

TITLE 145: DEPARTMENT OF PUBLIC LANDS

SUBCHAPTER 145-20.2 ROTA AGRICULTURAL HOMESTEAD PROGRAM RULES AND REGULATIONS

Subchapter Authority: PL 7-11 § 3 (former 2 CMC § 4383 repealed and reenacted by PL 10-3 § 5).

Subchapter History: Proposed 14 Com. Reg. 10179 (Dec. 15, 1992).

Commission Comment: N.M.I. Const. art. XI, codified as amended at 2 CMC §§ 4111-41115, established the Marianas Public Land Corporation (MPLC), responsible for the management and disposition of public lands. See 2 CMC §§ 4113 and 4114. 2 CMC §§ 4301-4314 set forth the general statutory provisions governing homesteads in the CNMI and designated MPLC as the agency responsible for implementing homestead laws.

PL 7-11, the “Rota Agricultural Homestead Act of 1990,” codified as amended at 2 CMC §§ 4381-4385, is deemed effective on October 24, 1990 pursuant to PL 10-3 (effective Mar. 4, 1996), the “Rota Agricultural Homestead Corrections Act of 1996.” See PL 10-3 § 3 set forth in the commission comment to 2 CMC § 4382. PL 7-11 § 2 authorized the MPLC to administer an agricultural homestead program on Rota. PL 6-15 § 3 (former 2 CMC § 4373) empowered MPLC to promulgate rules and regulations to carry out the purposes of the act.

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 §§ 104 and 306(a):

Section 104. Department of Lands and Natural Resources.

The Department of Natural Resources is re-designated the Department of Lands and Natural Resources.

....

Section 306. Department of Lands and Natural Resources

(a) Marianas Public Land Corporation. Pursuant to [N.M.I. Const. art. XI, §4(f)], the Marianas Public Land Corporation is dissolved and its functions transferred to a Division of Public Lands in the Department of Lands and Natural Resources, which shall have at its head a Director of Public Lands.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

PL 10-3 (effective Mar. 4, 1996), the “Rota Agricultural Homestead Corrections Act of 1996,” codified at 2 CMC §§ 4382 and 4383, amended PL 7-11 to, among other things, update the law to reflect the changes effected by Executive Order 94-3. PL 10-2 § 5 repealed PL 6-15 § 3. 2 CMC § 4383(a) requires the Secretary of the Department of Lands and Natural Resources to establish standards and requirements for the use, occupation and development of the homestead tracts granted under the act.

In 1997, the Legislature passed the “Public Lands and Natural Resources Administration Act of 1997,” PL 10-57 (effective Apr. 18, 1997), codified as amended at 1 CMC §§ 2651, et seq. PL 10-57 repealed and reenacted chapter 13, division 2 of title 1 of the Commonwealth Code, 1 CMC §§ 2651, et seq., and statutorily established the Department of Lands and Natural Resources (DLNR) with the structure, duties and responsibilities set forth in the act. See 1 CMC § 2651 and the commission comment thereto. 1 CMC § 2654 authorizes the Department of Lands and Natural Resources to adopt rules and regulations in furtherance of its duties and responsibilities.

PL 10-57 § 4 vacated Executive Order 94-3 § 306. PL 10-57 § 3 created a Division of Public Lands within DLNR “headed by a Director serving under the supervision and control of the Secretary and the Board of Public Lands.” 1 CMC § 2671(a). 1 CMC § 2671(b) provided that the Division of Public Lands is the successor to the Marianas Public Lands Corporation pursuant to N.M.I. Const. art. XI §4(f) and assigned all statutory powers and duties of the MPLC to the Division of Public Lands.

TITLE 145: DEPARTMENT OF PUBLIC LANDS

PL 12-33 (effective Dec. 5, 2000), the “Board of Public Lands Act of 2000,” and PL 12-71 (effective Nov. 13, 2001) transferred the authority to manage, use and dispose of surface and submerged public land to a new Marianas Public Lands Authority, under the direction of a Board of Public Lands Management.

After PL 12-33 vested the authority to implement the homesteading programs in the new Board of Public Lands Management, the Legislature enacted PL 12-53 (effective on May 29, 2001). PL 12-53, the “Rota Agricultural Homestead Amendment Act of 2001,” amended 2 CMC § 4382 to authorize the Board of Public Lands to designate agricultural lands on Rota for homesteads. However, PL 12-53 did not amend 2 CMC § 4383, which still requires the Secretary of the Department of Lands and Natural Resources to establish standards and requirements for the use, occupation and development of the homestead tracts granted under the act.

Public Law 15-2 (effective February 22, 2006), codified at 1 CMC §§ 2801-2809, replaced the Marianas Public Lands Authority with the Department of Public Lands within the executive branch. Public Law 15-2 repealed all provisions of Public Laws 10-57, 12-33, and 12-71 applicable to public lands. PL 15-2 created the Department of Public Lands within the executive branch “to manage and administer the Commonwealth’s public lands under the provisions of Article XI of the Constitution” and transferred the powers and duties of the Marianas Public Lands Authority to the Department of Public Lands. 1 CMC § 2801.

PL 15-2 changed all references in the Commonwealth Code from the Marianas Public Lands Corporation, Division of Public Lands, Office of Public Lands or the Marianas Public Lands to the “Department of Public Lands.” PL 15-2 § 4 [Commission comment to 1 CMC § 2801]. Public Law 15-64, effective May 30, 2007, changed all references in the Commonwealth Code from Board of Public Lands to “Secretary of Public Lands.” PL 15-64 § 4. For a complete history of the authority over public lands in the Commonwealth see the general comment to chapter 10 of this title.

PL 15-2 § 3 (§ 108) requires that the Department of Public Lands “assess the demand for homesteads and develop a program for meeting that need, to the extent practicable, within the available land base.” 1 CMC § 2808. PL 15-2 did not amend 2 CMC § 4383(a), which requires the Department of Lands and Natural Resources to establish standards for homestead tracts in Rota. Consequently, authority over an agricultural homestead program on Rota is unclear.

On December 15, 1992, the MPLC published proposed Rota Agricultural Homestead Program Rules and Regulations pursuant to the authority of PL 7-11. See 14 Com. Reg. 10179 (Dec. 15, 1992). A notice of adoption was never published. This subchapter is reserved for future rules and regulations governing the Rota Agricultural Homestead Program.

[Reserved for future rules and regulations governing the Rota Agricultural Homestead Program.]