

TITLE 145: DEPARTMENT OF PUBLIC LANDS

CHAPTER 145-20 AGRICULTURAL AND VILLAGE HOMESTEAD RULES AND REGULATIONS

SUBCHAPTER 145-20.1 AGRICULTURAL HOMESTEAD WAIVER PROGRAM RULES AND REGULATIONS

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Subchapter Authority: 2 CMC § 4325.

Subchapter History: Adopted 5 Com. Reg. 2240 (July 29, 1983); Proposed 5 Com. Reg. 2109 (May 27, 1983); Proposed 3 Com. Reg. 1285 (July 31, 1981).

Commission Comment: N.M.I. Const. art. XI, codified as amended at 2 CMC §§ 4111-4115, 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 designate MPLC as the agency responsible for implementing homestead laws.

PL 2-13 (effective Feb. 9, 1981), the “Homestead Waiver Act,” is codified as amended at 2 CMC §§ 4321-4328. PL 11-96 (effective Sept. 10, 1999) amended certain provisions of the Homestead Waiver Act. 2 CMC § 4323, as amended by PL 14-66 (effective May 5, 2005) directed the MPLC to waive certain requirements of the agricultural homesteading program.

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. The Marianas Public Lands Authority became the successor agency to the Marianas Public Lands Corporation.

Public Law 15-2 (effective February 22, 2006), codified at 1 CMC §§ 2801-2809, repealed all provisions of Public Laws 10-57, 12-33, and 12-71 applicable to public lands.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.

2 CMC § 4325 empowers the Department of Public Lands to promulgate rules and regulations to carry out the purposes of the Homestead Waiver Act. PL 15-2 § 3 (§ 108) requires that the Department of Public Lands “assess

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the demand for homesteads and develop a program for meeting that need, to the extent practicable, within the available land base.” 1 CMC § 2808.

The Marianas Public Lands Corporation promulgated the Agricultural Homestead Waiver Program Rules and Regulations codified in this subchapter.

Part 001 - General Provisions

§ 145-20.1-001 Authority

The rules and regulations in this subchapter are hereby promulgated and issued by the Marianas Public Land Corporation (MPLC) pursuant to § 5 of the Northern Mariana Islands Homestead Waiver Act of 1980 (Public Law 2-13, as amended).

Modified, 1 CMC § 3806(d).

History: Adopted 5 Com. Reg. 2240 (July 29, 1983); Proposed 5 Com. Reg. 2109 (May 27, 1983); Proposed 3 Com. Reg. 1285 (July 31, 1981).

§ 145-20.1-005 Purpose

The purposes of the rules and regulations in this subchapter are to set forth the necessary procedures with respect to agricultural homestead waiver applications; to set out in detail the standards of eligibility; to provide for certain requirements necessary to meet the goals and objectives of the agricultural homestead waiver program; to provide for a system of issuance of notice and hearing process for applicants whose applications have been denied, and to provide a basic format for applications and other documents and instruments necessary to administer and implement the agricultural homestead waiver program.

Modified, 1 CMC § 3806(d).

History: Adopted 5 Com. Reg. 2240 (July 29, 1983); Proposed 5 Com. Reg. 2109 (May 27, 1983); Proposed 3 Com. Reg. 1285 (July 31, 1981).

Part 100 - Agricultural Homestead Waiver Program Requirements

§ 145-20.1-101 Standards of Eligibility

The criteria provided hereinunder shall govern the eligibility of the following classes of applicants for agricultural homestead under Public Law 2-13, as amended:

- (a) An applicant must have, prior to January 9, 1978, entered upon, occupied, and improved a certain public land for agricultural purposes with any form of authorization from the government, and actually entered upon, occupied, improved and continually used said public land for agricultural purposes through the effective date of the Northern Mariana Islands Homestead Waiver Act of 1980, as amended; or an applicant must have, prior to January 9, 1978, entered upon, occupied, and improved a certain public land for agricultural purposes for a period of 15 years or more with or without any authorization from the government.

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(b) An applicant must be 18 years or older at the time he/she entered upon, occupied, and improved either with or without government authorization, a certain public land for agricultural purposes.

(c) An applicant or his/her spouse must not own or have more than one agricultural homestead.

(d) An applicant or his/her spouse must not own or have an interest in land within the Northern Mariana Islands that equals or exceeds the land area allowable at the time he/she entered upon, occupied, and improved a certain public land for agricultural purposes.

Modified, 1 CMC § 3806(e), (f).

History: Adopted 5 Com. Reg. 2240 (July 29, 1983); Proposed 5 Com. Reg. 2109 (May 27, 1983); Proposed 3 Com. Reg. 1285 (July 31, 1981).

§ 145-20.1-105 Application Procedure

(a) All applicants for waiver of agricultural homestead shall fill out an agricultural homestead waiver application form provided for by MPLC. The said form is attached hereto as appendix “A.” All applications shall be submitted no later than one year from the date of the final publication of the rules and regulations in this subchapter.

(b) All applications shall be signed and acknowledged before a notary public or declared under penalty of perjury.

(c) All applications must be accompanied by a \$200.00 application fee.

(d) After submission of an application, MPLC shall review and verify the eligibility of the applicant and all essential facts set forth in the application, including but not limited to investigation of records, interviewing of applicants and witnesses, inspection of premises and improvements or developments, etc.

Modified, 1 CMC § 3806(d), (f), (g).

History: Adopted 5 Com. Reg. 2240 (July 29, 1983); Proposed 5 Com. Reg. 2109 (May 27, 1983); Proposed 3 Com. Reg. 1285 (July 31, 1981).

Commission Comment: In subsection (a), the Commission moved the period after “A” inside of the closing quotation mark.

§ 145-20.1-110 Issuance of Permit and Deed

An applicant whose application has been reviewed, verified, approved, and found to meet the agricultural homestead requirements, rules, and regulations to the satisfaction of MPLC shall be issued an agricultural homestead permit upon completion of the necessary survey work, preparation of an official survey plat and payment of 10% of the survey cost incurred by MPLC,

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however, not to exceed \$100 per hectare, whichever is lower. The said form is attached hereto as appendix "B." Upon issuance of the permit, a deed to the applicant shall be issued and delivered to the said applicant. The said form is attached hereto as appendix "C."

Modified, 1 CMC § 3806(f), (g).

History: Adopted 5 Com. Reg. 2240 (July 29, 1983); Proposed 5 Com. Reg. 2109 (May 27, 1983); Proposed 3 Com. Reg. 1285 (July 31, 1981).

Commission Comment: The Commission moved the periods inside of the closing quotation marks.

§ 145-20.1-115 Notice and Hearing

An applicant whose application for an agricultural homestead waiver has been received, verified, and found not eligible, shall be informed in writing, in the language the applicant is conversant with, of such decision, the reason therefore, and the right of each applicant to appear before the hearing committee set up by the Corporation to hear and determine why his/her application should not be denied. Such a hearing shall be held no later than 90 days after receipt of such notice by the applicant. If the applicant has reasons to believe that his/her application should not be denied, he/she should present his/her case before the committee for consideration. No later than 30 days after the hearing, the committee, on behalf of the Corporation, shall issue its decision. If the committee finds that it should deny the application, a written decision to that effect shall be prepared and given to the applicant. Such a decision shall be deemed final for MPLC. The applicant has the right to be represented by a counsel of his/her choosing and to bring witnesses at the said hearing.

Modified, 1 CMC § 3806(f).

History: Adopted 5 Com. Reg. 2240 (July 29, 1983); Proposed 5 Com. Reg. 2109 (May 27, 1983); Proposed 3 Com. Reg. 1285 (July 31, 1981).

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Appendix A

Application for Waiver of Agricultural Homestead Requirements
Marianas Public Land Corporation

P. O. Box 380
Saipan, CM 96950

Application For Waiver of
Agricultural Homestead Requirements

A. Bio Data

1. Name of Applicant(s): _____
(Last) (First) (Middle)

(Spouse's Maiden Name) _____
(Last) (First) (Middle)

2. Place of Birth: (Applicant) _____
(Spouse) _____

3. Date of Birth: (Applicant) _____ Age: _____
(Spouse) _____ Age: _____

4. Date of Marriage: _____

5. Home Address: _____

6. Mailing Address: _____

7. Telephone Number: (Home) _____
(Work) _____

8. Number of dependent children (under 18 years) _____

9. Occupation(s): (Applicant) _____
(Spouse) _____

10. Name and address of employer:
(Applicant) _____
(Spouse) _____

B. Land Ownership Statement

1. Do you or your spouse own or have an interest in agricultural land in the Commonwealth of the Northern Mariana Islands? _____

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a) What kind of interest? (Specify whether inheritance, co-heir to decedent's estate, co-owner, through purchase, homesteading program, etc.) _____

b) Where is the land located? (Describe) _____

c) How large is the land? _____

d) Who is using the land? _____

2. Are you or your spouse presently occupying and developing a public land for agricultural, purpose? _____

a) When did you first enter, occupy and develop the land? _____
Month Date Year

b) Where is the land located? _____

c) How large is the land? _____

d) How long have you entered occupied, and developed the land? _____

e) Did you apply to homestead the land? _____

f) When did you apply to homestead the land?

Month Date Year

g) Have you ever been issued an agricultural homestead permit? _____

h) Did you pay the \$10 filing fee? _____

i) Do you have authorization from the government to enter upon, occupy, and improve the land for agricultural purposes? _____

1) Who authorized you? _____

2) When? _____

j) Were you ever given a map by the government for that land that you have entered, occupied, and improved for agricultural purposes? (Attach map) _____

k) Have you ever traveled to another island, or country after you entered upon, occupied, and improved the land for agricultural, purposes? _____

1. When? _____

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- 2. Length of travel? _____
- 3. For what purpose? _____

l) Have you ever authorized or permitted anyone (aside from your spouse or children) to enter upon, occupy and improve the land or any portion of the said land? _____

m) Who else, if any, beside you, your spouse or children, is occupying or using the land? _____

1) Length of time the above person is using the land? _____

n) What development(s) or improvement(s), if any, have you made on the land? _____

1) In the space below, draw a simple sketch of the land and indicate what portion of the land has what development(s) or improvement(s):

- 2) Names of adjoining occupants to your:
- North _____
 - South _____
 - East _____
 - West _____

Certification by Applicant/Spouse

I/We, _____ declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on _____, 19____, at _____, Commonwealth of the Northern Mariana Islands. Also, I/we understand that by falsifying any of the answers herein for the purpose of obtaining a deed to the public land I/we was/were authorized to enter, occupy, and improve for agricultural purposes, MPLC is authorized by me/us to declare my/our application for waiver of agricultural homestead requirements null and void.

Date: _____ Applicant: _____

Date: _____ Spouse: _____

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Acknowledgment

Commonwealth of the)
Northern Mariana Islands) ss
)
_____)

On this _____ day of _____, 19___, before me appeared _____, known to me to be the person(s) whose name(s) is (are) subscribed to the foregoing Instrument and acknowledged that he/she signed and delivered said Instrument as his/her free and voluntary act for the purposes therein set forth.

In Witness Whereof, I hereunto set my hand and seal this _____ day of _____, 19___.

Notary Public

Modified, 1 CMC § 3806(f), (g).

History: Adopted 5 Com. Reg. 2240 (July 29, 1983); Proposed 5 Com. Reg. 2109 (May 27, 1983); Proposed 3 Com. Reg. 1285 (July 31, 1981).

Commission Comment: In section (B)(2)(k), the Commission corrected the spelling of “traveled.”

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Appendix B

Permit to Homestead Agricultural Tract
Commonwealth of the Northern Mariana Islands
Marianas Public Land Corporation

Permit to Homestead Agricultural Tract No. _____

This Agricultural Homestead Permit is issued by the Marianas Public Land Corporation in favor of _____, referred to hereinafter as "Homesteader", who is hereby authorized to continue to occupy, use, and improve the parcel of land described as per attachment "A", referred to as the "Homestead" in accordance with the provisions of the Northern Mariana Islands Homestead Waiver Act of 1980, as amended, and the rules and regulations promulgated thereof.

In issuing this Permit, the Marianas Public Land Corporation has made the following findings:

1. That the Homesteader has, prior to January 9, 1978, continuously entered upon, occupied, and improved that parcel of land as described in attachment "A" for agricultural purposes for a period of _____ years.
2. That the Homesteader does not own or have an interest in agricultural land within the Commonwealth of the Northern Mariana Islands that exceeds or equals the area or size of the above-described Homestead.
3. That the Homesteader has paid the application fee of \$200.00 and costs of survey of the Homestead in accordance with § 5 of the approved Rules and Regulations [§ 145-20.1-105(c)].
4. That the Homesteader has fully understood and agreed to reserve to the government of the Commonwealth of the Northern Mariana Islands, its successors and assigns, all mineral rights or such water rights as may be required, the existing roadways, rights of ways and other easements upon said Homestead. The Homesteader further agrees to reserve for the benefit of the Government of the Northern Mariana Islands, its successors and assigns from the land above described necessary rights of way for construction of utility lines, pipelines, or other conduits with necessary maintenance and access roads as may be constructed by the authority of the government of the Northern Mariana Islands, its successors and assigns, but this reservation shall not be construed to waive any claims for injury to growing crops, damage to improvements or other injuries sustained by the Homestead as a direct result of the execution of work or exercise of the right of entry upon the above-described property under this reservation.
5. That the Homesteader has satisfied the waiver eligibility requirements and is hereby waived from complying with the compliance requirements as mandated by law.
6. That the Homesteader is entitled to receive a Quitclaim Deed to said Homestead within 90 days from the date hereof.

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Dated this _____ day of _____, 19__.

Marianas Public Land Corporation Homesteader

By _____
Chairman
Board of Directors

Modified, 1 CMC § 3806(f), (g).

History: Adopted 5 Com. Reg. 2240 (July 29, 1983); Proposed 5 Com. Reg. 2109 (May 27, 1983); Proposed 3 Com. Reg. 1285 (July 31, 1981).

Commission Comment: In subsection (3), the citation to § 5, codified at § 145-20.1-110, is incorrect. The Commission cited the correct provision in the brackets.

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Appendix C

Quitclaim Deed for Agricultural Homestead Tract
Commonwealth of the Northern Mariana Islands
Marianas Public Land Corporation

Quitclaim Deed for
Agricultural Homestead Tract

This Indenture made this _____ day of _____, 19____, by and between the Marianas Public Land Corporation of the Commonwealth of the Northern Mariana Islands, hereinafter referred to as "GRANTOR", and _____ of _____, Northern Mariana Islands, hereinafter referred to as "GRANTEE".

WITNESSETH THAT:

WHEREAS, Grantee has continuously entered upon, occupied, and improved a certain public land described below for agricultural purposes for a period of _____ years at the effective date of the Constitution of the Northern Marianas Islands, the first entry being made on _____; and

WHEREAS, Grantee complied with the provisions of the homestead laws pertaining to the said agricultural tract as well as the terms and conditions of the Permit to Homestead Agricultural Tract No. _____, incorporated herein by reference.

NOW, THEREFORE, pursuant to the provisions of the Northern Mariana Islands Homestead Waiver Act of 1980, the Grantor having the powers to manage and dispose of public lands under Article XI of the Constitution on behalf of the Commonwealth, now do hereby by these presents remise, release, and quitclaim forever to the Grantee, all right, title, interest, or claim of the Commonwealth in and to the following described real property situated and lying at _____, Northern Mariana Islands:

Tract No. _____ containing an area of _____ square meters more or less as shown on the Division of Lands and Surveys Official Survey Plat Number _____ dated _____, the description therein being incorporated herein by reference.

TO HAVE AND TO HOLD the same unto the Grantee, his/her heirs and assigns forever, together with all fixtures and appurtenances belonging thereto, but reserving to the Commonwealth, its successors and assigns, all mineral rights or such water rights as may be required, the existing roadways, and other easements upon the premises. There is also hereby reserved for the benefit of the Commonwealth, its successors and assigns, from the premises necessary rights of way for construction of utility lines, pipelines, or other conduits with necessary maintenance and access roads as may be constructed by the authority of the

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Commonwealth, its successors and assigns; but this reservation shall not be construed to waive any claim for injury to growing crops, improvements, surface damage, or other injuries sustained by the Grantee, his/her heirs and assigns, as a direct result of the execution of the work or exercise of the right of entry under this reservation.

IN WITNESS WHEREOF, the Chairman of the Board of Directors of the Marianas Public Land Corporation, pursuant to the authorization of the Board, hereby enters his signature and affixes the seal of the Corporation on the day and year first above written.

MARIANAS PUBLIC LAND CORPORATION

By: _____
Chairman
Board of Directors

History: Adopted 5 Com. Reg. 2240 (July 29, 1983); Proposed 5 Com. Reg. 2109 (May 27, 1983); Proposed 3 Com. Reg. 1285 (July 31, 1981).

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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.

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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.]

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**SUBCHAPTER 145-20.3
TINIAN AGRICULTURAL HOMESTEAD PROGRAM RULES AND REGULATIONS**

Part 001	General Provisions	§ 145-20.3-125	Issuance	of
§ 145-20.3-001	Authority		Homestead Permit	
§ 145-20.3-005	Purpose	§ 145-20.3-130	Conditions	of
§ 145-20.3-010	Definitions		Occupancy	
		§ 145-20.3-135	Homestead	Progress
Part 100	Tinian		Inspection	
	Agricultural			
Homestead Program Requirements		§ 145-20.3-140	Deeds of Conveyance	
§ 145-20.3-101	Designation	§ 145-20.3-145	Transfer	of
Homestead Areas			Homestead Permit	
§ 145-20.3-105	Establishment of Area	§ 145-20.3-150	Penalties	
§ 145-20.3-110	Persons Eligible to	§ 145-20.3-155	Notice and Hearing	
Homestead		§ 145-20.3-160	Waiver	
§ 145-20.3-115	Priority of Applicants			
§ 145-20.3-120	Application	Part 200	Miscellaneous Provisions	
Procedure		§ 145-20.3-201	Effective Date	

Subchapter Authority: PL 6-15 § 3 (former 2 CMC § 4373 repealed and reenacted by PL 10-2 § 5).

Subchapter History: Adopted 13 Com. Reg. 7650 (Feb. 15, 1991); Proposed 12 Com. Reg. 7404 (Oct. 15, 1990).

Commission Comment: N.M.I. Const. art. XI, codified as amended at 2 CMC §§ 4111-4115, 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 designate MPLC as the agency responsible for implementing homestead laws.

PL 6-15, the “Tinian Agricultural Homestead Act of 1988,” codified as amended at 2 CMC §§ 4371-4376, is deemed effective on Feb. 21, 1989 pursuant to PL 10-2 (effective Mar. 4, 1996), the “Tinian Agricultural Homestead Corrections Act of 1996.” See PL 10-2 § 3 set forth in the commission comment to 2 CMC § 4372. PL 6-15 § 2 authorized the MPLC to administer an agricultural homestead program on Tinian. PL 6-15 § 3 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.

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

PL 10-2 (effective Mar. 4, 1996), the “Tinian Agricultural Homestead Corrections Act of 1996,” codified at 2 CMC §§ 4372 and 4373, amended PL 6-15 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 § 4373(a)(2) 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.

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. The Marianas Public Lands Authority became the successor agency to the Marianas Public Lands Corporation.

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. PL 15-2 repealed all provisions of Public Laws 10-57, 12-33, and 12-71 applicable to public lands.

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.

While PL 12-33 vested the authority to implement the homesteading programs in the Board of Public Lands Management and PL 15-2 transferred that authority to the Department of Public Lands, 2 CMC § 4373(a)(2) was not amended. 2 CMC § 4373(a)(2) requires the Department of Lands and Natural Resources to establish standards for homestead tracts in Tinian. 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. Consequently, authority over an agricultural homestead program on Tinian is unclear.

MPLC promulgated the 1991 Tinian Agricultural Homestead Program Rules and Regulations pursuant to the authority of PL 6-15 § 3.

Part 001 - General Provisions

§ 145-20.3-001 Authority

The rules and regulations in this subchapter are hereby promulgated and issued by the Marianas Public Land Corporation (MPLC) pursuant to section 3 of the Tinian Agriculture Homestead Act of 1988 (Public Law 6-15).

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Modified, 1 CMC § 3806(d), (f).

History: Adopted 13 Com. Reg. 7650 (Feb. 15, 1991); Proposed 12 Com. Reg. 7404 (Oct. 15, 1990).

§ 145-20.3-005 Purpose

The purpose of the rules and regulations in this subchapter are to set forth the necessary procedures with respect to agricultural homestead applications; to set out in detail the standards of eligibility; to provide for certain requirements necessary to meet the goals and objectives of the agricultural program; to provide for an efficient system of notice and hearing process for applicants whose applications have been denied, and to provide a basic format for applications and other documents and instruments necessary to administer and implement the agricultural homestead program.

Modified, 1 CMC § 3806(d).

History: Adopted 13 Com. Reg. 7650 (Feb. 15, 1991); Proposed 12 Com. Reg. 7404 (Oct. 15, 1990).

§ 145-20.3-010 Definitions

(a) “Domicile”: That place where a person has his true, fixed and permanent home and principal establishment, and to which whenever he is absent he has the intention of returning. The permanent residence of a person or place to which he intends to return even though he may actually reside elsewhere. The established, fixed, permanent, or ordinary dwelling place or place of residence of a person, as distinguished reside elsewhere.*

*So in original.

(b) “Marriage”: The legal union of one man and one woman as husband and wife. It is a legal status and requires the issuance of a marriage license by the Commonwealth with or without a ceremony by a church.

(c) “Common Law Marriage”: One not solemnized in the ordinary way but created by an agreement to marry, followed by cohabitation. Such a marriage requires a positive mutual agreement, permanent and exclusive of all others, to enter into a marriage relationship, combined with cohabitation sufficient to allow the fulfillment of necessary elements to the relationship of man and wife, and an assumption of marital duties and obligations. The burden to prove such relationship lies with the applicant, however, the existence of children whose birth certificates list both parties to such a relationship as parents shall constitute a prima facie showing of the existence of the relationship. For purposes of the regulations in this subchapter only, the definition of spouse shall include either party to a “common law” marriage.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 13 Com. Reg. 7650 (Feb. 15, 1991); Proposed 12 Com. Reg. 7404 (Oct. 15, 1990).

Commission Comment: The Commission inserted quotation marks around terms defined.

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Part 100 - Tinian Agricultural Homestead Program Requirements

§ 145-20.3-101 Designation of Homestead Areas

The Marianas Public Land Corporation may from time to time designate areas suitable for farming and agricultural activities, and shall use such designated areas for the distribution of agriculture homestead lots. No applicant may be granted an agriculture homestead lot outside of the designated area without the prior approval of the Board of Directors.

History: Adopted 13 Com. Reg. 7650 (Feb. 15, 1991); Proposed 12 Com. Reg. 7404 (Oct. 15, 1990).

§ 145-20.3-105 Establishment of Area

All eligible applicants shall be entitled to a maximum area of one hectare or 10,000 square meters of agricultural land.

History: Adopted 13 Com. Reg. 7650 (Feb. 15, 1991); Proposed 12 Com. Reg. 7404 (Oct. 15, 1990).

§ 145-20.3-110 Persons Eligible to Homestead

All applicants for agriculture homestead lots must meet and satisfy all of the following criteria:

- (a) An applicant must be 18 years of age, or over, and is a citizen of the Commonwealth of the Northern Marianas, and of Northern Marianas descent as provided for in the CNMI Constitution.
- (b) An applicant must have been domiciled on the island of Tinian for not less than five years.
- (c) An applicant or his/her spouse must not own or have an interest in agricultural land within the Commonwealth of the Northern Marianas which equals or exceeds ½ hectare or 5,000 contiguous square meters.
- (d) An applicant or his/her spouse must not have been a recipient of an agriculture homestead lot from a previous agricultural homesteading program.
- (e) An applicant shall not receive more than one agriculture homestead lot.
- (f) A person is not eligible to apply for a homestead within the first six months after ceasing to cohabitate with an applicant or recipient of an agricultural homestead lot. Additionally, if an applicant resumes cohabitating with another applicant or recipient of an agricultural homestead lot within six months after receiving a permit to homestead, the permit shall be considered void for all purposes.
- (g) A person residing with an applicant for, or recipient of an agricultural homestead lot is not eligible to apply for a homestead.

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(h) If two applicants marry within the first year of either's permit, they shall make an election as to which homestead to develop and the other homestead permit shall be deemed void. If an election is not made within two months of the marriage, the most recent permit shall be deemed void.

Modified, 1 CMC § 3806(e), (g).

History: Adopted 13 Com. Reg. 7650 (Feb. 15, 1991); Proposed 12 Com. Reg. 7404 (Oct. 15, 1990).

Commission Comment: In subsection (d), the Commission inserted the word "a" before "previous" to correct a manifest error.

§ 145-20.3-115 Priority of Applicants

The Marianas Public Land Corporation shall prioritize the applications submitted according to the following categories. In order to verify the information provided in the application and in order to accurately determine the actual need and priority for an agricultural homestead lot, MPLC may require the applicant to provide additional documentation as MPLC deems appropriate.

(a) First Priority

- (1) Married applicants whose primary source of income is derived from farming.
- (2) Single applicants whose primary source of income is derived from farming.

(b) Second Priority

- (1) Married applicants whose primary income is derived from sources other than farming.
- (2) Single applicants whose primary income is derived from sources other than farming.

(c) Ineligible Applicants

Those applicants who are determined ineligible to receive agricultural lots due to constitutional and statutory restrictions shall be notified in writing of such determination. The letter notice shall specify the reasons for ineligibility and inform the applicant of a right to appeal the determination within 30 days of the receipt of the notice.

(d) Within each category of eligible applicants, the MPLC shall take into consideration the date of application, so that an earlier applicant shall take precedence over a later applicant, all other factors being equal.

Modified, 1 CMC § 3806(g).

History: Adopted 13 Com. Reg. 7650 (Feb. 15, 1991); Proposed 12 Com. Reg. 7404 (Oct. 15, 1990).

Commission Comment: The final paragraph was not designated. The Commission designated it subsection (d).

In subsection (c), the Commission changed "informing" to "inform" to correct a manifest error.

§ 145-20.3-120 Application Procedure

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- (a) All applicants for agricultural homestead shall fill out an application form provided by MPLC. Applications may be submitted in the Saipan Office or directly to the Tinian Office. Applications shall be date stamped by the MPLC when received.
- (b) All applications shall be signed and declared under penalty of perjury.
- (c) All applications must be accompanied by \$100.00 non-refundable application fee.
- (d) After submission of an application, MPLC shall verify the eligibility of the applicant and all essential facts set forth by the applicant and if necessary require the applicant to appear before the MPLC Homestead Administrator or his designee for an interview to clarify or verify the information given in the application. Approval or disapproval of application shall be rendered no later than 90 days after receipt of a completed application.

History: Adopted 13 Com. Reg. 7650 (Feb. 15, 1991); Proposed 12 Com. Reg. 7404 (Oct. 15, 1990).

§ 145-20.3-125 Issuance of Homestead Permit

- (a) Upon approval of the application, the MPLC shall issue a permit to enter upon, use and improve the land once the agricultural tract has been surveyed, monumented, mapped, and is ready for homesteading. The MPLC shall, by drawing of lots, pick up the agriculture lots for eligible applicants.
- (b) After a agricultural lot is picked for an eligible applicant, the Corporation shall prepare a agriculture homestead permit for the applicant, and shall give a copy of the map showing the agriculture homestead tract as surveyed and shall also physically show the tract to the homesteaders.
- (c) A permit fee of \$100.00 shall be paid by the homesteaders due and payable at the time the permit is executed.

Modified, 1 CMC § 3806(g).

History: Adopted 13 Com. Reg. 7650 (Feb. 15, 1991); Proposed 12 Com. Reg. 7404 (Oct. 15, 1990).

Commission Comment: The original paragraphs were not designated. The Commission designated subsections (a) through (c).

In subsection (a), the Commission inserted the word “is” before “ready” to correct a manifest error.

§ 145-20.3-130 Conditions of Occupancy

- (a) The homesteader shall enter upon and commence the use and improvement of the agriculture lot consistent with a land utilization and planting program approved by MPLC within 90 days after the receipt of the permit. Homesteader may develop his/her own land utilization planting program, but shall obtain written approval from MPLC prior to actual use and occupancy of the homestead lot. Upon noncompliance with the foregoing, the permit shall expire

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and be null and void and the homesteader shall be construed to have waived all rights in and to the land. Upon such occupancy, MPLC shall have the right to enter and possess the land.

(b) The homesteader shall, at all times maintain all boundaries clear of any and all weeds, trash and underbrush.

(c) MPLC shall show the homesteader the actual boundaries of the homestead lot. However, any subsequent request by homesteader for relocation of boundaries by MPLC may be undertaken only after a \$300.00 fee is paid in advance.

(d) During the period of occupancy, the homesteader shall observe and comply with all rules, regulations and requirements concerning the use, occupation and development of the homestead lot.

(e) No permanent structure, e.g. reinforced concrete or hollow concrete blocked construction is allowed during the term of the permit. All temporary construction for housing of people shall provide sanitation facilities approved by the Division of Environmental Qualities (DEQ).

Modified, 1 CMC § 3806(f).

History: Adopted 13 Com. Reg. 7650 (Feb. 15, 1991); Proposed 12 Com. Reg. 7404 (Oct. 15, 1990).

§ 145-20.3-135 Homestead Progress Inspection

(a) The MPLC shall conduct inspections of the homestead at least once a year, or more often as it deems necessary to determine compliance with the homestead requirements. Notice of inspection shall be given the homesteader at least ten days in advance.

(b) After each inspection the homestead inspection team shall issue a brief report on the progress of and the compliance of the homesteader.

(c) In the event that a homesteader is not complying with the homestead requirements, the inspection team shall so note in its report and inform the homesteader of the requirement he/she is not complying with. Appropriate written warnings shall be given the homesteader. Such notice shall contain specific correcting action to be taken by the homesteader to bring himself into compliance with the homestead requirements.

(d) All inspection reports shall be signed by the inspection team chairperson and all participating team members.

Modified, 1 CMC § 3806(f).

History: Adopted 13 Com. Reg. 7650 (Feb. 15, 1991); Proposed 12 Com. Reg. 7404 (Oct. 15, 1990).

§ 145-20.3-140 Deeds of Conveyance

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Deeds of conveyance shall be issued by the Marianas Public Land Corporation for homestead lots entered pursuant to the Tinian Agriculture Homestead Act of 1988 upon maturity of the permit, and only upon execution of a certification by the Marianas Public Land Corporation certifying that the homesteader has resided on the island of Tinian for three years from the date of entry upon the homestead lot and has complied with all laws, rules and regulations appertaining to the homestead. MPLC shall issue the deed of conveyance within six months of the time the homesteader becomes eligible to receive the deed of conveyance.

Modified, 1 CMC § 3806(e), (f).

History: Adopted 13 Com. Reg. 7650 (Feb. 15, 1991); Proposed 12 Com. Reg. 7404 (Oct. 15, 1990).

§ 145-20.3-145 Transfer of Homestead Permit

No rights in or to a homestead permit shall be sold, assigned, leased, transferred or encumbered; except that in the event of the death of the homesteader prior to the issuance of a deed of conveyance, all rights under the permit shall inure to the benefit of such person or persons, if any, as the homesteaders shall designate in the permit or letter filed with the Marianas Public Land Corporation. In the event no designation is made by the homesteader, then the permit shall be revoked, and the land, together with all appurtenances thereto entered thereunder, shall revert to MPLC or its successor.

Modified, 1 CMC § 3806(f).

History: Adopted 13 Com. Reg. 7650 (Feb. 15, 1991); Proposed 12 Com. Reg. 7404 (Oct. 15, 1990).

§ 145-20.3-150 Penalties

(a) Grounds for Revocation of Permit

If at any time after the issuance of the homestead permit, and before the expiration of the permit period, the homesteader abandoned the land or fail to comply with the laws, then the permit shall be revoked and the land shall revert to MPLC or its successor. The Marianas Public Land Corporation may at its discretion allow the homesteader an extension of the permit period.

(b) Grounds for Disqualification

(1) If an applicant knowingly and willfully submits false information to MPLC under penalty of perjury, the matter shall be referred to the Attorney General for prosecution and the applicant's permit shall be revoked and disqualified from participation in the agriculture homesteading program.

(2) If an applicant negligently or recklessly submits false information to MPLC or otherwise misleads MPLC, the applicant may be disqualified from participation in the agriculture homestead program permanently or for a period of time to be determined by the Board.

Modified, 1 CMC § 3806(f).

History: Adopted 13 Com. Reg. 7650 (Feb. 15, 1991); Proposed 12 Com. Reg. 7404 (Oct. 15, 1990).

§ 145-20.3-155 Notice and Hearing

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An applicant whose application for an agricultural homestead has been received, verified, and found not eligible, shall be informed in writing of such decision, the reason therefore, and a right to appeal the decision within 30 days of the date of the letter. Such hearing shall be held no later than 90 days after receipt of such notice by the applicant. The applicant has the right to be represented by a counsel of his/her choosing and to bring witnesses to the said hearing. No later than 30 days after the hearing, the committee, on behalf of the Corporation, shall issue its decision. If the committee finds that it should deny the application, a written, decision to that effect shall be prepared and given to the applicant. Such a decision shall be deemed final.

Modified, 1 CMC § 3806(f).

History: Adopted 13 Com. Reg. 7650 (Feb. 15, 1991); Proposed 12 Com. Reg. 7404 (Oct. 15, 1990).

§ 145-20.3-160 Waiver

The Marianas Public Land Corporation upon recommendation of the inspection team and the Homestead Administrator and upon showing of good cause, may waive a homestead requirement in the regulations in this subchapter and the conditions, imposed on the permit; provided that, no restrictive provisions of the Constitution or statute shall be waived.

Modified, 1 CMC § 3806(d), (f).

History: Adopted 13 Com. Reg. 7650 (Feb. 15, 1991); Proposed 12 Com. Reg. 7404 (Oct. 15, 1990).

Part 200 - Miscellaneous Provisions

§ 145-20.3-201 Effective Date

The rules and regulations promulgated in this subchapter shall be effective and have full force and effect of law thirty days after publication of these rules and regulations in the Commonwealth Register.

Modified, 1 CMC § 3806(d), (e).

History: Adopted 13 Com. Reg. 7650 (Feb. 15, 1991); Proposed 12 Com. Reg. 7404 (Oct. 15, 1990).

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SUBCHAPTER 145-20.4 VILLAGE HOMESTEAD RULES AND REGULATIONS

Part 001	General Provisions		§ 145-20.4-115	Homestead	Permit
§ 145-20.4-001	Authority		Process		
§ 145-20.4-005	Purpose		§ 145-20.4-120	Homestead	
§ 145-20.4-010	Definitions		Requirements		
			§ 145-20.4-125	Homestead	Permit
Part 100	Village	Homestead	Revocation		
Program Requirements			§ 145-20.4-130	Village	Homestead
§ 145-20.4-101	Application		Waiver Procedures		
Procedure			§ 145-20.4-135	Appeal	
§ 145-20.4-105	Standards	of			
Eligibility			Part 200	Miscellaneous Provisions	
§ 145-20.4-110	Homestead	Issuance	§ 145-20.4-201	Severability	
Process			§ 145-20.4-205	Effective Date	

Subchapter Authority: 2 CMC § 4338.

Subchapter History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004); Amdts Adopted 12 Com. Reg. 7511 (Dec. 15, 1990); Amdts Proposed 12 Com. Reg. 7107 (June 15, 1990); Amdts Proposed 11 Com. Reg. 6665 (Dec. 15, 1989); Adopted 3 Com. Reg. 1189 (Mar. 30, 1981); Proposed 2 Com. Reg. 973 (Nov. 17, 1980).*

*The text of the proposed regulations was not published with the 1980 notice of proposed regulations.

Commission Comment: N.M.I. Const. art. XI, codified as amended at 2 CMC §§ 4111-4115, 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 designate MPLC as the agency responsible for implementing homestead laws. PL 1-42 (effective Dec. 19, 1979), the "Village Homesteading Act of 1979," codified as amended at 2 CMC §§ 4331-4338, established the village homesteading program and authorized MPLC to implement and administer the program. See 2 CMC §§ 4332-4333. PL 1-42 § 7 empowered MPLC to promulgate rules and regulations to carry out the purposes of the act. See 2 CMC § 4338.

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. The Marianas Public Lands Authority became the successor agency to the Marianas Public Lands Corporation.

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. PL 15-2 repealed all provisions of Public Laws 10-57, 12-33, and 12-71 applicable to public lands.

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.

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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.

MPLC promulgated the original regulations in this subchapter. In 2004, MPLA repealed and repromulgated the Village Homestead Rules and Regulations in their entirety pursuant to the authority of PL 12-33.

Part 001 - General Provisions

§ 145-20.4-001 Authority

The rules and regulations in this subchapter are hereby promulgated and issued by the Marianas Public Lands Authority (MPLA), pursuant to its duties and responsibilities under article XI of the CNMI Constitution, PL 12-33, as amended, and 2 CMC §§ 4331, et seq.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004); Adopted 3 Com. Reg. 1189 (Mar. 30, 1981); Proposed 2 Com. Reg. 973 (Nov. 17, 1980).

Commission Comment: The 1990 amendments contained authority and purpose provisions as follows:

§ 1 Authority

These regulations are promulgated by MPLC pursuant to two independent sources of rule-making authority:

- (1) MPLC’s constitutional authority and
- (2) Section 7 of PL 1-42, as amended - the Village Homesteading Act of 1979, 2 CMC [s]ection 4331, et seq.

§ 2 Purpose and Policy of Amendments to Village Homestead Regulations

These regulations are promulgated to update and amend the Village Homesteading Regulations promulgated by MPLC on November 3, 1980, published in the Commonwealth Register dated March 30, 1981, at pages 1189 - 1199 and effective on April 30, 1981.

In promulgating these regulations, MPLC notes that there has been an ever-increasing number of applicants for village homesteads and an ever-diminishing supply of public lands that may be allocated to village homestead developments. In these regulations village homestead application categories are based upon the legislative criteria established in Public Law 1-42, as amended.

For example, the income and asset eligibility criteria are promulgated pursuant to the legislature’s direction that the Act be established for residents “who are without village lots and do not have the means to acquire village lots.” (PL 1-42, [s]ection 2(c)(1), 2 CMC [s]ection 4332(c)(1).) MPLC has determined that it may cost between \$20,000 to \$100,000 to acquire an average village lot in the CNMI. The income/assets eligibility criteria promulgated in paragraph 3(e) of these regulations will disqualify those applicants who may not own land in the CNMI, but who have sufficient income and/or assets to acquire a village lot in the CNMI.

12 Com. Reg. at 7110-11 (June 15, 1990).

With respect to MPLC’s authority, see 1 CMC § 2671(b) and the commission comment at the beginning of this subchapter.

The MPLA’s 2004 amendments repealed and re-promulgated this subchapter in its entirety. The Commission therefore, cites the 2004 amendments in the history sections throughout this subchapter.

§ 145-20.4-005 Purpose

TITLE 145: DEPARTMENT OF PUBLIC LANDS

The purposes of the rules and regulations in this subchapter is to repeal and repromulgate the Village Homestead Rules and Regulations, as published in the Commonwealth Register, volume 3, number 2 at page 1189 and volume 12, number 6 at page 7107; to provide the standard of eligibility, a system for issuing permits, deeds, notices and appeal rights.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004); Adopted 3 Com. Reg. 1189 (Mar. 30, 1981); Proposed 2 Com. Reg. 973 (Nov. 17, 1980).

§ 145-20.4-010 Definitions

- (a) “Abandon”: To leave a village homestead lot neglected or showing no improvement during the permit period or to allow a mortgage on the homestead property to go into default, thereby placing the property at risk of foreclosure.
- (b) “Administrative Procedure Act” (“APA”): The Commonwealth Administrative Procedure Act, codified at 1 CMC §§ 9101, et seq.
- (c) “Applicant”: An individual, married couple or joint applicant who submits a single application for a village homestead lot.
- (d) “Authorized Person”: A person duly empowered through a valid power of attorney, to act on behalf of an applicant or homesteader.
- (e) “Board of the Marianas Public Lands Authority” (“Board”): The policy-making body for the Marianas Public Lands Authority.
- (f) “Commissioner”: The Commissioner of the Marianas Public Lands Authority.
- (g) “Hearing Officer”: The MPLA Hearing Officer, including hearing officers pro-tempore appointed by the Board to conduct administrative hearings on homestead matters in accordance with the APA and the MPLA Administrative Hearing Procedure Rules and Regulations.
- (h) “Homesteader”: A person granted a village homestead permit.
- (i) “Joint Applicants”: Persons who have submitted a village homestead application in their names.
- (j) “Land Interest”: Title to or an interest in a parcel of land qualifying as a village lot in the Commonwealth.
- (k) “Lottery”: The drawing of a village homestead lot.

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(l) “Marianas Public Lands Authority” (“MPLA”): An independent public corporation under the control and general supervision of the Board, and headed by a Commissioner to execute, implement and enforce the policies of the Board.

(m) “Village Lot”: A parcel of land determined by the Marianas Public Lands Authority to be suitable for the construction of a residence and is, or will be, reasonably accessible to water and power utilities.

History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004); Amdts Adopted 12 Com. Reg. 7511 (Dec. 15, 1990); Amdts Proposed 12 Com. Reg. 7107 (June 15, 1990); Amdts Proposed 11 Com. Reg. 6665 (Dec. 15, 1989).

Commission Comment: The 2004 amendments repealed and repromulgated this section in its entirety with substantial changes. The Commission inserted quotation marks around terms defined.

Part 100 - Village Homestead Program Requirements

§ 145-20.4-101 Application Procedure

(a) Any person applying for a village homestead lot shall fill out and sign under penalty of perjury the village homestead application provided by MPLA.

(b) Any person who submitted an application for a village homestead lot before the passage of the Northern Mariana Islands Village Homesteading Act of 1979, as amended, must also fill out and sign under penalty of perjury the village homestead application.

(c) An applicant shall pay a reasonable application processing fee as set by the Board.

(d) The MPLA shall review the application and may require the applicant to appear before the MPLA to verify accuracy and completeness.

(e) An applicant determined ineligible shall be informed of such determination in writing and the reasons therefor.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004); Amdts Adopted 12 Com. Reg. 7511 (Dec. 15, 1990); Amdts Proposed 12 Com. Reg. 7107 (June 15, 1990); Amdts Proposed 11 Com. Reg. 6665 (Dec. 15, 1989); Adopted 3 Com. Reg. 1189 (Mar. 30, 1981); Proposed 2 Com. Reg. 973 (Nov. 17, 1980).

Commission Comment: The 2004 amendments completely rearranged and re-promulgated this part with substantial amendments. The history prior to 2004 is provided where applicable.

§ 145-20.4-105 Standards of Eligibility

(a) An applicant is not eligible for a village homestead lot if the applicant, an applicant’s spouse or joint applicant:

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- (1) Has been a recipient of a village homestead lot under this program or any previous homestead program;
- (2) Owns a village lot; or
- (3) Has an ownership in a village lot, including an owner of land who has divested himself or herself of his or her possessory right through lease.

(b) In determining whether an applicant, has an interest in a village lot, the following shall be considered:

- (1) Whether an applicant has an undivided interest in land, through inheritance or otherwise, that meets the definition of a village lot; or
- (2) Whether an applicant has conveyed his or her interest in a village lot to a corporation, trust or other entity owned, in whole or in part, by him or her.

(c) If an applicant knowingly and willfully submits false information under penalty of perjury to MPLA, he or she shall be permanently disqualified from participating in the village homestead program.

History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004); Amdts Adopted 12 Com. Reg. 7511 (Dec. 15, 1990); Amdts Proposed 12 Com. Reg. 7107 (June 15, 1990); Amdts Proposed 11 Com. Reg. 6665 (Dec. 15, 1989); Adopted 3 Com. Reg. 1189 (Mar. 30, 1981); Proposed 2 Com. Reg. 973 (Nov. 17, 1980).

Commission Comment: See the commission comment to § 145-20.4-101.

§ 145-20.4-110 Homestead Issuance Process

(a) The granting of a homestead lot shall be based on the date the applicant submits a completed application and required documents to MPLA.

(b) An applicant eligible to participate in a lottery shall be informed in writing of the date, time, and location of the lottery and location of homestead lots to be distributed. An applicant need not be preset at the time of the lottery, but must designate, through a power of attorney, a person who will participate in the lottery on his or her behalf.

History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004).

Commission Comment: See the commission comment to § 145-20.4-101.

§ 145-20.4-115 Homestead Permit Process

(a) A lottery participant shall be issued a homestead permit to the homestead lot drawn, provided that an environmental impact assessment had been conducted and completed prior to the lottery.

(b) The homesteader shall be given a copy of the homestead permit and shall be shown the actual boundaries of the lot. The homesteader must sign a form indicating he or she was shown the lot and its boundaries.

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History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004); Adopted 3 Com. Reg. 1189 (Mar. 30, 1981); Proposed 2 Com. Reg. 973 (Nov. 17, 1980).

Commission Comment: See the commission comment to § 145-20.4-101.

Public Law 17-26 (effective December 16, 2010) amended § 145-20.4-115 to require the Department of Public Lands to conduct and complete an environmental impact assessment prior to having qualified homesteaders participate in the lottery of available homestead lots.

§ 145-20.4-120 Homestead Requirements

A homesteader shall:

- (a) Enter, use and improve the homestead lot within 120 days and complete a single family residence within two years after the issuance of a homestead permit;
- (b) Commence to reside in his or her homestead as his or her principal place of residence no later than the end of the second year after the issuance of the homestead permit, and continually reside throughout the third year; and
- (c) Not lease, assign, sell, or transfer the homestead lot during the permit period.

History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004); Amdts Adopted 12 Com. Reg. 7511 (Dec. 15, 1990); Amdts Proposed 12 Com. Reg. 7107 (June 15, 1990); Amdts Proposed 11 Com. Reg. 6665 (Dec. 15, 1989); Adopted 3 Com. Reg. 1189 (Mar. 30, 1981); Proposed 2 Com. Reg. 973 (Nov. 17, 1980).

Commission Comment: See the commission comment to § 145-20.4-101.

Public Law 17-4 (effective June 17, 2010) amended 2 CMC § 4335 by adding a new subsection (d) to allow the Department of Public Lands to waive the requirement or policy of re-building a second residential dwelling when it has been determined or proven that the homesteader's initial residential dwelling house was destroyed or severely damaged by typhoon, tsunami, or other natural or man-made disasters.

Public Law 17-37 (effective April 4, 2011) amended 2 CMC § 4335 by adding a new subsection (e) to allow the Department of Public Lands to waive the requirement or policy of completing a single family residential dwelling structure within two years of issuance of a village homestead permit upon the homesteader's showing reasonable justification or explanation that a minimum of ten thousand dollars has been invested in the homestead lot.

§ 145-20.4-125 Homestead Permit Revocation

A homestead permit may be revoked if the homesteader:

- (a) Fails to clear the homestead lot and construct a single-family residence within two years after issuance of the permit;
- (b) Fails to comply with the homestead permit or as otherwise provided in the rules and regulations in this subchapter;

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- (c) Fails to use the homestead lot as his or her principal residence within two years after issuance of the permit;
- (d) Abandons the homestead lot during the permit period;
- (e) Sells or attempts to sell, conveys, leases or rents the homestead;
- (f) Allows another person to occupy the homestead in place of the homesteader without securing written authorization from MPLA;
- (g) Fails to maintain the homestead lot in a clean, safe and sanitary condition; or
- (h) Provides false information in the village homestead application or other required documents.

Modified, 1 CMC § 3806(d), (f).

History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004); Adopted 3 Com. Reg. 1189 (Mar. 30, 1981); Proposed 2 Com. Reg. 973 (Nov. 17, 1980).

Commission Comment: See the commission comment to § 145-20.4-101.

Public Law 17-4 (effective June 17, 2010) amended 2 CMC § 4335 by adding a new subsection (d) to allow the Department of Public Lands to waive the requirement or policy of re-building a second residential dwelling when it has been determined or proven that the homesteader's initial residential dwelling house was destroyed or severely damaged by typhoon, tsunami, or other natural or man-made disasters.

Public Law 17-37 (effective April 4, 2011) amended 2 CMC § 4335 by adding a new subsection (e) to allow the Department of Public Lands to waive the requirement or policy of completing a single family residential dwelling structure within two years of issuance of a village homestead permit upon the homesteader's showing reasonable justification or explanation that a minimum of ten thousand dollars has been invested in the homestead lot.

§ 145-20.4-130 Village Homestead Waiver Procedures

Any person who has continuously used and occupied public land for at least fifteen years prior to January 9, 1978 is eligible for a village homestead lot, provided that the following procedures and requirements shall be applicable:

- (a) The applicant must be eligible to homestead a village lot and must fill out a village homestead application provided by the MPLA;
- (b) The applicant must submit an affidavit or declaration under penalty of perjury that he or she has been continuously using and occupying the public land for at least fifteen years prior to January 9, 1978;
- (c) After submission of an application, the MPLA shall review the application, and may require additional proof to substantiate the claim; and

(d) Upon approval of the application by MPLA, a certificate of compliance shall be issued to the applicant for the parcel of public land he or she has been using and occupying, which shall not exceed 1,000 square meters, provided that an official survey plat is prepared prior to issuance of the certificate of compliance. Upon approval of the Board a quitclaim deed shall be issued to the applicant.

Modified, 1 CMC § 3806(f).

History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004); Adopted 3 Com. Reg. 1189 (Mar. 30, 1981); Proposed 2 Com. Reg. 973 (Nov. 17, 1980).

Commission Comment: See the commission comment to § 145-20.4-101.

Public Law 17-4 (effective June 17, 2010) amended 2 CMC § 4335 by adding a new subsection (d) to allow the Department of Public Lands to waive the requirement or policy of re-building a second residential dwelling when it has been determined or proven that the homesteader's initial residential dwelling house was destroyed or severely damaged by typhoon, tsunami, or other natural or man-made disasters.

Public Law 17-37 (effective April 4, 2011) amended 2 CMC § 4335 by adding a new subsection (e) to allow the Department of Public Lands to waive the requirement or policy of completing a single family residential dwelling structure within two years of issuance of a village homestead permit upon the homesteader's showing reasonable justification or explanation that a minimum of ten thousand dollars has been invested in the homestead lot.

§ 145-20.4-135 Appeal

Any person or party aggrieved by an adverse action by MPLA may appeal to the Hearing Officer pursuant to the MPLA Administrative Hearing Procedure Rules and Regulations [NMIAC, title 145, chapter 10].

History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004).

Commission Comment: See the commission comment to § 145-20.4-101.

Part 200 - Miscellaneous Provisions

§ 145-20.4-201 Severability

If a court of competent jurisdiction shall hold any provision of the rules and regulations in this subchapter invalid, the remainder of these rules and regulations, other than those held invalid, shall not be affected.

Modified, 1 CMC § 3806(d).

History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004).

§ 145-20.4-205 Effective Date

The rules and regulations in this subchapter shall take effect upon notice of their final adoption as provided by the APA.

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Modified, 1 CMC § 3806(d).

History: Amdts Adopted 26 Com. Reg. 23120 (Aug. 26, 2004); Amdts Proposed 26 Com. Reg. 22158 (Mar. 23, 2004); Adopted 3 Com. Reg. 1189 (Mar. 30, 1981); Proposed 2 Com. Reg. 973 (Nov. 17, 1980).

Commission Comment: The 2004 amendments deleted former appendices A through E.

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