-20.1-201, Malisensia gi p3pa' § 155-20.1-210, "Time Limits" gi p3pa' § 155-20.1-310, Kundisi3n para "Issuance" i Malisensia gi p3pa' § 155-20.1-320, 3pas para "Public Right-of-Way (R.O.W.) Temporary Occupancy yan Road Cutting yan Trenching gi p3pa' § 155-20.1-330 yan "Revocation, Suspension, yan Pena siha gi p3pa' § 155-20.1-335;

DIREKSIÓN PARA U MAPO'LU YAN MAPUPBLIKA: Esti i maproponi na tinilaika siha debi na u mapupblika gi halum Rehistran Commonwealth gi seksiona ni manmaproponi yan nuebu na ma'adapta na regulasion siha (1 CMC § 9102(a)(1)) ya u mapega gi kumbinienti na lugåt siha gi halum i civic center yan i ufisinan gubietnamentu siha gi kada distritun senadot, parehu Inglis yan i dos prinsipåt na lingguåhin natibu. (1 CMC § 9104(a)(1)).

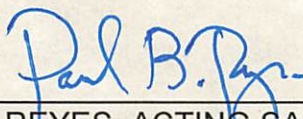
PARA U MAPRIBENIYI UPIÑON SIHA: Na'hanåo pat intrega hålum i upiñom-mu guatu as Siñot Ray N. Yumul, Sekretariun Public Works Attn: *Seksiona Sitbisiun Technical Dibisiön-Right-of-Way*, gi sanhilu' na address, fax pat email address, yan i suhetu na råya "Public Rights-of-Way" yan Mañechettun na Regulasiön Fasilidåt siha". I upiñon siha debi na u marisibi gi hålum 30 dihas ginen i fetcha nu publikasiön esti na nutisia. Put fabot na'hålum i infotmasiön-mu, views pat agumentu siha. (1 CMC § 9104(a)(2)).

Nina'hålum as:


RAY N. YUMUL
SEKRITARIUN DPW

12/13/2024
FETCHA

Rinisibi as:


PAUL B. REYES, ACTING SAA
UFISINAN GUBIETNU

12/17/2024
FETCH

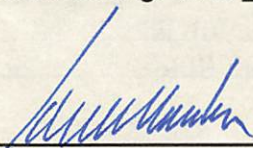
Pine'lu yan
Ninota as:


ESTHER R.M. SAN NICOLAS
Rehistran Commonwealth

01.15.2025
FETCHA

Sigun para 1 CMC § 2153(e) (I Abugådu Heneråt ma aprueba i regulasion siha na para u macho'gui kumu fotma) yan i 1 CMC § 9104(a)(3) (hentan inaprueban Abugådu Heneråt) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisienti ligåt ginin i CNMI Abugådu Heneråt yan debi na u mapupblika, 1 CMC § 2153(f) (publikasion areklamentu yan regulasion siha).

Mafetcha gi diha 17 gi December, 2024.


EDWARD MANIBUSAN
Abugådu Heneråt

*******MODIFICATION OR ADDITIONS*******

**SUBCHAPTER 155-20.1
PUBLIC RIGHTS-OF-WAY AND RELATED FACILITIES REGULATIONS**

Part 001 General Provisions

- § 155-20.1-001 Purpose and Findings
- § 155-20.1-005 Definitions
- § 155-20.1-010 Powers and Duties

Part 100 Public Rights-of-way

- § 155-20.1-101 Public Rights-of-way; In General
- § 155-20.1-105 Prohibition on Closure of Public Right-of way
- § 155-20.1-110 Prohibition on Encroachments, Impairments, and/or Obstructions

Part 200 Permits for Closure or Restriction from Department for Public Purposes

- § 155-20.1-201 Power and Authority
- § 155-20.1-205 Prohibition on Closure for Private Purpose
- § 155-20.1-210 Permits

Part 300 Permits for the Obstruction, Impairment, or Use of a Public Right-of-way

- § 155-20.1-301 Applications for and Granting of a Permit
- § 155-20.1-305 Public Notice of Application for a Permit to Encroach
- § 155-20.1-310 Time Limits
- § 155-20.1-315 Procedure; Form for Application
- § 155-20.1-320 Conditions for Issuance of a Permit
- § 155-20.1-325 Name of Permittee
- § 155-20.1-330 Permit Fees Public Right of Way (R.O.W) Temporary Occupancy
and Road Cutting and Trenching
- § 155-20.1-335 Revocation, Suspension, and Penalties
- § 155-20.1-340 [Reserved]
- § 155-20.1-345 Finality
- § 155-20.1-350 Stays of Determination

Part 400 Complaints

- § 155-20.1-401 Encroachment or Obstruction of Public Right-of-way
- § 155-20.1-405 Department Action
- § 155-20.1-410 Complaint Forms; Record Keeping
- § 155-20.1-415 Special Injury Not Required

§ 155-20.1-420 Party to Hearing

Part 500 Removal of Encroachment or Obstruction; Procedures and Remedies

§ 155-20.1-501 Removal of an Encroachment or Obstruction

§ 155-20.1-505 Remedies and Procedure for Remedies

§ 155-20.1-510 Procedures for Removal of Obstructions and/or Encroachments, and for Suspensions, Revocations, and Fines

Part 600 Notices and Service; In General

§ 155-20.1-601 Service

§ 155-20.1-605 Notice

§ 155-20.1-610 Notice for Expedited or Summary Proceeding

Part 700 Claims Against Department; Appeals to Secretary; Other Remedies

§ 155-20.1-701 Claims Against the Department or the Secretary Affecting Personalty or Real Property

§ 155-20.1-705 Appeals to the Secretary of Department Determinations and Other Actions

§ 155-20.1-710 Other Remedies

Part 800 Miscellaneous Provisions

§ 155-20.1-801 Construction of These Regulations

§ 155-20.1-805 Severability

Part 001 - General Provisions

§ 155-20.1-001 Purpose and Findings

(a) The Department has the power and authority to construct and maintain all public works and roads, ~~unless otherwise~~ provided by law and to construct, maintain and operate public signs, traffic signals, public vessels, public buildings, and public works functions previously performed by chartered municipalities, unless otherwise provided by law (1 CMC § 2403). The Department has jurisdiction over ~~this property~~ and these facilities for and the stated matters.

(b) The Department is required by law ~~the Legislature~~ to adopt rules and regulations regarding those matters over which the Department has jurisdiction (1 CMC § 2404; 2 CMC § 4923). The promulgation of regulations to accomplish these ends is necessarily and fairly implied in and incident to the powers expressly granted and is essential to the accomplishment of the declared objects and purposes.

(c) The Department's functions include repairing, improving and maintaining in good and safe condition all public roads, sidewalks, sewers, drains, and other public rights-of-way.

(d) The Department hereby finds and declares that the public is entitled to the uninterrupted, unimpeded, and unobstructed use and quiet enjoyment of every portion and part of public rights of-way and the public's rights therein are not limited to the traveled portion. The public includes pedestrians and vehicular travelers as well as property owners and users who receive services through the rights-of-way. The public's uses include driving vehicles, cycling, horseback riding, walking, gathering, and meeting for commerce, recreation, cultural, and religious matters and ceremonies.

§ 155-20.1-005 Definitions

(a) "Department" means the Department of Public Works and its successor agencies, as well as an instrumentality of the CNMI that is authorized by the Department, or otherwise by law, in writing to undertake specific notice, complaint, enforcement, and/or other regulatory action of the matters addressed in the regulations in this subchapter. Such instrumentality may include, but is not limited to, a Mayor or his/her designee.

(b) "Determination" means a decision which is reduced to writing and includes a description or discussion of the reasons for it.

(c) "Drain" whenever used in this subchapter, is a facility or surface feature which collects and transmits or conducts water that has originated as rainfall or otherwise collected on the surface of the ground, either covered or uncovered, and includes:

(1) The main stream or trunk and all tributaries or branches of a creek; a watercourse, wash, ravine, pond, hole, or ditch;

(2) A natural depression that, during rainy weather, collects water as a pond;

(3) A pipe, culvert, main, or constructed ditch;

(4) A sanitary sewer or a combined sanitary and storm sewer;

(5) A stone sewer or conduit composed of tile, brick, concrete, or other material; and/or

(6) The following mechanical or constructed devices:

(i) Structures or mechanical devices, that treat, purify, sift, or clean the flow of such drains;

(ii) Pumping or lifting equipment necessary to assist or relieve the flow of such drains; and/or (iii) A levee, dike, barrier, or a combination of any or all of same, constructed, or proposed to be constructed, for the purpose of drainage or for the purification, sifting, or cleaning of the flow of such drains;

(7) But shall not include a dam, impoundment, or other surface feature, pipe, conduit, and flowage rights used in connection with any of these, which is isolated so that it guides and/or retains water solely on one user's real property.

(d) "Encroachment" of a right-of-way means:

- (1) Something that comes within the following general description:
 - (i) Situated upon, in, and/or over a right-of-way without a permit, deed, lease, license, or other official written permission; and
 - (ii) Which may be of either a legal or a physical nature, or both;
- (2) Something that includes, but is not limited to, one of these specifically described things or conditions when located on, in, or over a right-of-way:
 - (i) Fences;
 - (ii) Signs;
 - (iii) Awnings;
 - (iv) Platforms and pads;
 - (v) Tanks, waste containers or storage containers;
 - (vi) Bollards, planters, dividers, and other traffic or landscaping constructions, whether poured in place or pre-built and placed on site;
 - (vii) Walls, footings, roofs, overhangs, and other components of buildings;
 - (viii) Fixtures, including but not limited to, heating, air conditioning and ventilating equipment, electrical equipment, lighting equipment, and plumbing;
 - (ix) Underground pipes, conduits, tanks, vaults, and traps; and
 - (x) Personal, movable property.
 - (xi) Parking Stalls, Loading/Delivery Zones

(e) "Highway" means a road designed to accommodate vehicles traveling at speeds greater than 30 miles per hour, including, but not limited to, Beach Road, Middle Road, (Chalan Pale Arnold) and Cross-Island Road (Chalan Pale Monsignor Guerrero).

(f) "Obstruction" of a right-of-way means:

(1) Something that comes within the following general description:

(i) An object located alongside, thereon, or therein, or overhead which is large enough and situated in such a way as to:

(A) Interfere with foot, animal, cycle or motor vehicle traffic, maintenance or the free passage of drainage waters; and/or

(B) Interfere visually with vehicular traffic and/or pedestrian cross traffic; and/or

(ii) An object, excessive noise, smoke or vapor, fuel or lubricant drip, or other pollution which creates a safety hazard or other traffic congestion;

(iii) An object or material located within a public drain so as to impede the free flow of water therein; and/or

(iv) Interference or impairment to travel, whether the travel is by foot, by animal, by cycle, or by motor vehicle; and/or

(2) Something that is one of these specifically described things or conditions in, on, over, or under, and when specifically stated, alongside, the public right-of-way:

(i) A fence or curb;

(ii) A ditch, cut, trench, hole, or other opening thereon;

(iii) A current of water directed so as to saturate, wash, or do damage;

(iv) A building, installation, roadside stand, gasoline pump and related facility, parking stalls or other structure or use;

(v) Signage located therein, thereon, overhead, or alongside, including but not limited to, a poster, billboard, sandwich board, free-standing, or trailer-mounted sign, other than traffic sign or signal:

(A) Which constitutes a safety hazard; and/or

(B) A prohibited sign, marking or signaling device under the CNMI Vehicle Code, 9 CMC § 5204, or succeeding provision;

(vi) A vehicle or load, including an animal which is being led, ridden or driven, or a vehicle drawn by an animal, which constitutes a safety hazard;

(vii) An immobilized or legally inoperative vehicle, push cart, wheelbarrow, or similar device:

(A) Constituting a safety hazard or interfering with maintenance operations therefor; and/or

(B) Left on or along a public right-of-way in excess of 7 days without a permit;

(viii) Unused poles, wires, structures or other appliances;

(ix) Solid waste;

(x) A fallen tree; and/or

(xi) A dead animal; and

(3) Provided that, this definition shall not apply to any person who shall:

(i) First secure a lawful permit ~~and~~ or other authorization for the obstruction through the Department;

(ii) Lawfully fell any tree for use and shall immediately remove the same out of the right-of-way; or

(iii) Desire to drain or otherwise improve his/her property, through, or along which property a public right-of-way may pass, and who shall:

(A) Give due notice to the proper government authority of such intention, and who shall secure from such government authority any required written permission for any work or excavating s/he proposes to do within the limits of the right-of-way; and

(B) Further, with respect to which the Department shall not have communicated in writing an objection on the grounds of public health, safety, or welfare.

(g) "Person" includes, but is not limited to a natural person, non-governmental organization, firm, association, partnership, limited liability company, corporation, and/or a government agency or other government corporation, political subdivision, or instrumentality, of the CNMI or the United States. Except that, for the purposes of 2 CMC §§ 4131-36 (PL 5-41) (cutting or trenching into a roadway) the definitions of the CNMI Code, 2 CMC § 4132 shall control, thereby excluding the CNMI and its employees.

(h) Permit-as used in these regulations shall mean a permit issued by an authorized government official authorizing one or more activities on the Public Right-of-Way as specified in the permit.

(i) ~~(h)~~ Public Right of Way (R.O.W.) - "Public," with respect to "right of way" refers to the right of the public to travel upon or otherwise use the way, and is not restricted to whether the public actually uses the way.

(j) ~~(i)~~ "Remediation" typically includes all of the following, but is not limited to:

- (1) Removing an encroachment or obstruction;
- (2) Filling up any ditch or excavation;
- (3) Regrading, including regrading side gutters or ditches;
- (4) Reconstruction of pre-existing pavements, supporting materials and related fixtures and/or utilities; and
- (5) Obtaining related permits and approvals.

(k) ~~(j)~~ "Remediation costs" include, but are not limited to:

- (1) The direct costs, fees, and expenses of remediation;
- (2) The indirect costs, fees, and expenses of remediation, including but not limited to, contractors' overheads and contractors' reasonable profits;
- (3) Related legal and consulting expenses and fees;
- (4) Related public safety costs, including but not limited to, wages, salaries, and other agency costs, both direct and indirect;
- (5) The related wages, salaries, other costs, both direct and indirect, for Department and other CNMI employees and contract employees;
- (6) Equipment costs, including but not limited to, rental or the equivalent usage of owned equipment, maintenance and repair, and the purchase of required specialized equipment.

(l) ~~(k)~~ "Right-of-way" includes, but is not limited to roads, streets, sidewalks, paths, trails, beds for roads or railways, bridges, bridge abutments, culverts, drains, and their foundations and supports, which are dedicated in whole or in part to the passage of people, animals, vehicles, and/or drainage water.

(1) "Road" means road, street, alley, way, or other thoroughfare through or over which vehicles travel. Except that, for the purposes of 2 CMC §§ 4131-4136 (PL 5-41) (cutting or trenching into a roadway) the definition of the CNMI Code, 2 CMC § 4132 for a "road" shall control.

(m) "Safety hazard" includes, but is not limited to an object, fluid, smoke, aerosol, pollutant, and/or other material and/or excessive noise that:

- (1) Interferes with a person's ability to see or hear another person or object on a public right of-way;
- (2) Impedes the flow of vehicular or pedestrian traffic in such a way as to endanger property, life, or health;
- (3) Impedes the flow of stormwater drainage, electric or water line or wastewater; and/or
- (4) Otherwise endangers the public health or safety.

(n) “Secretary of Public Works” means the Secretary of the Department, or other chief executive officer of the Department, his/her designee, or, in the case of a hearing conducted pursuant to the regulations in this subchapter, the term shall also include an administrative hearing officer assigned pursuant to the Secretary’s order of reference.

(o) “Writing” includes hard copy, and such electronic formats as fax, email, pdf format, and word processing formats which are generally commercially available.

§ 155-20.1-010 Powers and Duties

(a) Specific powers. The Department shall have all powers provided it by law to ensure compliance with the requirements of the regulations in this subchapter, including but not limited to:

- (1) Inspection at reasonable times;
- (2) Use of or entry upon private land incidental to works temporarily undertaken;
- (3) Giving of notices;
- (4) Granting of permits;
- (5) Conduct of hearings and issuance of orders; and
- (6) Levying of fines, penalties, and suspension and/or revoking of permits.

(b) Enforcement and delegation of power. The regulations in this subchapter shall be read to authorize their enforcement by the Department and any other instrumentality of CNMI government, including but not limited to, the Office of a Mayor, as provided by agreement with the Department.

(c) Public safety. The Department may request the assistance of the Department of Public Safety in enforcing the provisions of the regulations in this subchapter and/or protecting the public health, safety, and welfare with respect to them.

(d) Determinations as orders. The Department shall issue its determinations whenever practicable as orders, which shall be titled and numbered.

Part 100 - Public Rights-of-way

§ 155-20.1-101 Public Rights-of-way; In General

(a) The public rights-of-way available for Commonwealth roads, streets, and other rights of way shall be held inviolate for Commonwealth right-of-way purposes, except as provided in the regulations in this subchapter.

(b) These regulations shall not interfere with the following publicly beneficial use by the following entities, as provided herein:

- (1) The entities:

- (i) The CNMI government and/or its political subdivisions, agencies, and instrumentalities;
- (ii) A public utility; and/or
- (iii) A private telecommunication entity.
- (2) The use:
 - (i) Use of a public right-of-way for the purpose of laying or erecting pipelines, sewers, wires, cables, poles, ditches, drains, railways, for a public purpose, under an existing agreement or permit, or such agreement or permit hereinafter made by the Department or pursuant to a statute or regulation;
 - (ii) Provided that:
 - (A) Such use does not interfere with the public's use of the property, as provided in these regulations, except for reasonable interferences during permitted construction; and
 - (B) No private telecommunication or electrical cable or wire shall be placed in, on, or over the right-of-way until the person seeking to do so first had secured a permit and provides a bond or similarly secure undertaking payable to the Department in an amount to be determined by the Secretary of Public Works.

§ 155-20.1-105 Prohibition on Closure of Public Right-of-Way

- (a) No person shall close a public right-of-way. Except that a person may secure from the Department a permit to close a public right-of-way to a limited extent for public purposes over limited periods of time.
- (b) An unauthorized closure of a public right-of-way is a public nuisance, and, for the purposes of the regulations in this subchapter, may be treated as an encroachment and/or obstruction.

§ 155-20.1-110 Prohibition on Encroachments, Impairments, and/or Obstructions

- (a) No person shall encroach upon, obstruct, or impair a public right-of-way. Except that a person may secure from the Department a permit to obstruct, impair, or encroach upon a public right-of-way.
- (b) It is unlawful for any person to commence work in a public right-of-way until ~~DPW~~ the Department has approved the application and until a permit has been issued for such work, except as specifically provided to the contrary in this specification. Duration of the permit shall be set at the time of issuance of the permit. If work is not completed pursuant to Permit Application, or the permit will ~~has~~ expired. An extension may be applied for and must be issued prior to commencement of any further work. ~~An unauthorized encroachment upon, impairment or an obstruction of, a right-of-way is a public nuisance.~~
- (c) The Department shall issue a "Cease and Desist Order" directed to any person or persons encroaching, ~~or doing, and/or~~ causing any work to be done in the public right-of-way without a permit. Any person found to be encroaching and/or doing any work in the

public right-of-way without having obtained a permit, shall be required to pay the applicable permit fee and/or penalties authorized by these regulations. Unless otherwise explicitly stated, nothing in the regulations in this subchapter shall be construed to require as a precondition to the Department's determining an encroachment or obstruction:

- (1) The notification thereof to the encroaching and/or obstructing person;
- (2) A special injury; and/or
- (3) A financial loss.

(d) The determination of an impairment, obstruction and/or encroachment shall be without regard to:

- (1) Degree and/or type;
- (2) Permanence and/or temporary nature;
- (3) Whether the property interest obstructed and/or encroached upon is claimed to be in fee, or through lease, license, designation, and/or easement;
- (4) Whether the impairment, obstruction or encroachment is in fact owned, leased, pledged, designated, and/or licensed; and
- (5) Whether a person directly created the impairment, encroachment, and/or obstruction him/herself and/or employed another to do so, and/or was employed by another to do so.

(e) It is unlawful for any person to erect a fence, scaffold, or other structure, and/or to occupy or use any portion of a public way for the storage of construction or landscaping material, or privately owned garbage cans trash bins and not limited to those maintained by a trash collection business and/or equipment without first making application for and receiving a permit from the Department. The permit may set forth such restrictions and/or conditions as the Department deems necessary or appropriate in its sole discretion. No fence construction and no building material shall remain in place in any public way after the ending expiration date of the approved permit.

(f) Nothing in these regulations shall be construed to prohibit the valid and authorized exercise of the rights of free speech and assembly, as provided under the U.S. and Commonwealth Constitutions and the laws of the Commonwealth.

Part 200 - Permits for Closure or Restriction from Department for Public Purposes

§ 155-20.1-201 Power and Authority

The Department may, by permit, provide for the closure of a public right-of-way to some, but not all, uses for public purposes at the discretion of the Secretary of Public Works.

§ 155-20.1-205 Prohibition on Closure for Private Purpose

The Department may not permanently close a public right-of-way for private purposes.

§ 155-20.1-210 Permits

The Department shall provide an application form for a permit to temporarily close a public right-of-way. Any person may seek request for a permit. The Department may grant a permit for the following purposes and reasons, as requested or with conditions. Conditions may include, but are not limited to, the provision of a bond, deposit, undertaking, or other security.

(a) Bases for granting a permit.

(1) Short term permit. The Department may grant a permit for a period less than 8 days for a person who seeks to hold an event of a temporary nature for substantially public purposes, including but not limited to:

- (i) A parade, assembly, speech making, or cultural or religious event;
- (ii) A festival, fair, or other public amusement; or
- (iii) An event of a cultural, religious, or familial nature that is limited in duration and for which a suitable private venue is not available.

(2) Long term permit. The Department may grant a permit for a period greater than seven days but no greater than a year for a person who seeks to hold an event of a temporary, but repeating, nature for substantially public purposes, including but not limited to a festival, fair, market, cultural presentation, or other public amusement.

(b) Special use Permit ~~district permanent permit~~.

(1) For a special use ~~district~~ which has been declared by the Governor:

- (i) The Department may grant a ~~permanent~~ special use permit for a person ~~why~~ who seeks to provide to the public an integrated group of uses of a repeating nature.
- (ii) The Department shall may grant a ~~permanent~~ permit to an instrumentality of the Commonwealth for the use of a special use district, including but not limited to planning and/or improvement districts for the Garapan District designed to create a pedestrian mall and related facilities, and/or drainage treatment, and/or cultural center and related facilities.

(2) In order to issue a ~~permanent~~ special use permit, the Department shall determine that the proposed use/s(s) will likely:

- (i) Be accessible to the public;
- (ii) Enhance the character of the district;
- (iii) Contribute to the CNMI's economic or cultural development;
- (iv) Reasonably balance the uses of the public and the needs of contiguous businesses and residences;
- (v) Not unreasonably burden public agencies to provide utility or public safety services.

(3) A subdivision of the Department tasked with construction and/or maintenance may apply for such a permit.

(4) The ~~permanent~~ special use permit shall be subject to review for renewal, termination, and/or modification on a periodic basis. For the first year such review shall

be conducted on a quarterly basis. For succeeding years such review shall be conducted on an annual basis.

(c) Notice of permit applications. The Department shall provide notice of a permit request to the Secretary of a Department directly affected by the permit, and, upon request, to the offices of the local Mayor and the Governor. In all cases the Department shall provide notice of the permit request to the Secretary of the Department of Public Safety.

(d) Objections to a permit. A person having an interest in the closure of a right-of-way and objecting to closure shall have the right to complain to the Department, pursuant to the procedures provided in the regulations in this subchapter for complaints.

Part 300 - Permits for the Obstruction, Impairment, or Use of a Public Right-of-way

§ 155-20.1-301 Applications for and Granting of a Permit

(a) A person seeking to impair, obstruct, or encroach upon a public right-of-way shall obtain a permit from the Department. The Department shall provide for permit applications, forms, and fees. Any person desiring to perform any work of any kind within a public right of way shall be subject to these regulations and shall make application for a permit. Such application shall be filed with the Department. Any work involving installation or alteration in the public right of way will require plans, traffic plans, and specifications showing the proposed work in sufficient detail to permit determination of (such relationship and compliance); and the application shall not be approved until such plans or sketches are filed with and approved in writing by the Department. The Department may deny issuance of permits to contractors, utility companies, or other permit applicants who have shown by past performance (or lack thereof) that they will not consistently conform with Department requirements.

(b) A traffic plan must be submitted by the permittee together with its application. Permittee's traffic plan must be in conformance with current "MUTCD" and approved in writing by the Department prior to excavation, construction, or any occupation of the public right-of-way.

§ 155-20.1-305 Public Notice of Application for a Permit to Encroach

The Department may, when it deems appropriate, require or provide for the publication, including or limited to posting, of a request for a permit. In deciding whether to require publication, the Department shall consider the impact on the public, the extent of public use of the location, type of use, the permit requestor's history for and ability to follow permit conditions, length of use, and likely cost of publication.

§ 155-20.1-310 Time Limits

The Department shall act on a request for a permit with reasonable expediency. If no technical investigation is required, the permit decision shall be made as a determination within seven days.

§ 155-20.1-315 Procedure; Form for Application

- (a) The Department shall develop forms for requesting a permit.
- (b) The forms shall secure the information which is reasonably necessary for the Department to render an accurate, balanced, and fair decision. Forms shall include a provision for swearing that the statements made to secure the permit are true and correct and made upon the penalties for perjury.

§ 155-20.1-320 Conditions for Issuance of a Permit

- (a) The Department may condition the issuance of a permit on the payment of a fee, a security deposit, bond, and/or undertaking, and public liability insurance.
- (b) Where the applicant seeks to modify physically the public right-of-way, or where the Department reasonably anticipates expenses to supervise or monitor the requested use, the Department shall require the payment of a refundable security deposit.
- (c) Where no modification of the public right-of-way is intended or likely, the amount of the deposit ~~and/or insurance shall not be so high as to unreasonably interfere with the exercise of a First Amendment right~~ be set at a reasonable rate.
- (d) Applicants shall provide evidence of liability insurance naming the Commonwealth as an additional insured in such amounts as may be requested by the Department in its sole discretion.
- (e) Security deposits for permits and permitted uses shall be requested by the Secretary of Public Works.
- (1) The permittee shall assign a qualified person to perform work in the public way or within the road right of way. This qualified person must possess the ability to interpret specification and execute the approved drawings effectively. They bear responsibility for ensuring the quality and accuracy of the work performed. Any discrepancies or shortcomings in the work must be rectified promptly. The permittee is obligated to provide a one-year warranty, guaranteeing the work to be free from defective materials and workmanship. Persons desiring to perform work in the public way shall be properly licensed in the Commonwealth of the Northern Mariana Islands. When required, the permittee and shall pay the assigned value of the restoration work or post a performance bond. The bond amount shall be in an amount no less than the greater of 150% of the total contracted cost the assessed value of the permitted work or \$50,000, and shall

remain in full force and effect for a period of one year after the date the work is completed and accepted by the Department in writing. A single bond may be posted by a permittee to guarantee performance for one or more permits if approved by DPW and agreed to, in writing, by the bonding company. The minimum bond amount shall be assessed based on the number of permits issued to each permittee.

(2) Such bond or undertaking shall be calculated to cover the Department's costs in:

- (i) Completing, repairing, and/or maintaining a site or an excavation and/or other works in order to place property in no worse a state than prior to the permitted activity; and
- (ii) Compensating persons for torts directly related to and caused by the works for the placement.

(f) Specifications. All road cutting on rights-of-way shall be restored in accordance with Department of Public Works specifications as set forth in ~~Schedule 320.1~~ the road cutting & restoration permit application.

(g) Permit Closeout: Upon completion of project, permittee shall Inform DPW of project completion and request for final inspection. A final closeout report and acceptance by DPW shall be issued upon satisfaction of work.

(h) Safety. Permittee must be in compliance with Occupational Safety & Health Administration (OSHA) on job site. Workers/employees have a right to a safe workplace.

§ 155-20.1-325 Name of Permittee

The Department shall issue the permit in the name of the applicant and/or other party it deems responsible. In the case of a road cutting permit, the Department shall issue the permit in the name of both the beneficiary of the permit and the contractor performing the permitted work (ex. Commonwealth Utilities Corporation AND contractor) both of whom shall be jointly and severally liable for violations and/or defects in restoration construction.

§ 155-20.1-330 Permit Fees Public Right of Way (R.O.W) Temporary Occupancy and Road Cutting and Trenching

The Department shall issue payment voucher and collect receipts prior to issuance of any permits identified below. Issuance of permits shall depend on completion of provided documents and the time availability for conducting site inspections prior to issuance. Anticipated timeline for issued permits shall be provided to applicant based on workload.

(a) Signage, Parking, and Other Use of Public Right-of-Way Standard Fee Schedule:

<u>Permit Administrative Fees (New/Renewals)</u>	<u>\$50.00</u>
<u>Monthly Inspection Maintenance Fees</u>	<u>\$50.00</u>
<u>Additional Location Fees</u>	<u>\$25.00</u>

1. This Activity involving of erecting or placement of a temporary board, poster, banner, a piece of cloth or bunting, placard, or other temporary sign varying in size, color and design which is temporarily displayed, posted, erected, hung, or tied in a certain public Right-of-Way to advertise or to convey information or a direction shall only be permitted Temporarily no more than a year.
2. Permit administration fees for Parking stalls shall be assessed for every 127 square meters (equivalent to 4 parking stalls with aisle). Any area exceeding this requirement will incur an additional fee of \$50.00, corresponding to the established permit administrative fees.
3. Permit administration fees for signage shall be collected for a maximum of 2 signage locations. Each additional location shall be charged an extra fee.
4. Public ROW zones for the placement of signboards or banners are categorized as primary, secondary and tertiary zones identical to vehicular parking
5. CNMI Government Agencies and non-commercial Humanitarian or Social Services non-profit organizations shall not be charged a fee for local government-funded signboards for public awareness purposes. The fees for the placement of signboard by other Applicants are shown in the table below. The Secretary of Public Works shall have the discretion to waive any permit fee if approved.

(b) Political Signs on Public Right-of-Way Fees:

<u>Permit Administrative Fees (each signboards up to 4ft x 8ft size)</u>	<u>\$20.00</u>
<u>Semi-Annual Non-Compliant Fines per sign</u>	<u>\$150.00</u>

1. Political sign boards cannot be erected sooner than six (6) months before the election date. A candidate running for office on a CNMI wide election may erect and place a maximum of one hundred (100) signboards on each senatorial district-Public Right-of-Way.
2. No political signboards shall be placed on the western beach side along Tun-Thomas P. Sablan and along Beach Road Route 33 in Saipan, or such other areas as determined by the Department.
3. No political signboard shall contain any messages, lights, symbols, or trademarks that resemble any official traffic control devices and/or emergency vehicles.
4. No political signboards shall contain internal/external illumination, light-emitting diodes luminous tubing, fiber optics, luminescent panels, other flashing, moving or animated features.
5. No political signboards shall be placed 500 feet within any school zones, government occupied buildings and/or potential polling places on Public Right-of-Way.
6. No political signboards shall be placed or erected on any trees on Public Right-of-Way.
7. No political signboards shall be placed or erected on any utility poles.

- 8 No political signboards shall be placed or erected on any highway traffic safety signs and/or street identifying signs.
- 9 No political signboards shall be placed or erected within 100 feet from any traffic signal lights and/or intersection.
- 10 No political signboards shall be placed or erected within 6-10 feet of any main travel lane and/or 200 feet from any intersection and/or bus stops on Public Right-of-Way.
- 11 No political signboards shall be placed on any Public Right-of-Way adjacent to government/public occupied buildings; and/or facilities; public monuments; parks and tourist sites.
- 12 No political signboards exceeding dimensions of 4ft by 8ft per candidate shall be placed on any Public Right-of-Way or public lands.
- 13 All permittees shall be responsible for removing and securing all signboards upon issuance notice of severe weather beyond the norm.
- 14 All regulations mandated by zoning office and election commission shall be in compliance as well as these above.
- 15 All unpermitted signs shall be removed immediately upon discovery and a notice with the fines shall be provided to the candidate for remedy.

(c) Community Public Events Fees:

<u>Permit Administrative Fee</u>	<u>\$50.00</u>
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- 1 The administrative fee involves temporary short-term use of Public Right-of-Way for government or non-commercial activities that benefit the community (e.g., festivals, holiday celebrations, parades) may be waived only upon a written request and the written approval by the Secretary of Public Works, provided the permitted event or activity shall be no more than the duration of thirty days (30).
- 2 Fees shall be enforced should it exceed the thirty days (30) period.

(d) Temporary Road Closure (TRC) Fees:

<u>Permit Administrative Fee</u>	<u>\$50.00</u>
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- 1 A written request stating its purpose and duration for a T.R.C. must be submitted to the Secretary of Public Works.

(e) Encroachment Violation Fees:

<u>Encroachment Violation Fee</u>	<u>\$500.00</u>
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- 1 Any encroachment identified by the Department shall receive a notice of Encroachment and if by the end of the term identified in the notice, the encroachment is not removed, the encroachment shall be applicable to a violation fee to incur at 20%

each month until encroachment is removed and/or a response is received by the department.

(f) Roadside Vendors Fees:

<u>Monthly Fee for Concession (up to 100sq.ft. 10 square meters)</u>	<u>\$50.00</u>
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- 1 The use of a temporary structure, vehicle or mobile canteen for the sale of local produce or fish, other perishable or non-perishable items such as handicrafts, trinkets, souvenirs or other goods, at a permitted distance from the side of a road or thoroughfare at a location(s) or designated area(s) or assignment(s) on Public Right-of-Way be permitted on the same financial terms as other concession "Temporary Occupancy Agreement" (TOA).

(g) Liberation Day Parade Lots Fees:

<u>Parade Lot Description</u>	<u>Fee</u>
<u>1. 10ft x 10ft (mandatory)</u>	<u>\$10.00</u>
<u>2. 10ft x 20ft (mandatory)</u>	<u>\$15.00</u>
<u>3. 20ft x 20ft (mandatory)</u>	<u>\$20.00</u>
<u>4. Official Issued Permit (Duplicate)</u>	<u>\$5.00</u>
<u>5. Copy of Lot Map (Optional)</u>	<u>\$5.00</u>

- 1 Liberation Parade Lots are to be issued by Right-of-Way Staff. Reservation are not accepted and the issuance date of lots will be determined by Right-of-Way Staff in coordination with Liberation Day Parade Board. Permit conditions and requirements are to be determined by the Department annually. All permits are issued at the discretion of the primary authorized Right-of-Way Section Staff. All paid permits are non-refundable and only transferable through Right-of-Way Section.

(h) Other Fees for Public Right-of-Way

1 Please verify with the office for what sizes are available to make copies of before making payment.

<u>Description</u>	<u>Duplicate Fee</u>
<u>Copy of permit, certificate and other documents less than 10 pages (10% of the fee amount will be charged to the 11th and succeeding sheet).</u>	<u>Black & White-\$5.00</u> <u>Color-\$10.00</u> <u>Mixed-\$7.00</u> <u>Electronic/digital copy-\$10.00</u>
<u>Maps</u>	<u>Paper size \$/Sheet</u>

A. <u>Black & White</u>	<u>Letter (8.5x11)</u>	<u>\$1.00</u>
	<u>Legal (8.5x14)</u>	<u>\$2.00</u>
	<u>Tabloid (11x17)</u>	<u>\$3.00</u>
	<u>Arch C (18x24)</u>	<u>\$5.00</u>
	<u>Arch D. (24x36)</u>	<u>\$7.00</u>
B. <u>Colored</u>	<u>Letter (8.5x11)</u>	<u>\$3.00</u>
	<u>Legal (8.5x14)</u>	<u>\$5.00</u>
	<u>Tabloid (11x17)</u>	<u>\$7.00</u>
	<u>Arch C (18x24)</u>	<u>\$10.00</u>
	<u>Arch D. (24x36)</u>	<u>\$15.00</u>

(i) Fee Roads Cutting and Trenching Fees:

(a) ~~For road cutting permits DPW shall charge and~~ require the Permittee ~~shall to~~ pay upon issuance of the permit, fees for costs associated with the work performed under the permit as outlined in the Fee Schedule located at subsection (d) below. Such costs could include costs for reviewing the project and issuing the permit, inspections of the project, deterioration of the Public Right-of-Way, or diminution of the useful life of the Public Right-of-Way, and other costs associated with the work to be done under the permit. ~~All costs shall be assessed in a non-discriminatory manner.~~ Additional charges to cover the reasonable costs and expenses of any required engineering review, inspection, and work site restoration associated with each undertaking may be charged by the Department DPW to each permittee, in addition to the permit fee. For other Use Permits, the Department may charge a fee for a permit that is reasonably calculated to cover the costs indicated below. Provided, however, that the Department may charge no more than the following for the following purposes:

- (1) Use periods of less than one day ~~or CNMI agency:~~ No charge.
- (2) Use periods of less than four days: No more than \$50;
- (3) Use of a special district or specially designated events area: No more than \$500.

(b) The costs upon which a permit fee may be based are for:

- (1) Issuing the requested permit;
- (2) Supervising, as required, the permitted activity;
- (3) Publication of notice;
- (4) Required investigation or technical review; and/or
- (5) The conduct of a hearing.

(c) For the purpose of this section the Department shall create and maintain for public inspection a list and description of special districts and specially designated events areas, and the permit fees for each.

(d) Fee Schedule. -Road cutting and trenching

Description:	Fee:
Application	\$25
Road Cutting and Restoration	\$100
Site Inspection	\$100
Re-Inspection	\$50
Final Inspection Per Location	\$100
Amendment to Permit	\$25

§ 155-20.1-335 Revocation, Suspension, and Penalties

(a) The Department shall deny ~~or revoke~~ a permit for any of the following reasons:

(1) Discovery that false or misleading information was given on an application, or material facts were omitted from an application. False or misleading information does not include information which the applicant reasonably believed, after exercising due diligence, was correct at the time of the application;

(2) The permittee was or has become ineligible to obtain a permit;

(3) Any cost or fee required to be paid by the regulations in this subchapter has not been paid;

(4) The permittee knowingly provides, or with the exercise of due diligence should have known that s/he was providing, the permitted use to another person who uses the right-of-way in violation of the terms of a permit;

(5) The use of the permit will result, or has resulted, in an unsafe or hazardous condition, or a condition injurious to the public health, safety, or welfare;

~~(6) The permittee knowingly denies, or through the exercise of due diligence should have known that he/she was denying, access to law enforcement personnel or Department personnel during business hours to any portion of the permitted premises;~~

~~(7) The permittee attempts to transfer a permit or any interest in a permit;~~

~~(8) The permittee fails to maintain the premises in the condition provided in the permit;~~

~~(9) The permitted use will violate, or has violated, a statute, ordinance, rule, or regulation of the CNMI; and/or~~

~~(10) The permittee has knowingly violated the terms of another Department permit and there is no evidence that the permittee will follow the requirements of the requested permit.~~

~~(14)~~ (6) Provided that, notwithstanding any other provision of these regulations, for violations of 2 CMC §§ 4133-36 (cutting and trenching roads) any person who violates these code provisions shall be denied a permit until such person complies with the provisions.

(b) The Department may revoke a permit for any of the following reasons:

(1) The permittee knowingly uses, or with due diligence should have known that the permittee was using, the right-of-way in violation of the terms of a permit;

(2) The permittee attempted to transfer his/her permit or any interest in his/her permit to someone else without prior Department approval;

(3) Another application for a permit to do the same thing or the application for the renewal of a permit to do the same thing was denied and the administrative denial became final; or

(4) Any cost, fee, or fine required to be paid has not been paid.

(c) The Department shall may revoke a permit for any of the following reasons:

(1) Discovery that false or misleading information or data was given on any application, or material facts were omitted from any application. False or misleading information does not include information which the applicant reasonably believed, after exercising due diligence, was correct at the time of the application;

(2) The permittee has become ineligible to obtain a permit;

(3) The permittee knowingly denies, or through the exercise of due diligence should have known that s/he was denying, access to law enforcement personnel or personnel of the Department during business hours to any portion of the permitted premises; or

(4) The permittee has been found by the Department to have violated the terms of the permit more than twice within a period of twenty-four months, not including any period of suspension.

(5) The permittee knowingly uses, or with due diligence should have known that the permittee was using, the right-of-way in violation of the terms of the permit;

(6) the permittee attempted to transfer his/her permit or any interest in his/her permit to someone else without prior Department approval;

(7) Another application for a permit to do the same thing or the application for the renewal or a permit to do the same thing was denied and the administrative denial becomes final; or

(8) Any cost, fee, or fine required to be paid has not been paid.

(d) A person whose permit is revoked shall be ineligible to receive a permit for one year from the date of revocation. For this purpose, "person" includes the permittee, its owner/s and principals, a relative thereof, and/or another person owned or controlled by them.

(e) The Department may either fine a permittee, suspend a permit, or both fine and suspend, for any of the following reasons:

(1) Any cost, fee, or fine required to be paid has not been paid;

(2) The permittee fails to maintain the permitted premises in the condition contemplated by the permit or in a safe condition;

(3) The permit has otherwise been violated;

(4) There is a ground for suspension of the permit; or

(5) There is a ground for revoking the permit.

(f) The Department shall immediately suspend a permit if it finds:

(1) A ground for revocation.

(2) The permittee has apparently violated the terms of the permit, and the public safety, health, or welfare requires immediate suspension.

(g) Fine for failure to obtain a permit. The Department shall fine a person who should have secured, but did not secure, a permit. Any fine may be appealed to the Secretary of the Department within 30 days of issuance thereof.

(h) Penalties for violation. Upon finding a violation the Department may:

(1) Impose a civil fine of up to five hundred dollars per day; and/or

(2) Suspend the permit for periods of not less than seven days and no longer than twenty-eight days.

(3) Provided that, for violations of 2 CMC §§ 4133-36 (cutting and trenching roads) the penalties shall be as set forth in:

(i) Civil Fines.-Road cutting

Description:	First Offense:	Second Offense:	Third Offense:
2 CMC § 4133—Permit Required	\$500	\$2,000	\$5,000
2 CMC § 4134—Permit Application	\$500	\$2,000	\$5,000

(ii) Civil Penalty.Road Cutting

Description	Amount:
2 CMC § 4135—Repair of Road	Per Day Penalty not less than \$150 or \$250

(i) Violation of Specifications.

(1) If DPW Inspectors determine construction practices and/or materials, i.e. backfill, road base, asphalt and/or concrete, do not meet specifications, the DPW Inspector may:

(i) Suspend or revoke the permit;

(ii) Issue a stop work order;

(iii) Order removal and replacement of faulty work;

(iv) Require an extended warranty period;

(v) Negotiate a settlement to be applied toward future maintenance costs; and/or

(vi) Make demand upon the permittee's bond to correct faulty work.

(2) Settlement of trench backfill, road base, asphalt, and/or concrete will be incontrovertible evidence of inadequate compaction of fill materials.

§ 155-20.1-340 [Reserved]

§ 155-20.1-345 Finality

A determination shall become final if not appealed within thirty days.

§ 155-20.1-350 Stays of Determination

The fact that the Department's determination or a trial court's judgment relating to the Department's determination is being appealed shall not automatically stay or have other effect, and the determination shall stand until such time as the judgment of the trial court is reversed. The Department, the Secretary, or a court may, upon application, stay a determination of the Department.

Part 400 - Complaints

§ 155-20.1-401 Encroachment or Obstruction of Public Right-of-way

Any person may complain to the Department about or against an encroachment or obstruction of a public right-of-way. Provided that the Department shall not make the filling out of a form by a member of the public a necessary condition for making a complaint.

§ 155-20.1-405 Department Action

Any person aggrieved by the Department's action under the regulations in this subchapter may complain to the Department and shall be given the opportunity for a hearing.

§ 155-20.1-410 Complaint Forms; Record Keeping

The Department shall provide forms and record-keeping for complaints.

§ 155-20.1-415 Special Injury Not Required

The Department shall entertain the complaint against an encroachment or obstruction without regard to whether the complainant has suffered a special injury.

§ 155-20.1-420 Party to Hearing

A complainant shall have the right to participate as a party in a hearing on the complaint.

Part 500 - Removal of Encroachment or Obstruction; Procedures and Remedies

§ 155-20.1-501 Removal of an Encroachment or Obstruction

(a) In order to remove an encroachment or obstruction to a public right-of way the Department shall use the standard removal procedure described in § 155-20.1-510, except as provided otherwise.

(b) Except, if the Secretary finds that exigent circumstances require expedited removal of an encroachment or obstruction to a public right-of-way the Department may utilize the

expedited procedure described in § 155-20.1-501. In order to find exigent circumstances the Secretary must certify that expedited removal is required to:

- (1) Respond to a health or safety emergency;
- (2) Eliminate a condition creating substantial immediate risk of harm;
- (3) Protect the surface, bed, or structure of the right-of-way and that delay would allow the material degradation thereof;
- (4) Provide for works designed to protect the public health or safety; or
- (5) Advance a public works project designed to benefit the public safety, health, or welfare and that, on balance, the public benefits in proceeding on an expedited basis outweigh the costs of following the standard removal procedure.

§ 155-20.1-505 Remedies and Procedure for Remedies

(a) Removal

- (1) An unauthorized encroachment or obstruction shall be removed and remediated, and, upon the Department's determination, at the owner's expense.
- (2) An unauthorized encroachment or obstruction which provides a serious and immediate interference or impairment shall be removed immediately and, upon the Department's determination, at the owner's expense.
- (3) The Department may order the encroaching or obstructing person to remove and remediate, or it may remove and remediate the encroachment or obstruction itself, through: its staff; by agreement for the use of the staff of another instrumentality of the Commonwealth government; and/or through a contractor.

(b) Costs, expenses, and fees

The Department may recover the costs of remediation from the person who caused the obstruction or encroachment, and/or may secure a lien against the offending real estate, if any, in the amount thereof.

(c) For injury to a person's property proximately caused by negligent, reckless, or excessive removal or remediation which the Department has caused, the Department may compensate:

- (1) By paying money;
- (2) By repairing the injury and/or replacing the injured property;
- (3) By replacing the injured property with property of substantially similar value and use; and/or
- (4) By providing a formal apology.

(d) Entry upon adjoining private land. If the Secretary finds exigent circumstances, as provided in these regulations, § 155-20.1-501(b), and notice is given thereafter pursuant to these regulations, § 155-20.1-510(a)(2), the Department, or other responsible public agency, may enter upon lands adjoining a public right-of-way:

- (1) For the purpose of opening any existing drain, or for digging a new drain, for the free passage of water for the drainage of a public or private right-of-way;

- (2) To drive piles, throw up embankments, or to perform any other work necessary to keep a drain within the proper channel, and to prevent the flow of drain water, or related erosion, upon public or private rights of way, or upon other private property;
- (3) Or enter upon lands adjoining a private right-of-way, which during the time of high water flow is subject to overflow from a drain, to remove or change the position of a fence or other obstruction which is preventing the free flow of water to or through a drain or other public right of-way; and/or
- (4) Enter upon lands adjoining a private right-of-way to remove, close, cap, or otherwise terminate an outflow of sewage or other wastewater which may harm the public.

§ 155-20.1-510 Procedures for Removal of Obstructions and/or Encroachments, and for Suspensions, Revocations, and Fines

(a) Standard procedure for removal.

- (1) Except as otherwise provided in the regulations in this subchapter, the Department shall provide a person with notice and the opportunity for a hearing prior to action to remove an obstruction and/or encroachment. Such hearing shall be conducted in order to provide a speedy, final, and effective determination of the limited matters governed by this subchapter.
- (2) Notice. Ordinarily reasonable advance notice shall be mailed to the last known address of the owner of, or other person responsible for, the obstruction and/or encroachment and shall be posted on or near the obstruction and/or encroachment in a conspicuous place.
- (3) Hearing. Except as otherwise provided in this subchapter, the Department shall provide a person with the opportunity for a contested case hearing that comports with the requirements of the Administrative Procedure Act, 1 CMC §§ 9108-13; and
- (4) The Department shall determine with respect to the action, and any hearing requested shall address:
 - (i) The location of the encroachment or obstruction which gives rise to the proposed action;
 - (ii) A short summary of the action and the reasons for it;
 - (iii) Whether the location is in a public right-of-way, or whether Department has another, superior right to the interest in real property on which the obstruction or encroachment is present;
 - (iv) The nature of the person's property interest;
 - (v) The public need for removal of the obstruction or encroachment;
 - (vi) The Department's related proposed works, if any;
 - (vii) The schedule for the Department's related proposed works, if any;
 - (viii) The respective costs to the parties of government action and/or inaction;
 - (ix) The effect of removal on the person's property;
 - (x) The public interest for and/or against the proposed works, if any;
 - (xi) The damages and/or other injuries to the parties, if any; and
 - (xii) Whether the Department shall take the proposed action.

(5) A Department or other government employee having personal knowledge of the relevant circumstances shall attest by signature that the determination is true and correct to the best of his/her knowledge, information and/or belief.

(b) Summary pre-removal hearing.

(1) Upon the Secretary's determination that expedited removal is required, but that the time allows and the public safety, health, and welfare will not be adversely affected, the Department may hold a summary pre-removal hearing, the issues of which shall be limited to:

- (i) The location of the encroachment or obstruction which gives rise to the proposed action;
- (ii) A short summary of the action and the reasons for it;
- (iii) Whether the location is in a public right-of-way, or whether Department has an other*, superior right to the interest in real property on which the obstruction or encroachment is present;
- (iv) The public need for removal of the obstruction or encroachment;
- (v) The schedule for the Department's related proposed works, if any;
- (vi) The effect of removal on the person's property; and
- (vii) Whether the Department shall take the proposed action.

(2) The Department shall give the best notice which it determines feasible in the circumstances;

(3) The Department shall provide the opportunity for a full, contested case hearing after an action for removal is taken.

(c) Expedited procedure for removal before a hearing.

Upon the Secretary's determination that exigent circumstances require an expedited proceeding, the Department may immediately, without a pre-hearing, remove the obstruction and/or encroachment if:

- (1) It gives the best notice which it determines feasible in the circumstances; and
- (2) It provides as soon as convenient to the owner of, or other person responsible for, the obstruction and/or encroachment, and/or other claimant, the opportunity for a post-removal hearing that otherwise follows the standard procedure of this subchapter for removal.

(d) Procedures for suspensions, revocations, and fines.

(1) With respect to revoking or suspending a permit or imposing a fine or other penalty, the Department shall provide a person with notice and the opportunity for a hearing.

(2) Except as otherwise provided in this subchapter, the Department shall provide a person with the opportunity for a contested case hearing prior to its action, a hearing which comports with the requirements of the Administrative Procedure Act, 1 CMC §§ 9108-9113. Except that, if the Department finds exigent circumstances, it may make a prehearing determination to suspend, providing the permittee with immediate notice of

the determination and an expedited opportunity to respond after the action is carried out, and the opportunity for a contested case hearing.

(e) Waiver. Failure to appear at the contested case hearing, or timely effort to secure an excused absence and rescheduled hearing, shall waive the right to contest the action.

(f) Immediate effect. A determination and/or order of the Department shall take immediate effect unless stayed by the Department, the Secretary or the reviewing court.

(g) Notice of effect and appellate procedures. The Department shall, in its final order or other final determination, give notice to the affected party of the party's right to appeal, the place/address of the appeal, and the time within which the appeal must be filed.

(h) If no internal administrative appeal to the Secretary is timely filed, and no good cause is shown to excuse the failure to appeal timely, the determination of the Department shall become final.

(i) Enforcement of penalties.

(1) The Department may enforce its penalties to the extent provided by law.

(2) The Department shall secure the assistance of the Attorney General to implement its penalties through any action in the Superior Court.

Part 600 - Notices and Service; In General

§ 155-20.1-601 Service

Unless otherwise specifically stated in the regulations in this subchapter, service can be made on the person, the person's resident agent, or, if neither can be determined, upon the property. Service may be accomplished by first class mail, return receipt, personal delivery followed by a sworn certificate of service, or by a commercial mailing service that generates a return receipt. A party may waive service, or agree to service by fax or electronic mail.

§ 155-20.1-605 Notice

Ordinarily notice shall be given at least 14 days prior to the hearing or action date. Such notice may be served to the address provided on a person's permit application, or, if one is not available, to the last known address of the permittee, and, if a fax or email address was provided on the application, by either a fax or email copy with a report of receipt generated. If mail or personal service is not feasible, the Department may post the notice on or near the permitted property in a conspicuous place.

§ 155-20.1-610 Notice for Expedited or Summary

Proceeding Notice for an expedited or summary proceeding may be accomplished by the best method available at the time to give actual notice of proceedings or an action within the time required. This may include personal oral or written notice, telephone notice, fax, or email. The person giving notice shall swear to it thereafter in a written certificate of service. Service by fax or email shall be evidenced by an electronic return receipt or the recipient's acknowledgment.

Part 700 - Claims Against Department; Appeals to Secretary; Other Remedies

§ 155-20.1-701 Claims Against the Department or the Secretary Affecting Personalty or Real Property

(a) The regulations in this subchapter shall not change the statutory or common law scope of the sovereign or other immunity, or waivers of limitations thereof, applicable to the Commonwealth, its departments, agencies, political subdivisions, and/or other instrumentalities.

(b) Claims arising out of actions contemplated by or governed through these regulations shall be filed against the "Department of Public Works" or the other Commonwealth instrumentality which the Department has designated to carry out the action.

§ 155-20.1-705 Appeals to the Secretary of Department Determinations and Other Actions

(a) A person who is aggrieved by a determination of the Department or other action made pursuant to this subchapter shall file an appeal to the Secretary within 14 days of the issuance of the order or other action complained of. The person shall serve a copy on each party to the matter within seven days of the filing. The time in which to file the appeal is jurisdictional.

(b) No particular form of pleading or letter is required, provided that the appeal shall include:

- (1) Name, address, telephone, email if available, and/or other contact information for the appellant or his/her representative;
- (2) The docket number and caption or title of the matter appealed from, including the other parties;
- (3) The location of the incident which gave rise to the complaint to the Department;
- (4) A short summary of the controversy and the Department's decision;
- (5) The reasons for the appeal and relief requested;
- (6) A statement signed "under the penalty of perjury" that the matters stated in the appeal are true and correct to the appellant's knowledge and belief, and that a copy is being timely served upon other parties to the matter; and
- (7) A request that the Secretary rule on the appeal.

(c) The Secretary may provide an appeal form, specify the number of copies of appeal materials to be filed, identify the required supporting information, and provide for the details of the appeal proceedings, including conferences and hearings. Unless otherwise granted by the Secretary, there shall be no evidentiary hearing or oral argument in the appeal proceedings. The Secretary shall provide the opportunity for briefs, memoranda, or other written comments, replies thereto, and may provide for rebuttal, to the end that all parties may be heard.

(d) The Secretary shall affirm, deny, modify, or remand.

(e) Notice of effect and appellate procedure. The Secretary shall, in his/her order or other final determination, give notice of the party's right to appeal to the courts, the place/address of the appeal, and the time within which the appeal must be filed.

§ 155-20.1-710 Other Remedies

Nonexclusive remedy and exhaustion. A remedy under the regulations in this subchapter shall not be the exclusive remedy of a person or of the Department aggrieved by an encroachment or obstruction. Provided that a party seeking either a remedy against an encroachment or an obstruction governed by these regulations, or against a party availing itself of a remedy under these regulations, shall first exhaust their remedies hereunder.

Part 800 - Miscellaneous Provisions

§ 155-20.1-801 Construction of These Regulations

In construing the regulations in this subchapter, the singular shall mean the plural, and the plural the singular, the male shall indicate the female and the female the male, and either shall also apply to a non-natural person.

§ 155-20.1-805 Severability

If any provision of the regulations in this subchapter or any application thereof to any person or circumstances is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or application of these regulations which can be given effect without the invalid provision or application; and to this end the provisions of these regulations are declared to be severable.



Commonwealth Healthcare Corporation

Commonwealth of the Northern Mariana Islands
1178 Hinemlu' St. Garapan, Saipan, MP 96950



PUBLIC NOTICE OF PROPOSED REVISION TO THE CHCC HUMAN RESOURCES RULES AND REGULATIONS REGARDING SICK LEAVE BANK

INTENDED ACTION TO ADOPT THESE PROPOSED REVISIONS TO THE RULES AND REGULATIONS:

The Commonwealth Healthcare Corporation (CHCC) intends to adopt as permanent the attached Proposed Revision to the Rules and Regulations, pursuant to the procedures of the Administrative Procedure Act, 1 CMC § 9104(a). The CHCC Human Resources Rules and Regulations were initially published in November, 2016 in Volume 38, Number 11 of the Commonwealth Register. They were adopted in February, 2017 in Volume 39, Number 2 of the Commonwealth Register. The Revision to the CHCC Human Resources Rules and Regulations will become effective 10 days after adoption and publication in the Commonwealth Register. (1 CMC § 9105(b))

AUTHORITY: CHCC has developed and adopted and can amend the personnel system independent of the civil service system in accordance with the law. 3 CMC Section 2824(k).

THE TERMS AND SUBSTANCE: The CHCC Human Resources Rules and Regulations provide guidance on all aspects of employment relationship between CHCC and its permanent, provisional, temporary, and contract employees.

THE SUBJECTS AND ISSUES INVOLVED: This Revision is to amend Subchapter 140-90 by removing § 140-90.1-510(n) and amending the language in §§ 140.90.21-510(b)(4)(ii) and (c)(1) and will be adopting a new subchapter, Subchapter 140-90.2, to address the use of a sick leave bank. The effective date of the amendments shall be effective 10 days after adoption and publication in the Commonwealth Register. (1CMC § 9105(b))

DIRECTIONS FOR FILING AND PUBLICATION: These Notice of Proposed Revision to the CHCC Human Resources Rules and 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)). Copies are available upon request from Clarinda Ngirausui, Classification and Compensation Administrator.

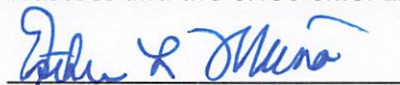
P.O. Box 500409 CK, Saipan, MP 96950

Telephone: (670) 236-8201/2 FAX: (670) 233-8756

TO PROVIDE COMMENTS: Send or deliver your comments to Clarinda Ngirausui, Classification and Compensation Administrator, clarinda.ngirausui@chcc.health, Attn: Revision to CHCC Human Resources Rules and Regulations, at the above address, fax or email address, with the subject line "The CHCC Human Resources Rules and Regulations Sick Leave Bank". 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 Revisions to the CHCC Human Resources Rules and Regulations was approved by the CHCC Board of Trustees and the CHCC Chief Executive Officer.

Submitted by:

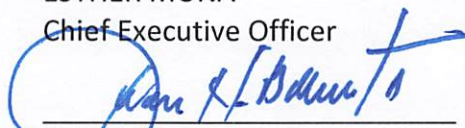


ESTHER MUNA

Chief Executive Officer

1/10/25

Date



JUAN N. BABAUTA

Chairman, CHCC Board of Trustees

1/10/25

Date

Filed and
Recorded by:



ESTHER M. SAN NICOLAS

Commonwealth Registrar

01.15.2025

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 13 day of January, 2025.



EDWARD E. MANIBUSAN

Attorney General

Proposed Amendments to the Sick Leave Bank

Part 500 - Work Hours, Holidays, Leave, and Benefits

§ 140-90.1-510

Omit (n) Sick Leave Bank

Modified, 1 CMC § 3806(a), (e)-(g). §

History: Amdts Adopted 41 Com. Reg. 41421 (Mar. 28, 2019); Amdts Proposed 40 Com. Reg. 40764 (June 28, 2018); Amdts Adopted 39 Com. Reg. 39218 (Feb. 28, 2017); Amdts Proposed 38 Com. Reg. 39037 (Nov. 29, 2016).

Add §149-90.2-511 Sick Leave Bank

Part 1 100 – General Provisions

Sick Leave Bank Regulations

Part 001 General Provisions

§140.90.2-001 Authority

§140.90.2-002 Purpose

§140.90.2-003 Applicability

Part 300 Accommodation and Disability

§140-90.2-301 Physician Statement

§140-90.2-302 Alternative Position

§140-90.2-303 Disability

Part 100 Contributions to the Sick leave Bank

§140.90.2-101 Eligibility

§140.90.2-105 Procedure

Part 400 Miscellaneous

§149-90.2-401 Appeal

§140-90.2-402 Records

Part 200 Withdrawals from the Sick Leave Bank

§140-90.2-201 Limitation on Number of Hours

§140-90.2-202 Maintenance of the General Account

§140-90.2-203 Eligibility

§140-90.2-204 Procedure

§140-90.2-205 Disposition of Request

Part 001 General Provisions

§140-90.2-001 Authority

This chapter is promulgated by the Commonwealth Healthcare Corporation under the authority of Title 3: Human Resource Division 2: Health **§2823 Establishment of Commonwealth Healthcare Corporation.**

Source: PL 16-51 § 3(2803) (Jan. 15, 2010); repealed and reenacted by PL 19-78 § 2 (Jan. 14, 2017), modified; amended by PL 22-33, § 3 (Jan. 31, 2023). Commission Comment: [Historical comments removed.] In codifying PL 19-78, the Commission inserted a serial comma and struck the comma before “and the Division” in (c) and changed “becomes” to “becoming” after “Upon this Chapter” and “CFO” to “Chief Financial Officer (CFO)” in (d) pursuant to 1 CMC § 3806(g). The Commission changed capitalization in (d) for the purpose of conformity pursuant to 1 CMC § 3806(f). Commission Comment: Legislative Findings of 2023 Amendment. - For Findings and Purpose of PL 22-33, see Commission comment to 9 CMC § 2837

§149-90.2-002 Purpose

This chapter is intended to provide additional job and financial protection for employees experiencing a prolonged absence from the workplace due to catastrophic, degenerative/or chronic disease illness or major injury.

§140-90.2-003 Applicability

Except otherwise provided, this subchapter applies to all employees of the Commonwealth Healthcare Corporation with the exception of part-time employees.

Part 100 Contributions to the Sick Leave Bank**§140-90.2-101 Eligibility**

Any employee employed by the Commonwealth Healthcare Corporation may contribute annual leave hours to the sick leave bank. Unlimited donations may also be made to designated accounts, but donations to each designated account must comply with the limits established under this regulation. All donated annual leave hours can only be used for eligible sick leave.

§140-90.2-105 Procedure

All annual leave contributions shall be made on forms prescribed by the Human Resources Office. The contributor may elect to contribute annual leave hours to either or both:

- (a) The general account, available to any eligible employee of CHCC.
- (b) A designated account, available only to the eligible employee designated by the contributor. If the designated employee does not use the hours contributed in his or her designated account within four pay periods of the contribution, the remaining hours will be deposited into the general account.

Part 200 – Withdrawals from the Sick Leave Bank**§140-90.2-201 Limitation on Number of Hours**

Withdrawal of sick leave bank hours for extended sick leave is a privilege, not a right. An employee shall not exceed a combined maximum amount of one-thousand and forty (1,040) hours from the designated account or the general account.

- (a) General Account: One-thousand and forty (1,040) hours maximum during the employee's employment with the Commonwealth Healthcare Corporation full period of employment, provided that the general account has a balance to cover the requested amount. If there is no balance to pay out, the employee can request through the designated account.
- (b) Designated Account: One-thousand and forty (1,040) hours maximum, during the employee's full period of employment with the Commonwealth Healthcare Corporation. The designated account is defined by another employee contributing directly to the employee. If there is no designated person to contribute, then they can request through the general account.

Calculation of withdrawals from the General Account and the Designated Account:

Employee A will contribute annual leave hours to the general account and/or the designated account. The hourly rate of the donation must be higher than the employee requesting for contributions.

Example: Employee A earns \$96.15 per hour and contributes 80 hours equals \$7,692.00. Employee B earns \$8.25 per hour and requests for 80 hours, \$660.00 will be withdrawn from the \$7,692.00 from Employee A. The balance will be calculated through the Munis system and audits will be performed on a bi-weekly basis.

§140-90.2-202 Maintenance of the General Account

The general account of the sick leave bank shall be maintained and monitored by the Human Resources Office. The Human Resources Office shall periodically advise CHCC employees of these regulations, the purpose of the sick leave bank and the possibility of donating hours to the sick leave bank. It shall also provide an option on all exit interviews for employees resigning from CHCC to contribute their unused annual leave to the sick leave bank.

§140-90.2-203 Eligibility

Any employee employed by the Commonwealth Healthcare Corporation may apply for withdrawal of hours first from the designated account for his or her use, if any, and then from the general account of the sick leave bank provided that:

- (a) The employee's need to be absent from work due to the catastrophic injury or illness of the employee or the employee's legal spouse, domestic partner, child or quarantine of the employee, employee's family, or the employee's residence.
- (b) The employee is not qualified for workers' compensation because the injury or illness is not work related.
- (c) The employee must exhaust all accrued sick leave and annual leave, prior to the usage of the sick leave bank hours requested.
- (d) The additional hours requested by the employee will not cause the employee to exceed the withdrawal limit established in §149-90.2-201.
- (e) The employee is expected to return back to the Commonwealth Healthcare Corporation
 - (1) In the same position, or
 - (2) If the injury prevents the employee from performing the essential job functions of the same position even with reasonable accommodation to some other position with the Commonwealth Healthcare Corporation.
- (f) The request for sick leave does not extend beyond the term of the employee's employment.
- (g) The account of the sick leave bank has sufficient hours to accommodate the employee's request.
- (h) The employee's Chief Medical Officer, Chief Nursing Officer, Chief Operations Officer and the Chief Financial Officer recommends approval of the employee's withdrawal request from the sick leave bank at the recommendation of the employee's Directors, Managers and Supervisors and HR designee. They can refuse to recommend approval of withdrawal only if:
 - (1) The employee's additional absence will significantly interfere with CHCC's ability to perform the responsibilities; or
 - (2) The employee is seeking additional sick leave for recuperation from a work-related injury or illness that is otherwise compensable under the Workers' Compensation Act.

§140-90.2-204 Procedure

An employee shall request withdrawal of hours from the sick leave bank for himself, herself or caring for an eligible family member from the Human Resources Department, whether from the designated account or the general account, as needed, in increments of up to eighty hours, on a form prescribed by the HR designee:

- (a) The request must be received at the Human Resources Office at least five (5) working days before the proposed effective date, with all required approvals and supporting documents.
- (b) The request must be supported by a statement from Physician or Advance Practice Practitioner, which includes:
 - (1) An estimate time the employee must be absent from work. When an employee is requesting for withdrawal from the sick leave bank for an eligible family member, medical statement must specify the employee as the primary caregiver.
 - (2) A confirmation statement of the employee's injury or illness, or quarantine of the employee or the immediate family member or the quarantine or the employee's residence; and
 - (3) A confirmation of illness or injury will not constitute a permanent disability that even with a reasonable accommodation that can be made without undue hardship to the Corporation, will prevent the employee from performing the essential job functions of his or her position.

§140-90.2-205 Disposition of Request

The Chief Executive Officer shall grant or deny the request for sick leave bank promptly in writing. No properly supported request from an eligible employee shall be denied unless:

- (a) There are insufficient hours in the general account to grant the request; or
- (b) The employee's department head, with adequate justification, has not approved the request; or
- (c) The employee is expected to be compensated for any lost work time through the Workers' Compensation; or
- (d) Based on the employee's physician's statement, the Chief Executive Officer determines that the employee will not be able to return to work in the same position, or alternate provision as an accommodation under §140-90.2-302, due to residual disability; or
- (e) The employee has already withdrawn one-thousand and forty (1,040) hours of sick bank leave.

Part 300 Accommodation and Disability

§140-90.2-301 Physician Statement

- (f) If the Physician or the Advance Practice Practitioner determines the catastrophic, degenerative/or chronic disease illness or injury for which the employees seeks sick leave will constitute a permanent disability preventing the employee from being able to perform the essential job functions of his or her previous position, the Physician or the Advance Practice Practitioner, the Human Resources office will submit a Fitness for Duty document and describe the physical or mental limitations the employee is expected to experience.

§140-90.2-302 Alternative Position

In a case where an employee is not expected to be able to perform the essential job functions of his or her previous position, even with reasonable accommodation, the Chief Executive Officer must determine, based on the Physician or Advance Practitioner, whether the disability precludes the employee from being reasonably accommodated in another equivalent CHCC position that can be performed by a person with that particular disability.

§140-90.2-303 Disability

If the Chief Executive Officer determines that the expected disability precludes the employee from performing the essential job functions or any equivalent CHCC position, the Chief Executive Officer shall deny additional sick leave bank hours to the employee. The Chief Executive Officer shall then medically separate the employee as stated in § 140-90.1-615(e). An employee who is unable to return to work or has been determined by a licensed physician or medical professional as unable to perform the essential duties of the job, in accordance with federal and CNMI laws and CHCC policies (sick leave, annual leave, and FMLA leave) shall be separated from employment and recommended to apply for disability benefits.

Part 400 Miscellaneous

§149-90.2-401 Appeal

An employee denied hours from the sick leave bank has the following recourses:

- (a) The employee within five (5) business days of the denial, shall request to the Chief Executive Officer to reconsider his or her decision to deny the request. The employee may supplement the original withdrawal request with additional information. The Chief Executive Officer must issue a written final decision within five (5) business days of the request for reconsideration. If the Chief Executive Officer affirms the original denial, the decision shall include the specific reason(s) for the denial and a summary of the evidence relied upon.
- (b) If the employee chooses to appeal the Chief Executive Officer's final decision, the appeal must be filed with the CHCC Board of Trustees within five (5) business days after the employee receives the final decision. The CHCC Board of Trustees shall issue its final decision to the employee.

§140-90.2-402 Records

The Human Resources Office shall maintain records of all hours contributed to and withdrawn from the sick leave bank.



Commonwealth Healthcare Corporation

Commonwealth gi Sangkattan na Islas Mariãnas
1178 Hinemlu' St. Garapan, Saipan, MP 96950



NUTISIAN PUPBLIKU PUT I MANMAPROPONI NA TINILAIKA GI AREKLAMENTU YAN REGULASIÓÑ "CHCC HUMAN RESOURCES" PUT I "SICK LEAVE BANK"

I AKSIÓN NI MA'INTENSIONA PARA U ADÁPTA ESTI I MANMAPROPONI NA TINILAIKA GI AREKLAMENTU YAN REGULASIÓÑ SIHA: I "Commonwealth Healthcare Corporation (i CHCC) ha intensiona para u adápta petmanienti i mañechettun Manmaproponi na Tinilaika gi Areklamentu yan Regulasióñ siha, sigun gi maneran i Åkton Administrative Procedure, 1 CMC §9104(a). I Areklamentu yan Regulasióñ i "CHCC Human Resources" gi tutuhun mapupblika gi halum Nubembri, 2016 gi halum Baluma 38, Numiru 11 gi Rehistran Commonwealth. Ma'adápta gi halum Fibreru, 2017 gi halum Baluma 39, Numiru 2 gi Rehistran Commonwealth. I Tinilaika gi Areklamentu yan Regulasióñ "CHCC Human Resources" siempri umifektibu gi halum dies dihas (10) dispues di adáptasióñ yan pupublikasióñ gi halum i Rehistran Commonwealth. (1 CMC § 9105(b)).

ÅTURIDÁT: I CHCC madibelop yan adápta yan siña amenda i "personnel system independent" nu i sisteman sitbisiun sibít gi sigun yan i lai. 3 CMC Seksiona 2824(k).

I TEMA YAN I SUSTÂNSIA I PALÁBRA SIHA: I Areklamentu yan Regulasióñ "CHCC Human Resources" mampribebeni dinirihi gi todú klâsin rilasióñ manimpleha entri i CHCC yan iyon-ñiha petmanienti, pribensióñ, tempurâriu, yan kuntrâta na impli'áo siha.

I SUHETU NI MASUMÂRIA YAN ASUNTU NI TINEKKA: Esti na Tinilaika sa' para u amenda i Subchapter 140-90 ni mana'susuha i § 140-90.1-510(n) yan amemenda i sustânsia i palâbra gi halum §§ 140-90.21-510(b)(4)(ii) yan (c)(1) yan siempri ma'adâdápta i nuebu na subchapter, Subchapter 140-90.2, para u "address" i usun nu i "sick leave bank". I ifektibu na fetcha gi nuebu na tinilaika debi na ifektibu gi halum 10 dihas dispues di adáptasióñ yan pupublikasióñ gi halum Rehistran commonwealth. (1 CMC § 9105(b))

DIREKSIÓN PARA U MAPO'LU YAN MAPUPBLIKA: Esti i Nutisia put i Manmaproponi na Tinilaika gi Areklamentu yan Regulasióñ "CHCC human Resources" siha siempri mapupblika gi halum Rehistran Commonwealth gi halum seksiona ni manmaproponi yan nuebu na manma'adápta na regulasion siha (1 CMC § 9102(a)(1)) ya u mapega gi halum kumbinienti na lugât siha gi halum civic center yan gi halum ufisinan gubietnamentu gi kada distritun senadot, parehu gi Inglis yan i dos prinsipât na linguâhin natibu (1 CMC § 9104(A)(1)). I kopia siha managuaha an marikuesta ginin as Clarinda Ngirausui, i Atministradot "Classification and Compensation".

PARA U MAPRIBENIYI UPIÑON SIHA: Na'hãnao pat intrega hãlum i upiñom-mu siha guatu as Clarinda Ngirausui, i Atministradot "Classification and Compensation", clarinda.ngirausui@chcc.health, Attn: Tinilaika gi Areklamentu yan Regulasi3n "CHCC Human Resources", gi sanhilu' na address, fax pat email address, yan i suhetu na rason "Areklamentu yan Regulasi3n i "CHCC Human Resources Sick Leave Bank". I upiñon siha debi di u fanhãlum gi halum 30 dihas ginin i fetchan pupblikasi3n esti na nutisia. Put fabot intrega halum i infotmasi3n, tinestigu, agumentom-mu siha. (1 CMC § 9104(a)(2)).

Esti i manmaproponi na Tinilaika gi Areklamentu yan Regulasi3n "CHCC Human Resources" maninaprueba ni Kuetpun Trustees i "CHCC Atkãtdin Eksakatibun Ufisiãt.

Nina'hãlum as:

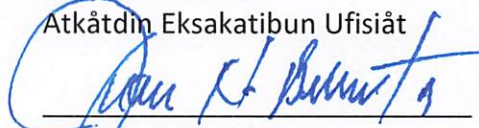


ESTHER L. MUNA

Atkãtdin Eksakatibun Ufisiãt

1/10/25

Fetcha



JUAN N. BABAUTA

Kabesiyu, Kuetpun Trustees CHCC

1/10/25

Fetcha

Pine'lu yan

Ninota as:



ESTHER M. SAN NICOLAS

Rehistran Commonwealth

01.15.2025

Fetcha

Sigun i 1 CMC § 2153 (e), (Inaprueban Abugãdu Hinirãt i regulasion siha ni para u macho'gui kumu fotma) yan i 1 CMC § 9104 (a) (3) (inahentan inaprueban Abugãdu Hinirãt) i manmaproponi na regulasion siha ni mañechettun guini ni manmaribisa yan manma'aprueba kumu fotma yan sufisient i ligãt ginin i CNMI Abugãdu Hinirãt yan debi na u mapupblika, 1 CMC § 2153 (f) (pupblikasion areklamentu yan regulasion siha).

Mafetcha gi diha 13 gi January, 2025.



EDWARD E. MANIBUSAN

Abugãdu Henerãt



Commonwealth Healthcare Corporation

Commonwealth Téel Falúw kka Efáng Ilól Marianas
1178 Hinemlu' St. Garapan, Saipan, MP 96950



ARONGORONGOL TOULAP REEL PPWOMMWOL SIIWEL NGÁLI ALLÉGHÚL ME MWÓGHUTUGHUTÚL CHCC HUMAN RESOURCES IKKA E SÚLLÚNGÁLI "SICK LEAVE BANK"

MÁNGEMÁNGIL MWÓGHUT REEL REBWE ADÓPTÁÁLI PPWOMMWOL LIIWEL NGÁLI ALLÉGH ME MWÓGHUTUGHUT: Commonwealth Healthcare Corporation(CHCC) re mángemángil rebwe adóptááli Ppwommwol Liiwel ngáli Allégh me Mwóghutughut ikka e appasch bwe ebwe lléghló, sáangi mwóghutughutúl Administrative Procedure Act, 1 CMC § 9104(a). E ghommwal akkatééwow Alléghúl me Mwóghutughutúl CHCC Human Resource wóól Aremwoy, 2016 Ilól Volume 38, Numuro 11 reel Commonwealth Register. Re adóptááli wóól Mááischigh, 2017 Ilól Volume 39, Numuro 2 reel Commonwealth Register. Siiwel ngáli Alléghúl me Mwóghutughutúl CHCC Human Resources ebwe bwunguló seigh ráál mwiril aal akkatééwow arongorong yeel me Ilól Commonwealth Register. (1 CMC § 9105(b))

BWÁNGIL: CHCC re ayoora me adóptaa me liiweli aar "personnel system independent" ngáli "civil service system" Ilól weeweel ngáli allégh. 3 CMC Tálil 2824(k).

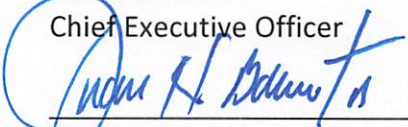
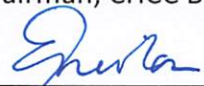
KKAPASAL ME AWEEWEEL: Alléghúl me Mwóghutughutúl CHCC Human Resources e ayoora afal ngáli alongal autol mwóghutughutúl angaang sáangi CHCC me layúr schóól angaang ikka re lo bwe "permanent", "provisional", "temporary", me "contract employees".

KKAPASAL ME AUTOL: Siiwel kkaal ngáli liiwel Subchapter 140-90 reel liiwelil § 140-90.1-510(n) me liiweli kkapas Ilól §§ 140-90.21-510(b)(4)(ii) me (c)(1) me rebwe adóptááli ffél subchapter, Subchapter 140-90.2, ebwe apasa yááyál "sick leave bank". Ebwe bwunguló liiwel kkaal seigh ráál mwiril aar adóptááli me akkatééwowul me Ilól Commonwealth Register. (1 CMC § 9105(b))

AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Arongorongol Ppwommwol Siiwel ngáli Alléghúl me Mwóghutughutúl CHCC Human Resources ebwe akkatééwow me Ilól Commonwealth Register Ilól tálil ppwommwol me ffél mwóghutughut ikka ra adóptááli (1 CMC § 9102(a)(1)) me ebwe appaschetá Ilól civic center me bwal Ilól bwulasiyol gobetnameento Ilól senatorial district, fengál reel English me mwáliyaasch (1 CMC § 9104(a)(1)). Emmwel ubwe tingór pappidi milikka sáangi Clarinda Ngirausui, "Classification and Compensation Administrator".

REEL ISIISILONGOL KKAPAS: Afanga ngare bwughilól yóómw ischil kkapas ngáli Clarinda Ngirausui, "Classification and Compensation Administrator", clarinda.ngirausui@chcc.health, Attn: Revision to CHCC Human Resources Rules and Regulations, reel féléfél iye e lo weiláng, fax ngare email address, fengál reel subject line bwe "The CHCC Human Resources Rules and Regulations Sick Leave Bank". Ebwe isiisilong ischil kkapas llól eliigh ráál mwiril aal akkatééwow arongrong yeel. Isiisilong yóómw data, views ngare angiingi. (1 CMC § 9104(a)(2)).

Ppwommmwol Siiwel ngáli Alléghúl me Mwóghutughutúl CHCC ra átirow sáangi CHCC Board-il Trustees me CHCC Chief Executive Officer.

Isáliyalong:	 ESTHER MUNA Chief Executive Officer	<u>1/10/25</u> Ráál
	 JUAN N. BABAUTA Chairman, CHCC Board-il Trustees	<u>1/10/25</u> Ráál
Ammwelil:	 ESTHER M. SAN NICOLAS Commonwealth Registrar	<u>01.15.2025</u> Ráál

Sáangi 1 CMC § 2153(e) (sáangi átirowal AG bwe aa fil reel fféerúl me aa lléghló mwóghutughut me ebwe arongowow) me 1 CMC § 9104(a)(3) (átirowal AG) reel ppwommmwol mwóghutughut ikka e appasch bwe ra takkal amwuri fischiiy me aa lléghló reel fféerúl me legal sufficiency sáangi Soulemelemil Allégh Lapalapal CNMI me ebwe akkatééwow, 1 CMC § 2153(f) (akkatééwowul allégh me mwóghutughut).

Ghikkill wóól 13 ráálil January, 2025.


EDWARD E. MANIBUSAN
Soulemelemil Allégh Lapalap