



Commonwealth of the Northern Mariana Islands
Office of the Governor
DEPARTMENT OF PUBLIC LANDS



**PUBLIC NOTICE
OF PROPOSED AMENDMENTS TO TEMPORARY OCCUPANCY RULES**

NOTICE OF INTENDED ACTION: The Commonwealth of the Northern Mariana Islands, Office of the Governor, Department of Public Lands intends to amend the Temporary Occupancy Rules and Regulations pursuant to the procedures of the Administrative Procedure Act (APA), 1 CMC § 9104(a).

AUTHORITY: These amendments are promulgated under the authority of the Department of Public Lands pursuant to 1 CMC § 2806 to develop administrative policies, procedures, and controls related to public land.

TERMS AND SUBSTANCE: These proposed amendments will change the Temporary Occupancy Rules and Regulations to:

- Clarify the general requirements for agreements authorizing temporary occupancy of public lands or properties;
- Allow agreements authorizing temporary occupancy of public lands or properties to be for a term less than one year;
- Clarify the procedures, terms, and requirements for concession agreements, including renewals and insurance requirements;
- Clarify the terms and requirements that differ for non-exclusive concession agreements versus the exclusive Managaha Island Master Concession, including RFP and auction requirements, subconcessions, term, and applications for renewal.
- Extend the permitted term of the exclusive Managaha Island Master Concession agreements from five years to ten years with an option to extend an additional five years at DPL's discretion.

CITATION OF AFFECTED REGULATIONS: The proposed amendments affect NMIAC Chapter 145-70 by amending the following provisions:

- NMIAC § 145-70-202 General Requirements
- NMIAC § 145-70-215 Concession Agreements.

DIRECTIONS FOR FILING AND PUBLICATION: The proposed amendments shall be published in the Commonwealth Register in the section on proposed and newly adopted regulations (1 CMC § 9201(a)(1)) and posted in convenient places in the civic center and in local governmental offices in each senatorial district, both in English and in the principal vernacular (1 CMC § 9104(a)(1)).

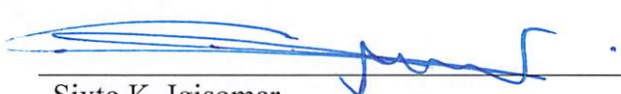
P.O. Box 500380, Saipan, MP 96950 ● 2nd Floor, Joeten Dandan Commercial Building
Website: www.dpl.gov.mp ● E-mail: dpl@dpl.gov.mp ● Facebook: www.facebook.com/DPLCNMI
Tel: (670) 234-3751/52/53/54 ● Fax: (670) 234-3755

COMMENTS: Interested parties may submit written comments on the proposed amendments to SIXTO KAIPAT IGISOMAR, Department of Public Lands Secretary, to the following address, fax, or email address, with the subject line "Proposed Amendments to the Terms and Requirements of Concession Agreements":

DEPARTMENT OF PUBLIC LANDS
PO Box 500380, Saipan, MP 96950
Fax: (670) 234-3755
Email: admin@dpl.gov.mp

Comments are due within thirty (30) calendar days from the date of publication of this notice. 1 CMC § 9104(a)(2).

Submitted by:




Sixto K. Igisomar
Secretary, Department of Public Lands

08/19/22

Date

Received by:

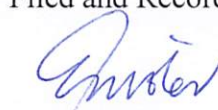


Ms. Mathilda A. Rosario
Special Assistant for Administration

08/24/22

Date

Filed and Recorded by:



Ms. Esther R.M. San Nicolas
Commonwealth Registrar

Date

I certify, pursuant to 1 CMC § 2153(e) and 1 CMC § 9104(a)(3), that I have reviewed and approved these regulations as to form and legal sufficiency.



Mr. Edward Manibusan
Attorney General

8/26/2022

Date



Commonwealth gi Sangkattan na Islas Mariãnas
Ufisinan Gubietnu
DIPÀTTAMENTUN TANU' PUPBLIKU



**NUTISIAN PUPBLIKU PUT I MAPROPOPONI NA TINILAIKA SIHA
GI AREKLAMENTUN OKUPASIÓN TEMPURÁRIU**

I AKSIÓN NI MA'INTENSIÓNA: I Commonwealth gi Sangkattan na Islas Mariãnas, i Ufisinan Gubietnu, i Dipàttamentun Tanu' Pupbliku ha intensiona para u amenda i Areklamentun yan Regulasió n Okupasió n Tempuráriu sigun gi maneran i Ákton Administrative Procedure (APA), 1 CMC § 9104(a).

ÁTURIDÁT: Esti siha na tinilaika manmacho'gui gi papa' i aturidát nu i Dipàttamentun Tanu' Pupbliku sigun gi 1 CMC § 2806 para u dibelop i administrative policies, manera, yan gubietna siha i manassosiát gi tanu' pupbliku.

I TEMA YAN SUSTANSIAN I PALÁBRA SIHA: Esti i mapropoponi na tinilaika siha siempri tinilaika i Areklamentu yan Regulasió n Okupasió n Tempuráriu para:

- Klaruyi i hinirát na dinimánda siha para kuntráta inaturirisa i okupasió n tempuráriu nu tanu' pupbliku osino propiedát siha;
- Sedi kuntráta inaturirisa i okupasió n tempuráriu nu tanu' pupbliku osino propiedát para menus ki un ánu na tema;
- Klaruyi i manera, tema, yan dinimánda siha para kuntrátan “concession”, ingklusu rinueba yan dinimándan insurance siha;
- Klaruyi i tema yan dinimánda siha na ha difirensiá o para “non-exclusive concession” na kuntráta kontra i “exclusive Mañagáhã Island Master Concession”. Kuntodu RFP yan dinimándan atmunedá siha, “subconcessions,” tema, yan aplikasió n para rinueba.
- Ekstendi i manmasedi na tema nu i kuntrátan “exclusive Mañagáhã Island Master Concession” ginen singku áñus asta dies áñus yan i inayik para u ma'ekstendi más ta'lu singku áñus na tiempu gi disisió n DPL.

SITASIÓ N I MANMA'AFEKTA NA REGULASIÓ N SIHA: I mapropoponi na tinilaika siha inafekta i NMIAC Pátti 145-70 ginen inamemendan i tinátti yi na provisions:

- NMIAC § 145-70-202 Hinirát na Dinimánda Siha
- NMIAC § 145-70-215 Kuntrátan Concession.


DIREKSIÓ N PARA I PINE'LU YAN I PUPBLIKASIÓ N: I mapropoponi na tinilaika siha debi na u mapupblika gi halum Rehistran Commonwealth gi halum i seksiona ni manmapropoponi yan i mannuebu ma'adápta na regulasió n siha (1 CMC § 9201(a)(1)) yan mapega gi halum kumbinienti na lugát siha giya i civic center yan gi halum ufisinan gubietnu gi kada distritun senadot, parehu Inglis yan i dos na lingguá hin natibu (1 CMC § 9104(a)(1)).

I UPIÑON SIHA: I manintires na pattida siña manintrega hálum upiñon siha gi manmaproponi na tinilaika siha guatu as SIXTO KAIPAT IGISOMAR, i Sekretáriun Dipáttamentun Tanu' Pupbliku, gi tináttiya na address, fax, osino email address, yan i suhetu na rãya "Mapropoponi na Tinilaika siha gi Tema yan Kuntrãtan Dinimãndan Concession":

DEPARTMENT OF PUBLIC LANDS
PO Box 500380, Saipan, MP 96950
Fax: (670) 234-3755
Email: admin@dpl.gov.mp


I upiñon siha debi na u fanhálum gi halum trenta (30) kalendãriu na dihas ginen i fetcha publikasi3n esta na nutisia. 1 CMC § 9104(a)(2).

Nina'hálum as:


Sixto K. Igisomar
Sekretãriu, Dipáttamentun Tanu' Pupbliku

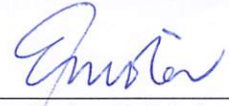
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Rinisibi as:


Ms. Mathilda A. Rosario
Ispisiãt na Ayudãnti para i Atministrasi3n


08/24/22
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Pine'lu yan Ninota as:


Ms. Esther R.M. San Nicolas
Rehistran Commonwealth

Fetcha

Hu aprueba, sigun gi 1 CMC § 2153(e) yan 1 CMC § 9104(a)(3), na hu ribisa yan aprueba esti na regulasi3n siha komu fotma yan ligãt sufisienti.


Mr. Edward Manibusan
Abugãdu Hinirãt

8/26/2022
Fetcha



Commonwealth Téel Falúw kka Efáng Ilól Mariana
Bwulasiyol Soulemelem
BWULASIYOL AMMWELIL FALUWEER TOULAP



**ARONGORONGOL TOULAP
REEL PPWOMMWOL LIIWEL NGÁLI ALLÉGHÚL “TEMPORARY OCCUPANCY”**

ARONGORONGOL MÁNGEMÁNGIL MWÓGHUT: Commonwealth Téel Falúw kka Efáng Ilól Marianas, Bwulasiyol Soulemelem, Bwulasiyol Ammwelil Faluweer Toulap re mángemángil rebwe liiweli Alléghúl me Mwóghutughutúl “Temporary Occupancy” sáangi mwóghutughutúl Administrative Procedure Act (APA), 1 CMC § 9104(a).

LEMELEM: Ebwe arongowow liiwel kkal faal bwángil Bwulasiyol Ammwelil Faluweer Toulap sáangi 1 CMC § 2806 reel rebwe ayoora “administrative policies”, mwóghutughut, me lemelemil ikka e schuulong llól faluweer toulap.

KKAPASAL ME WEEWEL: Ppwommwol liiwel kkal ebwe liiweli Alléghúl me Mwóghutughutúl “Temporary Occupancy” ngáli:

- Ebwe ffat “general requirements” ngáli angúungúl bwángil “temporary occupancy” reel faluweer toulap ngáre bwughos;
- Lighiti ngáli angúungú ikka eyoor bwángil reel “temporary occupancy” sáangi faluwer toulap ngáre bwughos ngáli leelibwal eew ráágh ngáre eghus;
- Ebwe ffat mwóghutughut, kkapasal, me nisisital ngáli abwungubwung, eschuulong “renewals” me “insurance requirements”;
- Ebwe ffat kkapasal me “requirements” ikka ese weewe ngáli angúungúl “non-exclusive concession”, kkapasal, me “applications for renewal”.
- Extend the permitted term of the exclusive Managaha Island Master Concession agreements from five years to ten years with an option to extend an additional five years at DPL’s discretion.

ABWETCH REL IKKA E LIIWELI “STATUTES” MWÓGHUTUGHUT: Ppwommwol liiwel ikka e liiweli NMIAC Chapter 145-70 sáangi liiwelil plóono kka e amwirimwiritiw:

- NMIAC § 145-70-202 “General Requirements”
- NMIAC § 145-70-215 “Concession Agreements.”

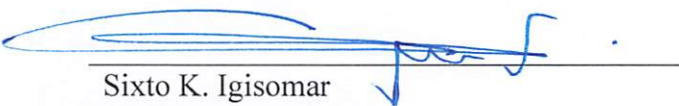
AFAL REEL AMMWELIL ME AKKATÉÉWOWUL: Ebwe akkatééwow ppwommwol liiwel me llól Commonwealth Register llól tánil ppwommwol me ffél mwóghutughut ikka ra adóptáali (1 CMC § 9201(a)(1)) me ebwe appaschetá me llól civic center me bwal llól bwulasiyol gobetnameento llól senatorial district, fengál reel English me mwáliyaasch (1 CMC § 9104(a)(1)).

KKAPAS: Schóó kka re mwuschel isiisilong ischil kkapas wóól ppommwol liiwel kkal rebwe isiis ngáli SIXTO KAIPAT IGISOMAR, Sekkretóoriyol Bwulasiyol Ammwelil Faluweer Toulap, ngáli féléfél iye e amwirimwiritiw, fax, ngáre email address, ebwe lo wóól “subject line” bwe “Proposed Amendments to the Terms and Requirements of Concession Agreements”:

DEPARTMENT OF PUBLIC LANDS
PO Box 500380, Saipan, MP 96950
Fax: (670) 234-3755
Email: admin@dpl.gov.mp


Ebwe toolong kkapas llól eliigh ráál sáangi ráálil akkatéewowul arongorong yeel.1 CMC § 9104(a)(2).

Isáliyalong:


Sixto K. Igisomar
Sekkretóoriyo, Bwulasiyol Ammwelil
Faluweer Toulap


08/19/22
Ráál

Bwughiyal:


Ms. Mathilda A. Rosario
Special Assistant ngáli Administration

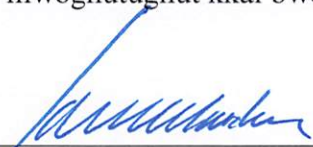
08/24/22
Ráál

Ammwelil:


Ms. Esther R.M. San Nicolas
Commonwealth Registrar

Ráál

I átirow, sáangi 1 CMC § 2153(e) me 1 CMC § 9104(a)(3), bwe I ya takkal amwuri fischiiy me átirowa mwóghutughut kkal bwe aa lléghló fféerúl me “legal sufficiency”.


Mr. Edward Manibusan
Soulemelemil Allégh Lapalap

8/26/2022
Ráál

CHAPTER 145-70
TEMPORARY OCCUPANCY RULES AND REGULATIONS

Part 200 - Policies and Procedures for Temporary ~~Non-Exclusive~~ Occupancy of Public Lands

§ 145-70-202 General Requirements

(a) The temporary occupancy of public lands or properties may be authorized via [easements pursuant to § 145-70-205](#), ~~T~~temporary ~~O~~ccupancy ~~A~~greements (TOA); [pursuant to § 145-70-210 \(which may take the form of ~~concession agreements~~, permits, temporary authorizations \(TA\), and other agreements appropriate for the activity to be conducted\); or \[concession agreements pursuant to § 145-70-215\]\(#\). The activity for which the premises will be used must be permitted by the land use permitting agencies of the CNMI and applicable laws. \[Except as otherwise stated in these regulations\]\(#\), ~~t~~These agreements shall generally:](#)

- (1) Provide a benefit to the public;
- (2) Be short term (i.e., revocable and for periods of ~~no less than one year but~~ not more than five years) or intermittent in nature;
- (3) Be uniform in expiration dates, as follows:

<u>Types of Temporary Occupancy Agreements</u>	<u>Expiration Dates</u>
Non-Exclusive Beachfront Concession	December 31st
Agricultural and Grazing Permit	January 31st
Parking Permit (Parking/Encroachment)	February 28th
Signboard and Maintenance	March 31s
Encroachment, Container Storage, and Staging	April 30th
Roadside Vendor, Telecommunication Tower, Rock Quarry, Others	May 31st

- (4) Be reviewed periodically for compliance;
- (5) Prohibit the construction of permanent structures;
- (6) Provide non-exclusive rights to the land or property ~~unless otherwise stated in these regulations~~;
- (7) Be non-transferable, non-assignable, and cannot be sold, subjected to mortgage, or used as collateral;
- (8) Self-terminate should occupant or operator cease to exist or ceases the activity described in the application; and
- (9) Require compliance with all business licensing, permitting, and regulatory requirements for business or other activities to be conducted including without limitation all zoning, building and other permits as applicable.
- (10) Property valuations for purposes of calculating fees for TOA²s may be determined by DPL's in-house appraiser [or by an appraiser designated according to DPL's discretion](#).

§ 145-70-215 Concession Agreements

Concession agreements grant the concessionaire the right to conduct business operations from a designated area, zone, or venue on terms determined by DPL.

(a) Upon receipt of request for a non-exclusive concession, DPL will determine the desirability of the proposed area, use and the past performance and/or experience (if any) of the proposed concessionaire. If acceptable to the DPL and if consistent with designated use, zoning, surrounding activities, DPL may issue a notice of intent.

(b) DPL may issue an RFP or conduct an auction if there are two or more similar competing interests with respect to a given non-exclusive concession area, or in any instance at the discretion of the Secretary. DPL shall issue an RFP or conduct an auction with respect to the exclusive Managaha Island Master Concession.

(c) Monthly fees of at least \$250 per concession (up to 200 square feet) shall be charged in addition to 3% of BGR. Concessions negotiated through RFP or auction may be subject to higher fees based upon applicant's proposal or bid amount.

(d) The Premises shall be used solely for the business operations of the Occupant. Subconcessions for non-exclusive concessions are not permitted ~~unless expressly authorized in these regulations~~. Any change in ownership of occupant shall be considered an assignment. Assignments are not permitted for non-exclusive concessions ~~agreements or permits~~. (Only one non-exclusive concession agreement is allowed per applicant, permittee, and/or principal.)

(e) All concession agreements are terminable by DPL at will. The term of any non-exclusive concession agreement shall be shall be for no longer than one year per concession agreement with a maximum holdover of 12 months. ~~with the exception of~~ The exclusive Managaha Island Master Concession which may be for a terms of up to ~~five~~ten years with an option to extend the term by an additional five years at DPL's discretion.

(f) Applications for renewal of non-exclusive concession agreements (if any) shall be made annually at least two months prior to expiration or as solicited via a Request for Proposal or at auction. Applications for renewal of the exclusive Managaha Island Master Concession (if any) shall be made at least one year prior to expiration or as solicited via a Request for Proposal or at auction.

~~(g)~~(g) Criteria for evaluating an application/proposal for a concession agreement under consideration shall be the same as those outlined in the regulation on leases. For renewals, if a competing proposal does not materially enhance the existing concessionaire's proposal, operations, or otherwise project to materially increase the revenue to DPL, and the concessionaire has satisfied all the covenants and conditions of its existing concession agreement, it is DPL's

preference to renew the concession agreement with the current concessionaire with payments comparable to that proposed or implied by the best competing proposal, but in no case shall DPL accept rent less than what was established in any preceding period.

~~(g)~~(h) Non-exclusive bEach concessions for beach and ocean recreational activities shall be limited as follows:

(1) Concessions for activities involving commercial motorized and non-motorized water craft shall not be permitted outside of the area designated by the BECQ – Coastal Resource Management Office and shall occur only within specific zones authorized by DPL.

(i) Concessions are restricted to areas adjacent to boundary corners of hotels, or if no hotel is located in the vicinity, to the perimeter boundaries of the public land perpendicular to the high-water mark.

(ii) Beach concession agreements~~permits~~ will be limited to twenty-five total concessions per year due to limited space and safety concerns and in an effort to maintain a peaceful beach experience for those not participating in concession activities. The number of beach concession agreements~~permits~~ may be limited to a lesser amount if the Division of Fish and Wildlife, Coastal Resources Management Office or other CNMI government and federal governments* determines that the marine sports activities cause an impact on marine life species and/or their habitats are disrupted, harmed, or destroyed resulting from such activities.

(2) Enforcement procedures shall be as follows:

(i) A first violation of agreement~~permit~~ terms or conditions will result in a citation and fine of \$200.00.

(ii) A second violation within 30 days of any citation shall result in an order to show cause not to terminate the agreement. A hearing shall be scheduled within 15 days if requested by concessionaire. If no hearing is requested, Concessionaire's authorization shall be terminated with immediate effect. Violators shall not be eligible for a concession agreement for three years following any termination.

(i) Liability insurance shall be required. The policy shall name DPL and the Commonwealth as co-insured, with a minimum coverage of \$100,000 in bodily injury per person, \$300,000 in bodily injury aggregate, and \$100,000 in property damage for each occurrence, or such higher amounts as DPL may reasonably require.

*So in original.