COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

CIVIC CENTER, SAIPAN, MARIANA ISLANDS

Volume 6 Number 3

PAGE 2601 to PAGE 2706

Date of Publication: March 15, 1984



Commonwealth

Register

Published monthly by the Registrar of Corporation Office of the Attorney General Saipan, Mariana Islands 96950

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Commonwealth of the Northern Mariana Islands

Department of Natural Resources

Saipan, Mariana Islands 96950

Cable Abdress: Gob. AMI Saipan

Filed this all Ledruary

Office of Registrer of Corporations Commonwealth of the Northern Mariana Islands

PUBLIC NOTICE

EMERGENCY OUARANTINE REGULATIONS DEPARTMENT OF NATURAL RESOURCES

PROMULGATION OF EMERGENCY REGULATIONS ESTABLISHING A QUARANTINE FOR CITRUS FRUITS FROM THE FEDERATED STATES OF MICRONESIA, THE REPUBLIC OF BELAU AND THE REPUBLIC OF THE MARSHALL ISLANDS

The Director of Natural Resources, Commonwealth of the Northern Mariana Islands (CNMI), under authority vested in his office by Section 5, Chapter 13, Public Law No. 1-8, and Sections 2 and 4, Title 25, Trust Territory Code hereby issues emergency regulations to establish a quarantine of all citrus fruits, from the Federated States of Micronesia, the Republic of Belau, and the Republic of the Marshall Islands to the Commonwealth of the Northern Mariana Islands, including but not limited to oranges, tangerines, lemons, limes, grapefruits, pumello, sour oranges, and other fruits in the plant family of Rutaceae. These regulations shall take effect immediately pursuant to Section 4(2), Title 17, Trust Territory Code.

The Director of Natural Resources, with the concurrence of the Governor of the Commonwealth of the Northern Mariana

Islands, finds that the public interest requires adoption of these emergency regulations upon fewer than thirty (30) days notice because the citrus fruits of the Federated States of Micronesia, the Republic of Belau, and the Republic of the Marshall Islands, are suffering from an infestation of Citrus Rind Borer, a lepidopterous insect. This insect pest is known to be absent in the Commonwealth of the Northern Mariana Islands and its introduction here could severely damage or destroy the citrus plants and orchards on Saipan, Tinian, Rota and the Northern Islands. At present there exists no quarantine restriction on these products to stop their importation into the Commonwealth. These regulations are necessary to establish on immediate quarantine.

These regulations shall, pursuant to Section 4(2), Title 17, Trust Territory Code, remain in force and affect from their effective date for a period of 120 days, or until modified or suspended, whichever occurs first.

2/16/84 Date

WICOLAS M. LEON GUERRERO Director of Natural Resources

21/84 Date

PEDRO P. TENORIO

Commonwealth of the Northern Mariana Islands

Department of Natural Resources

Cable Address: Gob. AMI Saipan

February

Office of Registrar of Corporations
Commonwealth of the Nor hern Mariana Islands
NUTISIAN PUPBLIKU

PARA MANA'IFEKTIBU NA AREKLAMENTO MA'ESTAPBLEBLESI I KUARENTENAN FRUTA GINEN I FEDERATED STATES OF MICRONESIA, I REPUBLIC OF BELAU YAN I REPUBLIC OF THE MARSHALL ISLANDS

I Direktot i Natural Resources, Commonwealth of the Northern Mariana Islands, gi papa' i aturidat i ofisina-na ginen i Seksiona 5, Kapitulu 13, Lain Pupbliku Numiru 1-8, yan Seksiona 2 yan 4, Titulu 25, gi kodigon i Trust Territory sinembatgo ha lalaknos areklamento manu i siña na chinaddek ni para u ma'estapblesi kuarentena para todu fruta ni manggaige gi familian kahet, ginen i Federated States of Micronesia, i Republic of Belau, yan i Republic of the Marshall Islands para i Commonwealth of the Northern Mariana Islands, inklusu chi-na gi kahet, lalanghita lemmon, kahet ma'gas, lalangha yan ottro siha na fruta ni mankinikibre guini na familia. Este na areklamento u ifektibu ensegidas sigun gi ginaggagao gi Seksiona 4(2), Titulu 17, gi kodigon i Trust Territory.

I Direktot i Natural Resources, gi parehu na opinion yan i Gubietnon i Commonwealth of the Northern Mariana Islands, ha PARA MANA'IFEKTIBU NA AREKLAMENTO MA'ESTAPBLEBLESI I KUARENTENAN FRUTA GINEN I FEDERATED STATES OF MICRONESIA, I REPUBLIC OF BELAU YAN I REPUBLIC OF THE MARSHALL ISLANDS. Page 2.

sodda' na i enteres i pupbliku ginaggagao na u ma'adopta manu i siña na chinaddek gi menos ki trenta (30) dias na nutisia sa' i frutan i Federated States of Micronesia, i Republic of Belau, yan i Republic of the Marshall Islands, manmamadedesi ginen i hinatmen este na chetnot ga'ga'. Este na pesten ga'ga' matungo' na taigue gi halom i Commonwealth of the Northern Mariana Islands ya hinalom este na peste siña ha yammak pat ha destrosa i tinanom fruta yan tirenon Saipan, Tinian, Luta yan i Sangkattan na Isla siha. Gi presente taya' kuarentana maprohibi pot este na produkto ni para u mana'para i mana'halom-niha giya Commonwealth. Este na areklamento nisisario na u ma-estapblesi i kuarentena manu i sina na chinaddek.

Este na areklamento sigun gi Seksiona 4(2), Titulu 17, gi kodigon i Trust Territory, memetgot ha' yan efektitibu ha' ginen i efektibu na fecha para i 120 dias na tiempo, osino asta ki matulaika pat masusteni, manu i finene'na macho'gue.

Direktot i Natural Resources

Gubietno



Commonwealth of the Northern Mariana Islands

Department of Natural Resources

Saipan, Mariana Islands 96950

Cable Address: Gob. AMI Saipan

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Office of Registrar of Corporations

Commonwealth of the Northern Mariana Island

Filed this 23M

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PROPOSED REGULATIONS TO PLACE A QUARANTINE UPON CITRUS FRUITS FROM THE FEDERATED STATES OF MICRONESIA, THE REPUBLIC OF BELAU AND THE REPUBLIC OF THE MARSHALL ISLANDS

PUBLIC NOTICE

The Director of Natural Resources, Commonwealth of the Northern Mariana Islands (CNMI) is proposing to promulgate regulations to establish a quarantine upon all citrus fruits of the Federated States of Micronesia, the Republic of Belau and the Republic of the Marshall Islands in accordance with Public Law No. 1-8, Chapter 13, Section 5 and Title 25, Trust Territory Code, Sections 2 and 4.

These regulations will establish a quarantine upon all citrus fruits (oranges, tangerines, lemons, limes, grapefruits, pumello, sour oranges, and other fruits in the family of Rutaceae) from the Federated States of Micronesia (formerly Trust Territory Districts of Ponape, Kosrae, Truk, and Yap), the Republic of Belau (formerly Trust Territory District of Palau and associated islands and atolls) and the Republic of the Marshall Islands (formerly Trust Territory District of the Marshall Islands), prohibiting their introduction upon

PROPOSED REGULATIONS TO PLACE A QUARANTINE UPON CITRUS FRUITS FROM THE FEDERATED STATES AND THE REPUBLIC OF BELAU AND THE REPUBLIC OF THE MARSHALL ISLANDS. Page 2.

the islands of the Commonwealth of the Northern Mariana Islands in order to prevent the introduction, infestation and spread by the insect pest, Citrus Rind Borer.

Copies of the proposed regulation may be obtained from the Department of Natural Resources, Capitol Hill, Saipan, CM 96950.

Anyone interested in commenting on the proposed regulation may do so by submitting comments in writing to the Director, Department of Natural Resources, Commonwealth of the Northern Mariana Islands, Saipan, CM 96950 within thirty (30) days from the date this notice is published in the Commonwealth Register.

Director of Natural Resources



Commonwealth of the Northern Mariana Islands

Department of Natural Resources

Saipan, Mariana Islands 96950

Cable Address: Sob. AMI Saipan

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Filed this 33nd day of tan DIDRITKII Lebruary 19 84.

NUTISIAN PUPBLIKU

Office of Registrar of Corporations Commonwealth of the Northern Manalana Islands

MAPROPONI NA AREKLAMENTO POT PARA U MAKUARENTENA FRUTA GINENE I FEDERATED STATES OF MICRONESIA, REPUBLIC OF BELAU, YAN I REPUBLIC OF THE MARSHALL ISLANDS

I Direktot i Natural Resources, Commonwealth of the Northern Mariana Islands (CNMI) ha propoponi para u na'guaha areklamento ni para u kuarentena todu fruta ginen i Federated States of Micronesia, i Republic of Belau, yan i Republic of the Marshall Islands sigun gi ginaggagao gi lain pupbliku numiru 1-8, Kapitulu 13, Seksiona 5 yan Titulu 25, gi kodigon i Trust Territory, Seksiona 2 yan 4.

Este na areklamento para u estapblesi kuarentena gi sigiente na fruta (kahet, lalangha, lalanghita, lemmon, kahet ma'gas yan ottro fruta siha ni manggaige guini na familia) ginen i Federated States of Micronesia (hagas Trust Territory, Ponape, Kosrae, Truk, yan Yap) i Republic of Belau (hagas Trust Territory of Belau Distriton Palau yan i mandikike' siha na Isla), yan i Republic of the Marshall Islands (hagas Trust Territory Destriton Marshall Islands), i Islan in Commonwealth of the Northern Mariana Islands anai para u ma'ataha i hinalom, yan machalappon i chetnot ga'ga'.

MAPROPONI NA AREKLAMENTO POT PARA U MAKUARENTENA FRUTA GINENE I FEDERATED STATES OF MICRONESIA, REPUBLIC OF BELAU, YAN I REPUBLIC OF THE MARSHALL ISLANDS. Page 2.

Sina machule' kopian areklamento ginen i Depattamenton i Natural Resources, Capitol Hill, Saipan, CM 96950.

Hayi na enterisao muna'halom sinangan pat opinion pot i mapropoponi na areklamento sina ha tugi'i Direktot i Natural Resources, Commonwealth of the Northern Mariana Islands, Saipan, CM 96950 gi halom i trenta (30) dias desde ki mapupblika-na este na nutisia.



Commonwealth of the Northern Mariana Islands

Department of Natural Resources

Saipan, Mariana Islands 96950

Cable Address: Gob. AMI Saipan

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Filed this 2300 day of

Office of Registrat of Corporations
Commonwealth of the Northern Mariana Islands

PROPOSED RULES AND REGULATIONS DEPARTMENT OF NATURAL RESOURCES

Section 1. Quarantine

Effective immediately, and until further notice, there is hereby established a quarantine upon all citrus fruits including but not limited to oranges, tangerines, lemons, limes, grapefruits, pumello, sour oranges, and other fruits in the family of Rutaceae, entering the Commonwealth of the Northern Mariana Islands (CNMI) from the Federated States of Micronesia, the Republic of Belau or the Republic of Marshall Islands. It is prohibited to import any of these items from the Federated States, Belau or the Marshalls, into the Commonwealth and such items found on Saipan, Tinian or Rota shall be subject to seizure and be returned to the point of origin or properly disposed of by Quarantine Officials.

Section 2. Inspection

All plants and parts thereof from or which have been passed through the Federated States of Micronesia (formerly Trust Territory Districts of Ponape, Kosrae, Truk and Yap), the Republic of Belau (formerly Trust Territory District of Palau and associated islands and atolls) and the Republic of the Marshall Islands (formerly Trust Territory PROPOSED RULES & REGULATIONS Page 2.

Distirct of the Marshall Islands), are subject to inspection. All aircraft and surface vessels, and their cargoes and passengers (including baggage) are subject to inspection if the aircraft or vessels have stopped at any of the above-mentioned locations, islands or atolls.

Director of Natural Resources



Commonwealth of the Northern Mariana Islands

Department of Natural Resources

Saipan, Mariana Islands 96950

Cable Address: Gob. AMI Saipan

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Filed this 33 and day of

Office of Registrar of Corporations
Commonwealth of the Northern Mariana Islands

MAPROPONI NA AREKLO YAN AREKLAMENTO

DIPATTAMENTON I NATURAL RESOURCES

Seksiona 1. Kuarantine

Effectibu ensegidas yan astaki guaha mas notisia, ma'establesi i kuarantinan todo fruta ni mangaige gi familian i fina magsum na fruta nui mafanana'an "citrus" tatkomo kahet, lalangita, lemmun, kahet magas, lalangha yan otro siha na fruta gi halom familian "Rutaceae", gi hinalom i Commonwealth i Sankatan Na Islas Marianas ginen Federated States of Micronesia, I Republic of Belau pat i Republic of Marshall Islands. Ma prohibe na uma'impota manmamensiona na fruta siha ginen Federated States, Belau pat Marshalls para u'halom giya Commonwealth ya yangin ma'soda ayo siha na kosas mana halom gi Saipan, Tinian pat Rota para uma chule ya mananalu guato gi lugat ni munafato osea madistrosa gi propio namanera nui oficiales kuarantina.

Seksiona 2. <u>Rekunosimento</u>

Todo tinanom yan patten tinanom ginen osea manafalofan ginen halom i Federated States of Micronesia (hagas Trust Territory Distriton Palau yan i dumadana na Isla siha) yan i Republic

MAPROPONI NA AREKLO YAN AREKLAMENTO Page 2.

Marshall Islands (hagas Trust Territory Distriton Marshall Islands), debi u'fan marekunosi. Todo sahyan aire yan tasi, contodo i katgan niha yan pasaheru siha (inclusu maletan niha) debi u'fan marekunosi yangin i batkon aire pat i batkon tasi sumugu gi maseha mano nui mamensiona gi sanhilo na lugat yan Isla siha.

Facto

NICOLAS M. LEON GUERRERO

Director of Natural Resources

COMMONWEALTH PORTS AUTHORITY



Main Office: SAIPAN INTERNATIONAL AIRPORTFiled this

P. O. BOX 1055 • SAIPAN • CM 96950

Office of Registrar of Corporations

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Commonwealth of the Northern Mariana Island

PUBLIC NOTICE OF PROPOSED AMENDMENT TO CPA RULES AND REGULATIONS

The Commonwealth Ports Authority, pursuant to the authority of Section 4(4) of Public Law No. 2-48, and in accordance with the provisions of Section 9104 of Title 1 of the Commonwealth Code, hereby gives notice to the public of its intention to adopt new regulations and amend existing regulations for the Commonwealth Ports Authority concerning the following: port services fee, vessel sewage systems, port security, environmental control, payment of port fees and charges, and cost of cleanup of oil spillage. The proposed regulations are published herewith.

All interested persons will be given a reasonable opportunity to submit data, views, or arguments, in writing, concerning the proposal regulations. Written comments must be submitted to the Executive Director, Commonwealth Ports Authority, not later than the close of business thirty (30) calendar days following the date of publication of this Notice.

DATED, this 6th day of March, 1984:

J.M. GUERRERO

Chairman

Board of Directors

Commonwealth Ports Authority

COMMONWEALTH REGISTER

VOL. 6 NO. 3

MARCH 15, 1984

PAGE 2613

ROTA INTERNATIONAL AIRPORT/SEAPORT P.O. Box 561, Rota, CM 96951

COMMONWEALTH PORTS AUTHORITY



Main Office: SAIPAN INTERNATIONAL AIRPORT P. O. BOX 1055 • SAIPAN • CM 96950

NOTISIAN PUBLIKO

I Commonwealth Ports Authority, sigun gi Seksiona 4(4), Lai Publiko 2-48, yan sigun gi probision siha nui Seksiona 9104, Titulo Numero 1, Kodikon i Commonwealth, ha notitisia a publiko pot i intension para umaadapta man nuebo na regulasion yan para umaamenda i regulasion Mariana Islands Airport Authority pot i sigente siha: apas pot a setbision puetto, systemman sewage gi boti, seguridad puetto, desponin environment, empas i apas puetto, yan gaston i nagasgas lana ni machuda. I mapropopone na regulasion para mapublika guine.

Todos personas ni man interesao siempre manae opportunidad ni unfanmatugi ya umasubmiti opinion pot este na mapropopose na regulasion gi Executive Director, Commonwealth Ports Authority, gi halom trenta (30) dias despues de mapublika este na Notisia.

FECHAS i Matso dia 6, 1984:

J.M. GUERRERO

Chairman

Board of Directors

Commonwealth Ports Authority

COMMONWEALTH REGISTER

VOL. 6 NO. 3

MARCH 15, 1984 PAGE 2614

1. There is hereby added new Paragraph D to Part VI of the Terminal Tariff, to read as follows:

"D. PORT SERVICES FEE

Not later than December 31 of each year, CPA shall establish a Port Services Fee for each port of the Commonwealth for the following year. The Port Services Fee shall be computed as follows. CPA will estimate, based upon data obtained from the current year, the total cost of services to be provided to all vessels in the port by agencies of the Commonwealth Government other than CPA, and the total costs to be incurred by agencies of the Commonwealth other than CPA as a result of the activities of the ships in the port, said costs to include (but not to be limited to) additional police protection over and above that provided by CPA, environmental services, medical services, and legal services. CPA shall then estimate the total number of days which all vessels will spend in the port during the following year. The Port Services Fee for the port shall be the first figure divided by the second figure.

The Port Services Fee established by CPA for each port pursuant to the provisions of its Paragraph may be amended from time to time whenever, in the opinion of CPA, it is necessary to do so.

Every vessel which enters a port of the Commonwealth shall pay the Port Services Fee for such port, for each day or fraction thereof during which such vessel remains in such port.

CPA shall reimburse the Government of the Northern Mariana Islands, to the extent of Port Services Fees collected by it at a port pursuant to the provisions of this Paragraph, for the cost of all services provided to vessels in the port by agencies of the Commonwealth Government other than CPA, and for costs incurred by agencies of the Commonwealth Government other than the CPA as a result of the activities of vessels in the port."

- 2. There is hereby added a new Subparagraph (3) to Section
- 2.3(H) of the Harbor Regulations, to read as follows:
 - "(3) The Master of every vessel entering a port of the Commonwealth shall either (a) seal the outlet on such vessel's sewage disposal system, or (b) place a dye in the sewage disposal system which will clearly identify the source of any raw sewage discharged by such vessel. No vessel may remain in any port of the Commonwealth unless its master or agent shall have certify compliance with the provisions of this subparagraph."

3. There is hereby added a new Section 2.11 to the Harbor Regulations, to read as follows:

"2.11 PORT SECURITY

Whenever a vessel is in port, CPA will endeavor to assign a security officer to duty at the port. Security officers so assigned will utilize their best efforts to assure compliance with these regulations, and all of the laws and regulations of the United States Government and the Commonwealth Government in respect of the operation of vessels in the ports and harbors of the Commonwealth; and shall promptly report any violations thereof to the Port Superintendent. The Port Superintendent shall promptly notify the master or agent of any such violation, and, if such violation is not corrected promptly, shall report the same to the Executive Director and to all concerned government agencies for appropriate action."

4. There is hereby added a new Section 2.12 to the Harbor Regulations, to read as follows:

"2.12 ENVIRONMENTAL CONTROL

It is the policy of CPA that the air, land, and water environment of the ports and harbors of the Commonwealth shall be preserved, to the maximum extent possible. Accordingly, the attention of all masters, vessel owners, and agents is drawn to the provisions of Sections 2.3(G), 2.3(H)(1), 3.25(B)-(E), and 3.26(A) of these Harbor Regulations; and all such persons are reminded that, pursuant to the provisions of Section 15 of Public Law 2-48, any person who violates any of the said regulations is punishable by criminal penalties consisting of a fine not exceeding \$1,000, or by imprisonment not exceeding three months, or both, and by civil penalties not exceeding \$1,000 for each day during which a violation of a regulation continues.

The Executive Director shall vigorously enforce the aforesaid regulations. To this end, the Executive Director shall (a) promptly report all violators to the Attorney General, for criminal prosecution; and (b) promptly take all appropriate steps to levy and collect civil penalties as authorized by law.

- 5. There is hereby added a new Section 2.13 to the Harbor Regulations, to read as follows:
 - "2.13 PAYMENT OF PORT FEES AND CHARGES

No vessel shall be allowed to depart from a port of the Commonwealth unless and until it shall have paid all fees and charges payable under these Harbor Regulations and under CPA's Terminal Tariff."

6. There is hereby added a new Section 3.37 to the Harbor Regulations, to read as follows:

"3.37 COST OF CLEANUP OF OIL SPILLAGE

Every vessel, and its masters, owners, and agents, shall be liable for the cost of cleanup of every spillage of oil or other petroleum products from such vessel into any waters of the Commonwealth.

In the event that, because more than one vessel shall be in the vicinity of an oil spill, it shall not be possible to determine which of such vessels is responsible for such spill, all vessels in the vicinity at or about the time of such spill and which utilize or carry the type of oil or other petroleum product which was spilled, shall be equally responsible for the cost of cleanup. The cost of cleanup shall be a charge against the vessel and its owners and agents."



Commonwealth of the Northern Mariana Islands Office of the Governor

Saipan, Mariana Islands 96950

CABLE ADDRESS GOV. NMI SAIPAN

Public Notice

Office of Registrar of Corporations

Commonwealth of the Northern Marlana Islands

Misame D

Adoption of the Proposed Agriculture and Marine Revolving Fund Regulation for Rota

The Directors of the Departments of Finance and Natural Resources, pursuant to Section 309 of Public Law 3-54, advise all citizens of Rota and the general public that the proposed Agriculture and Marine Revolving Fund Regulation for Rota is adopted without any change.

The Mayor's Office in Rota may be contacted for more information about this fund.

Director of Finance

Actus Director of Natural Resources



Commonwealth of the Northern Mariana Islands Office of the Governor

Saipan, Mariana Islands 96950

FOR OFFICIAL USE CABLE ADDRESS GOV. NMI SAIPAN REPLY TO:

Rev. & Tax.

DEPT. or ACTIVITY

March 9, 1984

Filed this 12 day of

PUBLIC NOTICE

E Office of Registrar of Corporations Commonwealth of the Northern Mariana Island

ADOPTED AMENDMENT NO. 10284
REVENUE AND TAXATION REGULATIONS NO. 8301

The Director of Finance, in accordance with Section 818, Chapter VIII of Public Law No. 3-11, and Section 8, Chapter 11, Title I of Public Law No. 1-8, has published amendments to the rules and regulations identified as Revenue and Taxation Regulations No. 8301 of the Division of Revenue and Taxation.

The adopted amendments include the following subjects:

- Section 1. Title and number of the amendments.
- Section 2. The regulations being amended.
- Section 3. Amended Sections 1.818.7(d) and (k).
- Section 4. Renumbering of subsection letters.
- Section 5. New Subsections "(c)," "(i)," "(k)," "(y),"
 "(cc)," and "(ee)" to Section 1.818.7.
- Section 6. Amended Section 2.303.
- Section 7. Amended Section 2.804(e).1(a).
- Section 8. Amended Section 3.402.2(i).
- Section 9. New Section "(1)' is added to Section 3.402.2.
- Section 10. Addition of a new Section 3.601.
- Section 11. New Section 3.605.6.
- Section 12. Amended Section 3.818.25.
- Section 13. New Section 4.818.
- Section 14. Addition of a new Section 2.305.
- Section 15. New Sections 2.818.4 and 2.818.5.
- Section 16. Revised Section 4.810.5.

Section 17. Amended Section 2.104(c).

Section 18. Amended Section 2.104(u).

Section 19. New Section 2.508.

Section 20. Amended Section 1.818.4.

The amendments may be inspected at the Division of Revenue and Taxation, Central Office, Capitol Hill, Commonwealth of the Northern Mariana Islands, Saipan, CM 96950. These amendments are published in the Commonwealth Register. Copies of the register may be obtained from the Attorney General's Office.

Certified By:

TOMAS B. ALP

Director of Finance



Commonwealth of the Northern Mariana Islands Office of the Governor

Saipan, Mariana Islands 96950

FOR OFFICIAL USE CABLE ADDRESS GOV. NMI SAIPAN REPLY TO:

Rev. & Tax.

Matsu 9, 1984

Filed this -

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NOTISIAN PUBLIKU Office of Registrar of Corporations Commonwealth of the Northern Mariana Islands

MA ADOPTA NA AMENDASION NO. 10284 AREGLAMENTO NUMERO 8301 PARA I REVENUE YAN TAXATION

I Direktot i Finansiat, segun i Seksiona 818, Kapitulu VIII, gi Lai Publiku Numero 3-11, yan Seksiona 8, Kapitulu 11, Titulu I, gi Lai Publiku Numero 1-8, man publika amendasion gi areglamento yan regulasion ni ma rekognisa komo Revenue yan Taxation Regulasion No. 8301.

I ma adopta na amendasion ha-konsiste este siha:

Seksiona 1. Titulu yan numeron i amendasion.

Seksiona 2. Areglamento ni ma amemenda.

Seksiona 3. Ma amendan i Seksiona 1.818.7(d) yan (k).

Seksiona 4. Tinilaika gi numeron seksiona.

Seksiona 5. Nuebo na Seksiona "(c)," "(i)," "(k),"
 "(y)," "(cc)," yan "(ee)" gi Seksiona 1.818.7.

Seksiona 6. Ma amendan i Seksiona 2.303.

Seksiona 7. Ma amendan i Seksiona 2.804(e).1(a).

Seksiona 8. Ma amendan i Seksiona 3.402.2(i).

Seksiona 9. Nuebo na Seksiona "(1)" mana halom gi Seksiona 3.402.2.

Seksiona 10. Nuebo na Seksiona 3.601.

Seksiona 11. Nuebo na Seksiona 3.605.6.

Seksiona 12. Ma amendan i Seksiona 3.818.25.

Seksiona 13. Nuebo na Seksiona 4.818.

Seksiona 14. Mana halom nuebo na Seksiona 2.305.

Seksiona 15. Nuebo na Seksiona 2.818.4 yan 2.818.5.

Seksiona 16. Tinilaika gi Seksiona 4.810.5.

Seksiona 17. Tinilaika gi Seksiona 2.104(c).

Seksiona 18. Tinilaika gi Seksiona 2.104(u).

Seksiona 19. Nuebo na Seksiona 2.508.

Seksiona 20. Tinilaika gi Seksiona 1.818.4.

I amendasion gi regulasion sina ma rikonosi gi ofisinan i Revenue yan Taxation gi Capitol Hill, Commonwealth of the Northern Mariana Islands, Saipan, CM 96950. Este na amendasion gi regulasion ma publika gi Commonwealth Register. Sina manule hao kopian este na publikasion gi ofisinan i Abogadon Gobietno.

Sinettifika As:

TOMAS B. ALDAN

Direktot i Finansiat



Commonwealth of the Northern Mariana Islands Office of the Governor Saipan, Mariana Islands 96950

FOR OFFICIAL USE CABLE ADDRESS GOV. NMI SAIPAN REPLY TO:

REPLY TO

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Rev. & Tax.

DEPT. or ACTIVITY

March 12, 1984

Filed this day of

Office of Registrar of Corporations
PUBLIC NOTICE Commonwealth of the Northern Mariana Islands

PROPOSED AMENDMENT NO. 20384
REVENUE AND TAXATION REGULATIONS NO. 8301

The Director of Finance, in accordance with §\$306 and 818, Chapters III and VIII of Public Law No. 3-11, and §8, Chapter 11, Title I of Public Law No. 1-8, is proposing to promulgate amendments to the rules and regulations identified as Revenue and Taxation Regulations No. 8301 of the Division of Revenue and Taxation.

The proposed amendments include the following subjects:

Section 1. Title and number of the amendments.

Section 2. Purpose of the amendment.

Section 3. Alternative tax—new provisions.

The proposed amendments may be inspected at the Division of Revenue and Taxation, Central Office, Capitol Hill, Commonwealth of the Northern Mariana Islands, Saipan, CM 96950. These amendments are published in the Commonwealth Register. Copies of the register may be obtained from the Attorney General's Office.

The Office of the Director of Finance is soliciting views, opinions, facts and data for or against the proposed amendments to Revenue and Taxation Regulations No. 8301 from the general public.

Anyone interested in commenting on the proposed amendments to Revenue and Taxation Regulations No. 8301 may do so by submitting in writing to the Director of Finance, Commonwealth of the Northern Mariana Islands, Capitol Hill, Saipan, CM 96950, within thirty (30) days from the date this notice is published in the Commonwealth Register.

Certified By:

TOMAS B. KLDAN

Director of Finance



Commonwealth of the Northern Mariana Islands Office of the Governor

Saipan, Mariana Islands 96950

FOR OFFICIAL USE CABLE ADDRESS GOV. NMI SAIPAN REPLY TO:

Rev. & Tax.

DEPT. or ACTIVITY

Matsu 12, 1984

Filed this A day of

NOTISIAN PUBLIKU

Office of Registrar of Corporations
Commonwealth of the Northern Mariana Islan

PROPOSITON AMENDASION NO. 20384
AREGLAMENTO NUMERO 8301
PARA I REVENUE YAN TAXATION

I direktot i Finansiat, segun i \$\$306 yan 818, Kapitulu III yan VIII gi Lai Publiku Numero 3-11, yan \$8, Kapitulu 11, Titulu I, gi Lai Publiku Numero 1-8, ha propopone para una guaha amendasion gi areglamento yan regulasion, ya para u ma rekognisa komo Amendasion No. 20384 gi Revenue yan Taxation Regulasion No. 8301.

I proposito na amendasion ha-konsiste este siha:

Seksiona 1. Titulu yan numeron i amendasion.

Seksiona 2. Miniton i amendasion.

Seksiona 3. Ago na aduana—nuebo na areglamento.

I proposito na amendasion gi regulasion sina ma rikonosi gi ofisinan i Revenue yan Taxation gi Capitol Hill, Commonwealth of the Northern Mariana Islands, Saipan, CM 96950. Este na amendasion gi regulasion ma publika gi Commonwealth Register. Sina manule hao kopian este na publikasion gi ofisinan i Abogadon Gobietno.

I ofisinan i Direktot i Finansiat ma ma-maisen idea, fakto yan nota ginen i publiku kao mauleg osino makokontra este na propositon amendasion gi Regulasion Numero 8301.

Todo man interesao na individual ni para ufan na halom opinion ni fumabot, osino ma kokontra este na amendasion, man ma-fafaisen na u ma satmite i matugi na opinion niha guato gi ofisinan i Direktot i Finansiat, Commonwealth of the Northern Mariana Islands, Capitol Hill, Saipan, CM 96950, gi halom 30 dias desde i fecha anai ma publika este na notisia gi Commonwealth Register.

Sinettifika As

Direktot i Finansiat

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AMENDMENT NO. 20084wealth of the Northern REVENUE AND TAXATION REGULATIONS NO. 8301 OFFICE OF THE DIRECTOR OF FINANCE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Section 1. This amendment shall be known and may be cited as "Amendment No. 20384."

- Section 2. The purpose of this amendment is to establish an alternative tax and revenue treatment, pursuant to \$306 of Public Law 3-11, for persons selling crude oil or residual fuels to the Commonwealth Government for power generation or blended residual fuels for any marine purposes.
- Section 3. For purposes of \$306, Public Law 3-11, as amended, the following provisions are added to Revenue and Taxation Regulations No. 8301, as amended.

"Section 2.306.1. Definitions. For purposes of \$306 of Public Law 3-11, as amended, certain terms are defined as follows:

- (a) Compensation The term "Compensation" means wages, salaries, commissions and any other form of renumeration paid to employees for personal services.
- (b) Business Income Business income means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.
- (c) Income Tax Income tax means a tax imposed on or measured by net income including any tax imposed on or measured by an amount arrived at by deducting expenses from gross income.
- (d) Multistate Business The term "Multistate Business" means any taxpayer engaged in any trade or business wherein activity takes place in more than one state.
- (e) Net Income "Net Income" means taxpayer's world-wide business income less all ordinary and necessary expenses, except for any included income tax.

- (f) Residual Fuel The term "Residual Fuel" means that liquid which is the heaviest grade petroleum product used in marine oil-burning boilers.
- (g) State "State" means a state of the United States, the District of Columbia, the Commonwealth of the Northern Mariana Islands, or any territory or possession of the United States.
- (h) Taxpayer The word "Taxpayer" means any corporation, partnership, firm, association, governmental unit or agency or person acting as a business entity in one or more states."

"Section 2.306.2. <u>Elements of Alternative</u> Method of Taxation.

- (a) Taxpayer having income from business activity which is taxable both within and without the Commonwealth of the Northern Mariana Islands shall allocate and apportion his net income as provided in this part.
- (b) For purposes of allocation and apportionment of income under this section, a taxpayer is taxable in another state if (1) in that state he is subject to a net income tax, a franchise tax for the privilege of doing business, or a corporate stock tax, or (2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.
- (c) All net income shall be apportioned to the Commonwealth of the Northern Mariana Islands by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.
- (d) The property factor is a fraction, the numerator of which is the average value of the tax-payer's real and tangible personal property owned or rented and used in the Commonwealth of the Northern Mariana Islands during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.
- (1) Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

- (2) The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the Director of Finance may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.
- (e) The payroll factor is a fraction, the numerator of which is the total amount paid in the Commonwealth of the Northern Mariana Islands during the tax period of the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period. Compensation is paid in the Commonwealth of the Northern Mariana Islands if (1) the individual's service is performed entirely within the CNMI or within its two hundred mile limit, or (2) the individual's service is performed both within and without the CNMI, but the service performed without the CNMI is incidental to the individual's service within the CNMI.
- (f) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in the Commonwealth of the Northern Mariana Islands during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period. Sales are within the CNMI if:
- (1) The property is delivered or shipped to a purchaser within the CNMI regardless of the FOB point or other conditions of the sale; or
- (2) The property is shipped from a warehouse or other place of storage within the CNMI to any point outside the CNMI regardless of the two hundred mile limit.
- (g) Tax Rate Persons engaging in such activities shall be subject to an annual flat tax rate of seven percent (7%). This rate shall be applied to the net income allocated and appointed to the Commonwealth of the Northern Mariana Islands in accordance with the three factor apportionment plan as described in this part. Provided, however, that a minimum tax of \$100,000.00 per year is paid to the Commonwealth of the Northern Mariana Islands or whichever is greater.
- (h) Commencement of Operations This alternative method of taxation shall be initiated with the taxpayers commencement of operations. Commencement of operations for the purposes of (1) initiating the tax as described in this section

- and (2) beginning the maximum time period for which the duration of this tax rate shall exist without renegotiation, shall start when the taxpayer's "mother" ship or tanker arrives and is anchored in a CNMI port of entry for the purpose of conducting operations.
- (i) <u>Duration of Tax Rate and Related</u>
 Contingencies The seven percent (7%) annual tax
 rate as described in this section shall remain in
 effect for a two (2) year period starting with the
 taxpayer's commencement of operations as previously
 defined. Notwithstanding the initial two (2) year
 period, this tax rate shall be subject to examination
 and possible renegotiation if any of the following
 events occur:
- (1) Full implementation of the U.S. Internal Revenue Code as contemplated by Congress per the amendment of Senate Bill 589 adopted on May 11, 1983.
- (2) Any modification or elimination of the "mirror-image" U.S. Internal Revenue Code sections as they relate to the CNMI.
- (3) Favorable U.S. Treasury Internal Revenue Service ruling qualifying the income taxes paid under this arrangement as being eligible for the benefits of the foreign tax credit under \$901, IRC. This ruling shall be sought only upon disallowance of CNMI foreign tax credit being claimed by the taxpayer on their U.S. Corporation Income Tax Return.
- (4) Notwithstanding the taxpayer's parameters for seeking a foreign tax credit ruling, as described in the previous subsection, the Director of Finance or his delegate may seek a favorable ruling on the matter based upon a factual presentation without disclosing the relevant taxpayer or taxpayers.
- (5) Expiration of the initial two (2) year period."
 - "Section 2.306.3. Administrative Provisions.
- (a) Recordkeeping Requirements In accordance with the provisions of \$807 of Chapter VIII of Public Law 3-11, the taxpayer agrees to keep a complete and accurate record of all transactions occurring within the Commonwealth of the Northern Mariana Islands. This record shall be maintained for at least three (3) years

from the date of each transaction and shall be available for inspection, examination, and audit by the Director of Finance or his delegate.

- (b) Audit Requirements The taxpayer agrees to provide to the Director of Finance by a mutually agreeable date its annual audited financial statements including their independent auditors' report thereon. The annual audited financial statements shall also include supplemental schedules or disclosures which purports the results of the taxpayer's operations in the CNMI. This information is in addition to the basic financial statement presentation, and the auditors' report should also be extended to it.
- (c) Filing of Tax Returns The taxpayer's income tax return shall be prepared and filed in a form as designated by the Director of Finance or his delegate. The due date for such return including extensions shall be in accordance with the applicable U.S. Internal Revenue Code provisions.
- (d) Estimated Income Tax The taxpayer shall make estimated income tax payments of its expected regular tax liability per this alternative method taxation less any tax credits allowable. Estimated tax payments are due by the fifteenth day of the fourth, sixth, ninth, and twelfth months of the taxpayer's fiscal year."

Certified By:

TOMAS B. ALDAN

Director of Finance

PUBLIC NOTICE

Filed this 13th day of March 19 84.

Office of Registrar of Corporations

Commonwealth of the Northern Mariana Islands

PROPOSED AMENDED REGULATIONS
FOR THE NUTRITION ASSISTANCE PROGRAM
DEPARTMENT OF COMMUNITY & CULTURAL AFFAIRS

The Director of the Department of Community and Cultural Affairs is proposing amendments to the regulations governing the administration of the Nutrition Assistance Program in the Northern Marianas.

These regulations are embodied in a Manual of Operations which describe the policies and procedures pertaining to the operation of the NAP in the Commonwealth of the Northern Mariana Islands. The portions of the manual which has been amended include the following subjects:

- 1. Eligibility of Households
- 2. Certification of Households
- 3. Issuance and Use of Food Coupons

The proposed amendments to the regulations are available for review during regular working hours, Monday thru Friday, at the Department of Community and Cultural Affairs, NAP Division, Lower Base, Saipan, CM 96950.

Anyone interested in commenting on the proposed amendments to the NAP Manual of Operations may do so by submitting comments in writing to the Director, Community and Cultural Affairs Office, Lower Base, Saipan, CM 96950, within thirty (30) days from the date this notice is published in the Commonwealth Register.

DATE: 3/3/8/

Gilbert C. Ada Director, DCCA

I. INTRODUCTION

The procedures delineated throughout this Manual are intended to serve as a guide in the administration of the Program and are broadly written within the limits imposed by the CNMI NAP Regulations and the Memorandum of Understanding.

The Manual is not all-inclusive in that it cannot cover every possible variations that specific cases may present. The provisions are brief, simple but workable and are consistent with Regulations which allows for maximum program flexibility.

The CNMI retains much of the decision-making power with regards to the applicability of FNS standards and therefore certain provisions may or may not conform to federally imposed regulatory or other standard program requirements. Standard FNS procedures will be used whenever deemed necessary or in situations not addressed herein.

All NAP staff are encouraged to exercise reasonable and prudent judgment in the performance of their duties and responsibilities.

II. PURPOSE

This Manual describes the terms and conditions under which food coupons may be issued to eligible households in the Commonwealth of the Northern Mariana Islands (CNMI). It also explains how these coupons may be used to purchase eligible foods and redeemed by authorized retail outlets in the CNMI.

III. STATE AGENCY IDENTIFICATION AND AUTHORITY

The Department of Community and Cultural Affairs (DCCA) located in the Commonwealth of the Northern Marianas is herein referred to as the State Agency. DCCA is charged with the responsibility for the administration of the program in the CNMI. The NAP Administrator shall have the responsibility for the day-to-day administration and operation of the Nutrition Assistance Program.

IV. DEFINITIONS

"Adult" means an individual 18 years or older, or a married individual if less than 18 years old.

"Allotment" means the total value of coupons a household is authorized to receive during each month.

"Application Form" means the form which is completed by a household member or authorized representative and which is used by the NAP staff to determine the household's eligibility and allotment level if the household is eligible.

"Authorization to Participate Card (ATP)" means a document which is issued by DCCA to a certified household showing the allotment the household is authorized to receive upon presentation of such document at an appropriate issuance point.

"Bulk storage point" means a secure place for storage of negotiable food coupons, the security of which is the responsibility of the CNMI government.

"Coupon" means any coupon or food stamp provided under this subchapter for the purchase of eligible items or local food.

"Coupon issuer" means the agent of the State agency which has the assigned responsibility for issuance of food stamps to households.

"Department" means the U.S. Department of Agriculture.

"Earmarked coupons" means those food coupons identified as for use only in the purchase of locally produced foods. These food coupons may not be used to purchase imported food items nor are they to be used as change in a food coupon transaction.

"Eligible items" means (1) any food or food product intended for human consumption except alcoholic beverages, tobacco, hot food prepared for immediate consumption, and restaurant or snack bar items; (2) fishing equipment such as nets, fish lines, fish hooks, fishing rods, fishing reels, harpoons, diving masks and goggles, or underwater flashlights; (3) garden seeds and plants and fertilizer to grow food for the personal consumption of the eligible household; and (4) hand farm tools such as hoes, rakes and shovels and sickles, but not including clothing, gasoline, motor oil, land or mechanized farm equipment.

"Fiscal year" means a period of 12 calendar months beginning with each October 1 and ending with September 30 of the following calendar year.

"Food stamp" means any coupon or stamp provided under this subchapter for the purchase of eligible items or local food.

"FNS" means the Food and Nutrition Service of the U.S. Department of Agriculture.

"Fraud" means an action taken by any person, authorized representative or household member to knowingly, willfully and with deceitful intent obtain funds or food stamp benefits to which the State agency employee, authorized representative or household member is not entitled.

"Good cause" means circumstances beyond the household member's control, such as illness, illness of another household member requiring the presence of the member, a household emergency which prevents the member from complying with a NAP requirement.

"Household" means that unit, either an individual or a group, upon which determinations of eligibility and levels of benefits are based.

"Identification (ID) card" means a carin rovided by the State agency
which identifies the bearer as eligible to receive and use food coupons.

"Local foods" means those food items grown, caught or processed in the CNMI. Examples are fruits and vegetables grown locally; fish caught locally; beef and dairy products, poultry and eggs, pork and other meats obtained from animals raised in the CNMI; as well as bread and bakery products processed in the CNMI.

"NAP" means the Division of Nutrition Assistance Program which is responsible for the day-to-day administration's of the program.

"Official food list" means a list of items that may be purchased with food coupons.

"Overissuance" means the amount by which food coupons issued to a household exceeds the amount the household was eligible to receive.

"Project area" means the administrative unit for Program operations. In the CNMI, it is the Commonwealth as a whole.

"Retail food store" means (1) a retail establishment or recognized retail department of an establishment, or a house-to-house trade route, whose eligible food sales volume is more than 50 percent staple food items for home preparation and consumption; (2) a farmer's or fish market; or (3) a store specializing in the sale of eligible non-food items such as fishing or gardening supplies.

"Secretary" means the Secretary of the U.S. Department of Agriculture.

"Signature" means a person's name or witnessed mark indicating the person's name on a document.

"State" means the Government of the Commonwealth of the Northern Mariana Islands (CNMI).

"State agency" means the Department of Community and Cultural Affairs (DCCA) in the CNMI which has the responsibility for the administration of the Nutrition Assistance Program.

"Supplemental security income (SSI)" means monthly cash payments made under the authority of title XVI of the Social Security Act, as amended, to the aged, blind, and disabled.

"SSI household" means that all members of the household receive SSI benefits.

"Thrifty food plan" means the diet required to feed a family of four persons consisting of a man and a woman 20 through 54, a child 6 through 8, and a child 9 through 11 years of age in the CNMI, determined in accordance with the Secretary's calculations. The cost of such diet shall be the basis for uniform allotments for all households regardless of their actual composition.

V. ELIGIBILITY OF HOUSEHOLDS

A. Household concept.

- 1. Eligibility for participation in the program shall be determined on a household basis. A household is defined as an individual or group of individuals who commonly purchase food and prepare meals for home consumption. Members of a household who is 60 years or older, or disabled and receiving SSI shall be treated as separate from the household if there are other adult members of the household.
- 2. Residents of institutions, roomers, and boarders shall not be considered household members. Other individuals who share living quarters with the household but who do not customarily purchase food and prepare meals with the household shall not be considered household members.
- 3. Disqualified and ineligible individuals and aliens. Ineligible individuals and individuals disqualified shall not be considered household members when determining household size. Their prorated income and resources shall be included in the household's income and resources for determination of eligibility and level of benefits.

B. Authorized representative.

- 1. The DCCA may permit, on a case by case basis, on Rota, Tinian and Saipan, the use of authorized representatives designated by the head of the household, spouse, or any other responsible member of the household and approved by the NAP Administrator to act on behalf of the household in making application for food coupons, obtaining food coupons, serving as liaison between the NAP and the household, and/or purchasing eligible items with food coupons. The State agency shall permit the use of authorized representatives for individuals who live on one of the islands north of Saipan.
- 2. The following shall not be permitted to act as authorized representatives: NAP staff, Issuance Agent employees directly involved with the issuance of coupons, retailers that are authorized to accept food coupons, and all elected officials (except for the Mayor of the Northern Islands), and individuals disqualified from the program. This restriction may be waived by the CU supervisor on a case by case basis for cause and in the interest of the program.

C. Residency.

A household must be living in the CNMI when it files an application for participation in the Program. Residency shall not mean domicile nor shall DCCA impose any durational residency

requirement. However, people in the CNMI solely for vacation purposes shall not be considered residents. No individual may participate as a member of more than one household in any month.

D. Citizenship and alien status.

- 1. The State agency shall prohibit participation in the Program by any person who is not a resident of the CNMI and not one of the following:
 - a. A Northern Mariana Islands citizen;
 - b. A United States citizen; or
 - c. An alien lawfully admitted for permanent residence in the U.S. or the CNMI.
- No aliens other than those described above shall be eligible to participate in the Program as members of any household. Among those excluded are alien visitors, tourists, laborers, and diplomats who enter the CNMI temporarily with no intention of abandoning their residences in a foreign country.
- 3. An individual may be presumed, at State agency discretion, pursuant to INS regulations to be permanently residing under the color of law upon satisfactory proof that he or she is a spouse or a legal unmarried child under the age of 18 of a citizen of the Trust Territory of the Pacific Islands, said citizen having been domiciled in the CNMI at least five (5) consecutive years immediately prior to the submission of the application to participate in NAP.

E. Work registration.

People required to register. The EW shall determine which 1. household members are required to register for employment at the time when the household files an application. Each household member who is not exempt by paragraph (2) of this section shall register for employment at the time of application and once every 6 months after initial registration. Upon reaching a determination that a member is required to register, the EW shall explain to the applicant both the work registration requirement and the consequences of failure to comply. The EW shall provide work registration form (WR-01) to the applicant or the authorized representative for each household member who is required to register for employment. Household members are registered when a completed work registration form is submitted to the Employment Service Office. The EW shall forward the work registration forms filed with NAP to ESO, Department of Commerce and Labor.

- 2. Exemptions from work registration. The following people are exempt from the work registration requirement:
 - a. A person younger than 18 years of age or a person 55 years of age or older.
 - b. A person physically or mentally unfit for employment. If a mental or physical disability is not evident to the EW, verification may consist of receipt of temporary or permanent disability benefits issued by governmental or private sources, or of a statement from a licensed physician or certified psychologist.
 - c. One parent or other household member who is responsible for the care of dependent children under 12 or an incapacitated person in the household.
 - d. A person who is employed or self-employed and working at least 30 hours a week and earning the equivalent of the minimum hourly wage times 30 each week.
 - e. A student enrolled full-time in high school.
 - f. A government retiree.
- 3. Additional work requirements. Work registrants shall also:
 - Report for an interview upon the request of ESO,
 Department of Commerce and Labor;
 - b. Respond to a request from ESO, Department of Commerce and Labor, for supplemental information regarding employment status or availability for work or job search;
 - c. Report to an employer when referred by ESO,
 Department of Commerce and Labor, if the potential
 employment meets the suitability requirements
 described in paragraph (6) of this section.
 - d. Accept a bona fide offer of suitable employment as defined in paragraph (6) of this section, to which he was referred by ESO, Department of Commerce and Labor; and
 - e. Continue suitable employment to which he was referred by ESO, Department of Commerce and Labor. Household members shall continue such employment until it is no longer considered suitable in accordance with paragraph (6) of this section, or

until they are terminated from employment due to circumstances beyond their control, or until they become exempt from the work registration requirements as provided in paragraph (2) above.

- 4. Failure to comply. If the EW determines that a household member has refused or failed without good cause to comply with work registration requirements, that member shall not be counted as part of the household in determining the household's level of benefits based on household size, but the prorated income and resources of the member not in compliance with the work registration requirements shall be counted in determining the household's eligibility for the Program. Upon receipt of the notification of the failure to comply from ESO, the EW shall provide the household with a notice of adverse action by mail within ten (10) days and issue the reduced benefits to the household, if it is still eligible at the next scheduled ATP issuance. Each household has a right to a hearing to contest a reduction or termination of benefits due to failure to comply with the work registration requirements. If a hearing is scheduled, the EW shall provide ESO with sufficient advance notice to permit the attendance of an ESO representative, if such attendance is necessary.
- 5. Ending disqualification. A member disqualified because of failure to comply with work registration ends the disqualification by becoming exempt from work registration or complying with all work registration requirements.
- 6. Suitable employment. Employment shall be considered unsuitable for the registrant if: it pays lower than minimum wage; the job will risk the registrant's health or safety; it forces the registrant to join or refrain from joining a labor organization; the commuting time or cost is unreasonable; or the working hours or type of work interferes with religious beliefs.
- 7. Determining good cause. In determining if good cause existed for failure to comply with any registration requirement, the EW shall consider the facts and circumstances, including information submitted by ESO, the household member involved. and the employer. Good cause shall include circumstances beyond the member's control, such as illness, illness of another household member requiring the presence of the member, or a household emergency. If the EW determines that there was good cause for failure to comply, the EW shall include that member in the household in determining the benefit level for that household. The EW shall ensure that members failing to comply for good cause are re-scheduled to complete the work registration requirement before the next monthly issuance. For example, member A fails for good cause to comply with WR requirement in February. Member A shall be

included in HH composition in determining HH's benefits for March. The EW shall ensure member A is rescheduled to comply with WR requirement prior to issuance of monthly benefits in April

8. Voluntary quit. No applicant household whose wage earners voluntarily quit his or her most recent job or reduces his or her regular or normal working hours without good cause thirty days prior to a determination of eligibility or ineligibility or thirty days subsequent thereto shall be eligible for participation in NAP for a period of at least three months beginning with the date of the notice of ineligibility.

F. Resource eligibility standards.

- 1. Uniform household standards. The EW shall apply the following resource standards to all households except in the case of pure SSI household as defined in this manual at the time of application to determine household eligibility. Pure SSI households shall automatically be eligible regardless of their resources:
 - a) All households.....\$1,500.00
 - b) Except two or more persons, one of whom is 60 years or older.....\$3,000.00
- 2. Excluded resources. In determining the resources of a household, only cash on hand, money in checking or savings accounts, savings certificates, stocks and bonds, or negotiable instruments shall be counted, except that the following resources shall be excluded:
 - a. The cash value of life insurance policies and pension funds as long as the funds remain in the pension plans.
 - b. Any governmental payments which are designated for the restoration of a home damaged in a disaster, if the household is subject to a legal sanction if the funds are not used as intended.
 - c. Resources, such as those of self-employed people, which have been prorated as income.
 - d. Resources which are excluded by express provision of Federal statute.
 - e. Those resources owned jointly with others which are not accessible to the household or, if accessible, are not considered part of the pro-rata share attributed to the household.

- 3. Resources of aliens and disqualified members. Resources of aliens and individuals disqualified from participation in the Nutrition Assistance Program for whatever reason, shall continue to count on a prorated basis as resources available to the remaining household members when determining the household's eligibility for the Program.
- 4. Transfer of resources. Households which have transferred resources knowingly for the purpose of qualifying or attempting to qualify for NAP benefits shall be disqualified from participation in the Program for up to one year from the date of the discovery of the transfer.

G. Income.

- 1. Income eligibility standards. Except as otherwise provided in this manual participation in the program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet.
 - a. The income eligibility standards shall be uniform for all participating households of the same size in the CNMI. Current standards are delineated in Exhibit A.
 - b. The income eligibility standards shall be adjusted each October 1, if necessary, to reflect changes in the cost of living in the CNMI.
- 2. Definition of income. Household income shall mean all income from whatever source.
 - a. earned income shall include all wages and salaries of an employee; the total gross income from a self-employment enterprise (payments from a roomer and returns on rental property shall be considered self-employment income); and training allowances from vocational and rehabilitative programs recognized by the Federal and the CNMI government.
 - b. unearned income shall include but not be limited to assistance payment from public assistance programs; annuities; pensions; retirement, veteran's or disability benefits; old-age, survivor's or social security benefits; foster care payment for children or adults; support or alimony payments; education grants, fellowship, or deferred payment loans for education; dividends, interests or royalties; and the earned or unearned income of an individual disqualified from participation in the NAP less the pro-rata share for the disqualified member.

- 3. Income exclusions. Income does not include the following items:
 - a. Any gain or benefit which is not in the form of money payable directly to the household, including;
 - i. In-kind income. Nonmonetary or in-kind benefits, such as meals, clothing, public housing, or produce from a garden.
 - ii. Vendor payments. A payment made by a nonhousehold member in money on behalf of a household directly to a third party shall be considered a vendor payment.
 - b. All loans, including loans from private individuals other than deferred repayment education loans.
 - c. Reimbursements for past or future expenses to the extent they do not exceed actual expenses. For example, reimbursements for job or training related expenses such as travel and uniforms.
 - d. Money received and used for care and maintenance of a third party beneficiary who is not a household member.
 - e. Money received in the form of a nonrecurring lump sum payment shall be counted as a resource in the month received unless specifically excluded from consideration as a resource by other Federal law.
 - f. Any income that is specifically excluded by any other federal statute from consideration as income.
 - g. Cost of producing self-employment income. An amount equal to any monthly expense which the household can document as having been incurred to produce the self-employment income.
 - h. Income earned by a household member, who is a full-time student, and who has not attained his eighteenth (18) birthday.
 - i. Money received from a governmental source which is earmarked for use as payment for utilities.
- 4. Income deduction. Households with earned income shall be allowed a deduction of ten percent of their earned income.

- 5. Procedures for determining income eligibility. The application shall list all income received by the household in the calendar month preceding the date of application and the EW must document any anticipated changes in income during the period of certification. Income eligibility shall be determined by the EW from the application.
 - a. Monthly-reported income includes all income received in the report month except for self-employment income or contract income which is received on an established schedule. Households receiving self-employment income or contract income on other than a monthly basis shall have such income averaged over the number of months the income is intended to cover. For example, self-employed vendors who work only in the summer and supplement their income from other sources during the balance of the year, shall have their self-employment income averaged over the months rather than the 12-month period. Adjustments to reported averaged income shall not result in payment of retroactive benefits but shall be the basis for recoupment of overissuances, if overissuances have occurred.
 - b. To calculate income eligibility the State agency shall:
 - (i) Determine the monthly-reported incomes for the report month from the application to obtain the gross monthly-reported income.
 - (ii) Determine the incomes from self-employment or contract then divide by the number of months the income should cover to obtain the averaged gross monthly income.
 - (iii) Add the gross monthly-reported income and the gross averaged income for the report month to obtain the total gross monthly income.
 - (iv) The total gross income for the report month shall be compared to the eligibility standard for the appropriate household size to determine the household's eligibility.

H. Voluntary Changes in HH Circumstances.

No applicant household whose household circumstances changed for the purpose of rendering it eligible following an agency determination of ineligibility shall be eligible for participation in NAP for a period of at least three months beginning with the date of the notice of ineligibility. These include but are not limited to:

- 1. Departure or removal of working members of the household;
- 2. Inclusion of grandchildren or other relatives in the household in order to qualify.

VI. CERTIFICATION OF HOUSEHOLDS.

A. Application Process.

- 1. General purpose. The application process includes completing, signing, and filing an application form, being interviewed, and having certain information verified.
- 2. NAP application form. Only a State agency approved form may be used, which form shall include all of the household members' social security numbers and the disqualification penalties for willful misrepresentation in clear, prominent, boldface lettering.
- 3. Filing an application. Households shall file an application for participation in the Program by submitting the form to a certification office or to a NAP representative in Rota, Tinian, and the islands north of Saipan in person or through an authorized representative. The State agency shall document the date an application is received. The household may file an incomplete form as long as the application contains the applicant's name and address and is signed by either the applicant or a responsible member of the household. Once the application is filed, the household's circumstances shall be evaluated to determine if the use of an authorized representative for the household shall be allowed by the State agency. The EW shall ensure that the applicant or authorized representative understands each section of the application form before the applicant is asked to sign the application, particularly those sections dealing with reporting changes, wilful misrepresentation, and attendant penalties.
- 4. Household cooperation. To determine eligibility, the application form must be completed and signed, the head of the household or spouse or its authorized representative must be interviewed, and certain information on the application must be verified. If the household refuses to cooperate with the State Agency in completing this process, the application shall be denied or pended. No application will be pended more than 30 days after date of receipt.

- 1. Applicant households shall have an interview with an eligibility worker prior to certification. Additional interviews may be required periodically by the State agency to discuss household circumstances and Program rights and responsibilities. When a face to face interview is not possible for residents of the islands north of Saipan because of transportation difficulties, or if the applicant objects to radio phone interview for reasons of privacy, the interview can be conducted by correspondence transmitted by an authorized representative.
- 2. The State agency may postpone the interview for persons residing on the islands north of Saipan until after the household is certified if the household appears to be eligible.
- 3. At State agency discretion, applicants may be interviewed in the home.
- 4. The individual interviewed may be the head of a household, spouse, any other responsible member of the household or an authorized representative. The interviewer shall explore and resolve unclear or incomplete information with the household. The household shall be advised of their rights and responsibilities during the interview. Facilities shall be adequate to preserve the privacy and confidentiality of the interview.
- C. <u>Verification</u>. Verification is the use of documentation, third party information, or home visits, to establish the accuracy of statements on the application in order to determine the eligibility or ineligibility of the household.
 - 1. Mandatory verification.
 - a. Gross income and resources shall be verified for all households prior to certification except where all attempts to verify income or resources have been unsuccessful either because the person or organization providing the income has failed to cooperate with the household and the State agency or because other sources of verification are unavailable. In such cases, the eligibility worker shall determine income or resource amounts to be used for certification purposes based on the best available information.
 - b. Household composition and citizenship status shall also be verified prior to certification of the household by requiring the applicant to submit birth certificates for each household member. Aliens shall be required to present INS permanent resident cards or a certificate of identity in order to establish eligibility.

- Verification of questionable information. Eligibility criteria other than income, resources, household size, residency, and citizenship status shall be verified prior to certification only if they are questionable. To be considered questionable, the information on the application must be inconsistent with statements by the applicant or inconsistent with other information received by the State agency.
- 3. Responsibility for obtaining verification. The household has primary responsibility for providing documentary evidence or an acceptable collateral contact to support its income statements and to resolve any questionable information. However, the EW may accept any reasonable evidence provided by the household and shall be primarily concerned with how adequate the verification proves the statements on the application.
- D. Documentation. Casefiles must be documented to support a determination of eligibility or denial. Documentation shall be in sufficient detail to permit a reviewer to determine the reasonableness and accuracy of the determination. The EW shall make an entry on the contact sheet to document communications with the household, whether by phone, correspondence, or face contact.

E. Processing standards.

- 1. The EW shall process all applications so that eligibility is determined and benefits provided within thirty days following receipt of a signed application. An application is filed the day the State agency receives an application which contains the applicant's name and address and which is signed by a responsible member of the household.
- 2. Expedited service. The State agency may at its discretion make provisions to expedite service to households in extreme need. However, mandatory verification and procedures shall not be waived in order to provide expedited service.
- Authorized representatives. Once an application is filed, the State agency shall determine from the household's circumstances whether to allow an authorized representative for the household. The State agency shall allow authorized representatives for households not residing on Rota, Tinian or Saipan. Households residing on Rota, Tinian and Saipan may be allowed use of an authorized representative if the State agency determines that the use of an authorized representative is necessary to provide the household with an opportunity to participate in the Program. If the household is allowed an authorized representative, the representative can act for the household in one or all of the following capacities:

- 1. Representing the household in certification interviews with the State agency. Adults who are nonhousehold members may be designated as authorized representatives for certification purposes only if they are sufficiently aware of relevant household circumstances.
- Acting as liaison between State agency and the household. An authorized representative shall transmit documents concerning household participation to the household and to the State agency.
- 3. Obtaining food stamps. An authorized representative of the household may be designated to obtain food stamps.

 Designation shall be made at the time the application is completed. State agencies may issue food stamps to household members or authorized representatives in accordance with the issuance provisions of this manual.
- 4. Using food stamps. An authorized representative may be designated to use food stamps to purchase eligible items for a participating household.

G. Certification Periods

- 1. Certification periods. The State agency shall establish one month periods of eligibility conforming to calendar months. A household is considered to be participating each month, after initial eligibility is established, if it utilizes its ATP card to obtain food coupons for that month. Applications which are received after the first full week of the month shall not be eligible to participate during the month of application except in extreme cases of emergency.
- 2. Initial certification. The certification period shall be based on the predictability of the household's circumstances but it shall not exceed three months for all households except for households consisting entirely of elderly persons (55 or older), permanently disabled, and/or minors under the age of 18 which may be certified up to six months. Households which cannot reasonably predict what its circumstances will be in the near future, or when there is a substantial likelihood of frequent and significant changes in income or household status may be certified for as short a certification period as one month. (Example: part-time or commission employees, day laborers, etc., if income is uncertain and subject to large fluctuations during the work season due to the uncertainty of continuous employment, bad weather and other circumstances). Zero income households shall be certified initially for no longer than one month. Once eligibility and level benefits are determined, the certification unit shall prepare a notice of allotment or change and transmit it to the data management unit. The ATP card shall be prepared from the notice by DMU for issuance at the beginning of the month following the month of application, or as otherwise provided in this manual.

H. Certification notices

- 1. Notice of eligibility. If determined eligible the household shall be provided a written notice of eligibility by mail or at the certification office within the 30 day processing time. The notice shall inform the household of the initial allotment. The household shall be provided with its ID card at the same time it receives the initial notice of eligibility. A notice of eligibility shall be provided to households to reflect any positive action by the State agency on a change in the household's circumstances during a certification period if there is at least one month remaining in the household's current certification period. The EW shall indicate on the notice the remaining period of certification, and the new household size and benefits, as appropriate.
- 2. Notice of denial. If the application is denied, the EW shall provide the household with written notice of denial by mail or at the certification office within the processing time. This notice shall explain the basis for denial, the household's right to request an agency conference or a hearing, and the name, telephone number and address of the person to contact for additional information.
- 3. Notice of adverse action. A notice of adverse action shall be provided to the household any time the household's benefits are reduced or terminated and there is still at least one month remaining in the household's current certification period.
 - The State agency shall provide the household a notice of a. adverse action by mail within 10 days of the date of discovery of a household circumstance which requires the household's benefits to be reduced or terminated. Example of a change in household circumstance which could result in reduction or termination of benefits are: i) increase in household income: ii) acquisition of liquid resource which exceeds NAP allowable limits: iii) reduction in household size because of a household member's departure, death, or disqualification for fraud or failure to meet work registration requirements. In such instances the State agency shall allow the household at least 10 days from the date of the notice until the effective date of the reduction or termination of benefits, to request an agency conference or a fair hearing if the household disagrees with the adverse action. Upon receipt of a request for an agency conference or fair hearing from the affected household within the 10 day notice period, the State agency shall defer any adverse action until the agency conference or fair hearing is concluded and a decision is reached and rendered by the Hearing

officer. If no request is received from the affected household within the 10 day notice period, then the State agency shall effect the adverse action as scheduled even if a fair hearing request is subsequently received before the effective date of the adverse action.

- b. If a household's benefits must be reduced or terminated within the certification period because one of its members is or is being disqualified pursuant to the provisions of the Manual, the EW shall issue a notice of adverse action which informs the household that either the entire household or one or more of its members are being disqualified, the reason for the disqualification, and the eligibility and benefit level of the remaining members if only a member is disqualified.
- c. As a clarification, the following illustration may be helpful:
 - Household A is certified from July 1 through Sept.
 30.
 - Household A either reports a change or the State agency discovers a household circumstance on August 15, which requires a reduction or termination of benefits.
 - The State agency must act on the reported or discovered change no later than August 25.
 - If the State agency provides the household a notice of adverse action by August 21, benefits shall be reduced or terminated (as appropriate) on September 1, unless Household A request an agency conference or fair hearing which could not be scheduled before September 1.
 - If the State agency does not send a notice of adverse action by August 21, benefits may not be reduced or terminated for Household A in September because adequate 10 day notice cannot be sent to Household A prior to the effective date of the adverse action, September 1.
 - If the State agency sends a notice of adverse action on August 16, Household A has until August 26 to request a fair hearing.
 - If the fair hearing request is not received by August 26, the adverse action takes effect on September 1, even if a request for fair hearing is subsequently received prior to September 1.

- 4. Other written adverse not the
 - a. Notice of claims against the households. A written notice of claims shall be hand-delivered to the household at least 10 days before the effective date of the collection action. At a minimum, the notice shall indicate the total amount of overissuance being recovered, the schedule of monthly repayment, and an explanation of the overissuance (such as: fraud determination, non-compliance with work registration, failure to report increases in income or reductions in household size, or duplicate participation) where the EW shall cite the pertinent section of the NAP manual, and a receipt signature block for the household representative which shall indicate the date of receipt.
 - b. Notice of disqualification. A written notice shall be provided to the affected household at least 10 days before the effective date of disqualification. At a minimum, the notice shall indicate the period of disqualification of the household from participation in the NAP (minimum: three months, maximum: one year); the reason for the disqualification such as administrative determination of fraud, voluntary quit or reduction of work hours, or transfer of resources in order to qualify for the program; and a citation of the pertinent section of the NAP manual.

I ___Recertification

At the expiration of each certification period, entitlement to NAP benefits ends. Further eligibility shall be established only upon recertification based upon a newly completed application, an interview, and verification as required herein. Under no circumstances shall benefits be continued beyond the end of a certification period without a new determination of eligibility. At recertification, the EW shall verify changes in income or household composition. All other changes reported at the time of recertification shall be subject to the same verification procedures used at the initial certification. Zero income households may be recertified for longer than one month if the households circumstances warrant a longer certification period. After issuance of the initial allotments, continued participation shall be provided only if the households circumstances remain unchanged.

J. Determining household eligibility and benefit levels

- 1. Month of application.
 - a. The eligibility and level of benefits for most households submitting an initial application shall be based on circumstances for the entire calendar month in which the household filed its application. A household's eligibility and benefit level shall be determined for the month of application by considering the household's circumstances for the entire month.
 - b. Eligibility and the level of benefits for recertifications shall be determined based on circumstances anticipated for the certification period starting the month following the expiration of the current certification period. If an application for recertification is not received until after the current certification period has expired, the month of application shall be the month in which the application was filed, as for any initial application.
 - c. Because of anticipated changes, a household may be eligible for the month of application, but ineligible in the subsequent month. The household shall be entitled to benefits for the month of application even if the processing of its application results in the benefits being issued in the subsequent month. Similarly, a household may be ineligible for the month of application, but eligible in the subsequent month due to anticipated changes in circumstances. To establish eligibility for the subsequent month, the household must file a new application.

- Determining resources. The household's resources at the time the application is filed shall be used to determine the household's eligibility.
- 3. Determining income.
 - a. Anticipating income. For the purpose of determining the household's eligibility and level of benefits, the EW shall take into account the income already received by the household during the certification period and any anticipated income the household and the EW are reasonably certain will be received during the remainder of the certification period. If the amount of income that will be received, or when it will be received, is uncertain, that portion of the household's income that is uncertain shall not be counted by the EW. For example, job or recently applied-for public assistance benefits, may be uncertain as to the timing and amount of the initial payment. These money shall not be anticipated by the EW unless there is reasonable certainty concerning the month in which the payment will be received and in what amount. If the exact amount of the income is not known that portion of it which can be anticipated with reasonable certainty shall be considered as income. In cases where the receipt of income is resonably certain but the monthly amount may fluctuate, the EW may elect to average income.
 - Income received during the past 30 days shall be used as ъ. an indicator of the income that is and will be available to the household during the certification period. However, the EW shall not use past income as an indicator of income anticipated for the certification period if changes in income have occurred or can be anticipated. If income fluctuates to the extent that a 30-day period alone cannot provide an accurate indication of anticipated income, the EW and the household may use a longer prior period (at least two months but preferably three months) if it will provide a more accurate indication of anticipated fluctuations in future income. In such cases, the EW shall use pay documents (pay stubs, check stubs, pay slips) which indicate the actual income to the household from the three most recent pay periods prior to the household's application or recertification. The EW shall average the actual amounts indicated on the pay documents and convert the averaged amount to a monthly income figure (if the pay periods documented are more frequent than monthly, ie., weekly or biweekly)." Similarly, if the household's income fluctuates seasonally, it may be appropriate to use the most recent season comparable to the certification period, rather than the last 30 days, as one indicator of anticipated income. The EW shall exercise particular caution in using income from a past season as an indicator of income for the certification period.

In many cases of seasonally fluctuating income, the income also fluctuates from one season in one year to the same season in the next year. However, in no event shall the EW automatically attribute to the household the amounts of any past income.

- c. Income anticipated during the certification period shall be counted as income only in the month it is expected to be received, unless the income is averaged. Whenever a full month's income is anticipated but is received on a weekly or bi-weekly basis, the EW shall convert the income to a monthly income by multiplying weekly amounts by 4.33 and bi-weekly amounts by 2.15, or use the exact monthly figure if it can be anticipated for each month of the certification period. Nonrecurring lump-sum payments shall not be counted as income.
- d. Wages held at the request of the employee shall be considered income to the household in the month the wages would otherwise have been paid by the employer. Advances on wages shall count as income in the month received only if reasonably anticipated as defined herein.
- e. Households receiving assistance payments, such as SSI benefits or social security payments, on a recurring, monthly basis, shall not have their monthly income from these sources varied merely because mailing cycles may cause two payments to be received in one month and none in the next month.

4. Income averaging.

- a. The EW may elect to have an applicant's income averaged. To average income, the EW shall use the household's anticipation of income fluctuations over the certification period. The number of months used to arrive at the average income need not be the same as the number of months in the certification period. For example, if fluctuating income for the past 30 days and the month of application are known and, with reasonable certainty, are representative of the income fluctuations anticipated for the coming months, the income from the three (3) known months may be averaged and projected over a certification period of longer than three (3) months. The procedure for averaging income is delineated in Exhibit B.
- b. Households which, by contract or self-employment, derive their annual income in a period of time shorter than 1 year shall have that income averaged over a 12-month period, provided the income from the contract is not

received on an hour work basis. These households may include school employees, fishermen, farmers, and other self-employed households. The procedures for averaging self-employed income are described in this part.

- c. Households receiving scholarships, deferred educational loans or other educational grants shall have such income averaged over the period for which it was provided.
- 5. Calculating income and benefit levels.
 - a. To determine a household's monthly gross income, the EW shall add the monthly gross income earned by all household members and all unearned income from all sources. Round the product up if it ends in 50 through 99 cents and down if it ends in 1 through 49 cents.
 - b. The total gross monthly income shall be compared to the income eligibility standard for the appropriate household size to determine the household's eligibility.
 - c. If eligible, the earned income deduction (10% of the household's earned income if any) shall be subtracted from the household's monthly gross income to obtain the household's monthly net income.
 - d. The household's monthly net income shall be multiplied by 30%. The product shall be rounded down if it ends in 1 through 49 cents and rounded up if it ends in 50 through 99 cents.
 - e. The product shall be subtracted from the maximum monthly coupon allotment for the appropriate household size to determine the household's monthly benefit level. Each eligible household shall receive a minimum monthly benefit of ten (\$10) dollars per household member.

K. Reporting changes

- 1. Household responsibility to report. Certified households are required to report the following changes in circumstances:
 - a. Changes in the sources of income or in the amount of gross monthly income;
 - b. All changes in household composition, such as the addition or loss of a household member;
 - c. Changes in residence;
 - d. When cash on hand, stocks, bonds and money in a bank account or savings institution reach or exceed a total of \$1,500.00;

- 2. Reporting. The EW shall require each certified household to report changes within 10 days of the date the change becomes known to the household. Reports of changes may be done orally or in writing. In either case, the EW shall document any reported changes on the contact sheet. If written, the document shall be filed with the current application form.
- 3. Action on changes. The EW shall take prompt action (within three working days) on all changes to determine if the change affects the household's eligibility or allotment.
 - a. Increase in benefits.
 - i. For changes which result in an increase in a household's benefits due to the addition of a new household member who is not a member of another certified household, or due to a decrease in the household's gross income, the EW shall make the change effective the month following the month in which the change is reported provided the required verification is completed prior to the start of that month following the month in which the change is reported.
 - ii. Required verification must be obtained prior to the issuance of the monthly allotment after the change is reported. Until the household provides verification, the household's benefits will remain at the original benefit level. In cases where the EW has determined that a household has refused to cooperate to verify reported changes, the EW shall terminate the household's eligibility.
 - b. Decreases in benefits. If the household's benefits level decreases or the household becomes ineligible as a result of the change, the EW shall issue a notice of adverse action within 10 days of the date the change was reported. The notice of adverse action shall provide the household 10 days to contest the adverse action. If the household does not respond within the 10 days notice given, the decrease in benefit levels shall take effect at the next scheduled issuance of benefits.
- 4. Failure to report. If the EW discovers that the household failed to report a change as required and, as a result, received benefits to which it was not entitled, the EW shall file a claim against the household. If the discovery is made within the certification period, the household is entitled to a 10 days notice of adverse action if the household's benefits are to be reduced or terminated. Individuals shall not be disqualified for failing to report a change unless the individual is disqualified in accordance with the fraud disqualification procedures.

- L. Mass changes. Certain changes are initiated by the local or federal government which may affect the entire caseload or significant portions of the caseload. These changes include adjustments to the income eligibility standards and benefit levels, adjustments to the maximum coupon allotment and other changes in the eligibility criteria based on legislative or regulatory actions. In such an event, individual notices to each certified household will not be necessary but a public announcement shall be made regarding the change(s) through mass media.
- M. Treatment of income and resources of disqualified members and aliens. Individual household members may be disqualified for fraud or for failure to meet the work registration requirement or the household may include ineligible member(s) such as aliens. During the period of time a household member is disqualified or as long as an ineligible alien is included in the household the eligibility and benefit level of any remaining household members shall be determined as follows:
 - 1. Resources. The prorated resources of the disqualified or alien member shall continue to count as resources to the remaining household members;
 - 2. Income. A pro-rata share of the income of the disqualified member and/or the alien(s) shall be counted as income to the remaining members. This pro-rata share is calculated by dividing the income evenly among the household members, including the disqualified member or the alien(s). All but the disqualified member or the alien's share is counted as income to the remaining household members.
 - 3. Deductible expenses. The 10 percent earned income deduction shall not apply to the prorated income earned by the disqualified member or alien which is attributed to the household.
 - 4. Eligibility and benefit level. The disqualified member or alien shall not be included when determining the household's size for purposes of assigning a benefit level to the household or for purposes of comparing the household's monthly gross income with the income eligibility standards.
 - 5. Reduction or termination of benefits within the certification period. Whenever an individual is disqualified within the household's certification period, the EW shall determine the eligibility or ineligibility of the remaining household members based, as much as possible, on information in the casefile and provide appropriate notice of adverse action to the household.

N. Fair Hearing

- 1. Notification of right to request a fair hearing. At the time of application, each household or its authorized representative, shall be informed of its right to request an agency conference or a fair hearing and the method by which they are requested, on any action the State agency takes which affects the household's level of benefits. The household or its authorized representative shall also be informed that Program violations will be pursued by the State agency and of the penalties for Program violations. The household or its authorized representative shall be further advised that an agency conference or hearing does not preclude additional prosecutions in civil or criminal court.
- 2. Time period for requesting a hearing. An agency conference or a fair hearing may be requested on any action by the State agency which occurred in the prior 60 days and which affects the household's benefits.
- 3. Request for agency conference or fair hearing. A request for an agency conference or fair hearing is any clear expression, oral or written, by a household or its authorized representative to the EW that it wishes to present its case to a higher authority. The freedom to make such a request shall not be limited or interfered with in any way. Upon request, the Administrator shall make available the rules for agency conference or hearing procedures and other materials necessary for a household or its authorized representative to determine whether an agency conference or hearing should be requested or to prepare for the agency conference or hearing.
- 4. The NAP administrator shall not deny or dismiss a request for an agency conference or hearing unless:
 - a. The request is not received within the time period specified in paragraph N2 above;
 - b. The request is withdrawn in writing by the household or its authorized representative; or
 - c. The household or its authorized representative fails, without good cause, to appear at the scheduled agency conference or hearing.
- 5. Timely action on hearings. Within sixty (60) days of the receipt of a request for a hearing from a household or its authorized representative, the State agency shall schedule a hearing, inform the household in writing of the hearing date, conduct a hearing and arrive at a decision and notify the household of the decision.

- 6. Postponement or alternative hearing option.
 - a. The household or its authorized representative may request, for good cause, a postponement of a scheduled hearing. The postponement shall not exceed 30 days, and the time limit for action on the decision may be extended for as many days as the hearing is postponed.
 - b. If the time standards cannot be met using normal procedures the State agency may suggest using a telephone or radio phone to conduct the hearing. The household has the option of having the hearing held by telephone or radio phone. However, if the household objects to the use of a telephone or radio phone on grounds of privacy, the State agency shall use some means of private communication such as correspondence to conduct the hearing within the specified time.
- 7. Notification of time and place of hearing. The time, date and place of the hearing shall be held on the island where the household or its authorized representative filed its application. At least 10 days prior to the hearing, written notice shall be provided unless it is waived to all parties involved to permit adequate preparation of the case. The notice shall:
 - a. State where and when the hearing is scheduled;
 - b. Advise the household or its authorized representative of the name and address of the office or the person to notify in the event it is not possible for the household or its authorized representative to attend the scheduled hearing;
 - c. Specify that the hearing shall be held and the decision shall be made based solely on information provided by NAP if the household or its authorized representative fails to appear at the hearing without good cause; and
 - d. Outline charges.
- 8. Hearing official. Hearings shall be conducted by an impartial official(s), designated by the DCCA Director, who does not have any personal interest or involvement in the case and who was not directly involved in the initial determination of the action which is being contested. The hearing official shall:
 - a. Administer oaths or affirmations if deemed necessary by the State agency;
 - Ensure that all relevant issues are considered;
 - c. Request, receive and make part of the record, all evidence determined necessary to decide the issues being raised;

- Regulate the conduct and course of the hearing consistent with due process to ensure an orderly hearing; and
- Render a hearing decision in the name of the State e. agency which will resolve the dispute based on a preponderance of the evidence.
- 9. Attendance at hearing. The hearing shall be attended by representatives of the State agency which initiated the action being contested and by the household and/or its representative. The hearing may also be attended by friends or relatives of the household if the household desires. If the houshold member or its authorized representative cannot be located or fails to appear at the hearing without good cause, the hearing shall be conducted and a decision made without the household represented. If it is later determined that the household or its authorized representative had good cause for not appearing, the hearing shall be rescheduled if requested by the household or its authorized representative within 5 days from the date of the hearing decision. If the household or its authorized representative is found knowingly, willfully and with deceitful intent to have abused the Program but a hearing official later determines that the household or its authorized representative had good cause for not appearing, the previous decision may be set aside upon request of the aggrieved party and the State agency shall conduct a new hearing. The hearing official who originally ruled on the case may conduct the new hearing.
- 10. Conduct of hearing. The household or its authorized representative may not be familiar with the rules of order and it may be necessary to make special efforts to arrive at the facts of the case in a manner that makes the household or its authorized representative feel at ease. The household or its authorized representative shall be given an opportunity to:
 - Examine all documents and records to be used at the a. hearing at a reasonable time before the date of the hearing, as well as during the hearing. The contents of the casefile, including the application forms and documents of verification used by the State agency shall be made available, provided that confidential information is protected from release. The State agency may provide a free copy of the relevant portions of the casefile if requested by the household or its autorized representative. Confidential information that is protected from release and other documents or records which the household will not otherwise have an opportunity to contest or challenge shall not be introduced at the hearing or affect the hearing official's decision.

- b. Present the case or have it presented by a legal counsel or other person.
- c. Bring witnesses.
- d. Advance arguments without undue interference.
- e. Question or refute any testimony or evidence, including an opportunity to confront and cross-examine adverse witnesses.
- f. Submit evidence to establish all pertinent facts and circumstances in the case.

11. Hearing decisions.

- a. Decisions of the hearing officials shall comply with the MOU and the NAP manual of operation and shall be based on the hearing record. An official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceeding, shall constitute the exclusive record for a final decision by the hearing official.
- b. A decision by the hearing official shall summarize the facts of the case, respond to reasonable arguments made by the household or its authorized representative, specify the reasons for the decision and identify the supporting evidence and pertinent provisions of the regulations, MOU, or the manual. The decision shall become a part of the record.
- c. The household or its authorized representative shall be advised of the decision of the hearing official in writing within five working days of the receipt of the decision from the hearing official.
- d. The decision of the hearing official shall be final and binding on the State agency. The decisions which result in an increase or decrease in household benefits shall be reflected in the coupon allotment at the next scheduled ATP issuance following receipt of the hearing decision.
- 12. Participation while awaiting a hearing. A pending hearing shall not affect the household's right to be certified and participate in the Program. Since the State agency cannot assume Program abuse until the hearing decision is made, the State agency shall determine the eligibility and benefit level of the household in the same manner it would be determined for any other household. The household must be informed however that if the hearing decision is adverse to the household, it will be required to pay NAP the allotment received during the pendency of a hearing decision.

13. Participation while awaiting decision on a hearing appeal. The State agency shall comply with the terms of the fair hearing decision until it is overturned or modified by a court ruling. If there is no period of disqualification imposed, the State agency shall determine the eligibility and benefit level of the household in the same manner it would be determined for any other household.

O. Fraud Disqualification

- 1. Definition of Fraud. Fraud shall consist of any action by an individual who knowingly, willfully and with deceitful intent:
 - a. Make a false statement to the State agency or its staff, either orally or in writing, to obtain benefits to which the household is not entitled;
 - b. Conceal information to obtain benefits to which the household is not entitled;
 - c. Alter ATP to obtain benefits to which the household is not entitled;
 - d. Use coupons to purchase ineligible items including but not limited to alcoholic beverages or cigarettes;
 - e. Use or possess improperly obtained coupons or ATP, or
 - f. Trade, exchange, or sell coupons or ATP.
 - g. Use earmarked coupons to purchase other than local foods.
- 2. Fraud disqualification penalties. Individuals found to have committed fraud by the NAP office shall be ineligible to participate in the program for at least 3 months. Individuals found guilty of criminal or civil fraud by a court of appropriate jurisdiction shall be ineligible for not less than 6 months and not more than 24 months as determined by the court. The State agency shall disqualify the entire household if fraud was committed by either the husband, wife, or authorized representative.
- 3. Notification to households. The State agency shall inform the household in writing of the disqualification penalties for committing fraud each time it applies for program benefits. The penalties shall be written in clear, prominent, and boldface lettering on the application form.
- 4. Administrative disqualification. An administrative review shall be initiated by the State agency whenever the State agency has documented evidence to substantiate that a currently certified household member has committed one or more acts of fraud as defined in Ol above. Such cases may

include those in which NAP believes the facts of the individual case do not warrant civil or criminal prosecution through the appropriate court system. Other cases may be those previously referred for prosecution but for which prosecution was declined by the appropriate legal authority.

The State agency will initiate an administrative review and make a determination regardless of the current eligibility of the individual. The disqualification period for non-participants at the time of the administrative decision shall be deferred until the individual applies for and is determined eligible for program benefits.

At its discretion, the State agency may not conduct fraud reviews and make a fraud determination if the amount State agency suspects has been fraudulently obtained is less than \$35 or if the value of the ineligible items that have been purchased with food stamps is under \$35. The burden of proving fraud is on DCCA. The administrative fraud determination may still be conducted regardless of whether other legal action is planned against the household member.

- 5. Fraud hearing procedures.
 - a. The same hearing official(s) for fair hearings will be used to conduct fraud hearings.
 - b. The provisions governing fair hearings are also applicable for fraud hearings.
 - c. Within sixty (60) days of the date the household member is notified in writing that a hearing initiated by the State agency has been scheduled, the State agency shall conduct the hearing, arrive at a decision and initiate administrative action which will make the decision effective. The household member or representative is entitled to a postponement of up to 30 days. If the hearing is postponed, the above time limits shall be extended for as many days as the hearing is postponed. The State agency may not postpone a hearing for its own benefit.
 - d. The State agency shall make available at no cost to affected households upon their request written rules of procedure for fraud hearings.
- 6. Advance notice of hearing. The State agency shall provide written notice to the household suspected of fraud at least 15 days in advance of the date a fraud hearing initiated by the State agency has been scheduled. The notice shall be hand-delivered or mailed and shall contain, at a minimum:
 - a. The date, time, and place of the hearing;
 - b. The charge(s) against the household or its member;

- c. A summary of the evidence, and how and where the evidence can be examined;
- d. A warning that the decision will be based solely on information provided by the food stamp office if the household member fails to appear at the hearing;
- e. A warning that a determination of fraud will result in a 3-month disqualification;
- f. A statement that the hearing does not preclude the State or Federal Government from prosecuting the household or its member for fraud in a civil or criminal court action, or from collecting the equivalent of the overissuance.

7. Scheduling of hearing.

- a. The time and place of the hearing shall be arranged so that the hearing is accessible to the household or its member suspected of fraud.
- b. If the household member or its representative cannot be located or fails to appear at a hearing initiated by the State agency without good cause, the hearing shall be conducted without the household member represented.
- Even though the household member is not represented, the c. hearing official is required to carefully consider the evidence and determine if fraud was committed based on a preponderance of the evidence. If the household member is found to have committed fraud but the hearing official later determines that the household member or representative had good cause for not appearing, the previous decision may be set aside upon written request of the aggrieved party, and if the decision is set aside, the State agency shall conduct a new hearing. The hearing official who originally ruled on the case may conduct the new hearing. The household member has 10 days from receipt of notice of the fraud decision to present reasons indicating a good cause for failure to appear. A hearing official must enter the good cause decision into record. If the household member fails to contest the fraud decision within 10 days; or the hearing official determines that the member's reason for failing to appear at the hearing is not good cause, the fraud decision shall stand.
- 8. Participation while awaiting a hearing. A pending fraud hearing shall not affect the individual or the household's right to be certified and participate in the program. Since the State agency cannot disqualify a household member for fraud until the hearing official finds that the individual

member or household has committed fraud the EW shall determine the eligibility and benefit level of the household in the same manner it would be determined for any other household. For example, if the action for which the household member is suspected of fraud does not affect the household's current circumstances, the household would continue to receive its allotment based on the latest certification action or be recertified based on a new application and its current circumstances. However, the household's benefits shall be terminated if the certification period has expired and the household fails to reapply. The EW shall also reduce or terminate the household's benefits if the State agency has documentation which substantiate that the household is ineligible or eligible for fewer benefits (even if these facts led to the suspicion of fraud and the resulting fraud hearing) and the household fails to request a fair hearing and continuation of benefits pending the hearing. For example, the State agency may have facts which substantiate that a household failed to report a change in its circumstances even though the State agency has not yet demonstrated that the failure to report involved a fraudulent act.

- 9. Criteria for determining fraud. The hearing authority shall base the determination of fraud on a preponderance of the evidence which demonstrates that the household or its member knowingly, willfully, and with deceitful intent committed fraud as defined in paragraph 02 of this section.
- 10. Decision format. The hearing authority's decision shall specify the reasons for the decision, identify the supporting evidence, identify the pertinent provisions of the MOU, Regulations, or Manual, and respond to reasoned arguments made by the household member or representative.
- 11. Appeal rights of the household member. If the hearing authority rules that the household or its member has committed fraud, the household or its member may appeal the decision to the Commonwealth Trial Court. The appeal shall not operate as an automatic stay of the decision.
- 12. Appeal after State level hearing. After a household or its member has been found to have committed fraud by the hearing official, the household or its member shall be disqualified for a period of not less than 3 months beginning with the first month which follows the date the household or its member has received the State agency's hearing notice. The disqualification period shall not be less than 3 months, regardless of the amount of coupons fraudulently obtained or the number of fraudulent acts the hearing finds the household or individual has committed. No further administrative appeal procedure exists after an adverse hearing. The determination of fraud made by a fraud hearing official

cannot be reversed by a subsequent fair hearing decision. The household member, however, is entitled to seek relief in a court having appropriate jurisdiction. The period of disqualification may be subject to a stay or other injunctive remedy.

- 13. Notification of hearing decision.
 - a. If the hearing finds that the household or its member did not commit fraud, the State agency shall provide a written notice which informs the household or its member of the decision.
 - b. If the administrative fraud hearing finds that the household or its member committed fraud, the State agency shall mail a written notice to the household or its member prior to disqualification. The notice shall inform the household of the decision and the reason for the decision. The notice shall also advise the remaining household members, if any, of either the allotment they will receive during the period of disqualification or that they must reapply because the certification period has expired. The procedures for handling the income and resources of the disqualified member are described in paragraph M of this section. The notice shall inform the household members of the date the disqualification will take effect.

14. Court imposed disqualifications.

- a. A court of appropriate jurisdiction may order an individual disqualified from participation in the program for not less than 6 months and not more than 24 months if the court finds that individual guilty of civil or criminal fraud. Court ordered disqualifications may be imposed separate and apart from any action taken by the State agency to disqualify the individual through an administrative fraud hearing.
- b. The State agency shall refer for prosecution under local fraud statutes those individuals suspected of committing fraud, particularly if large amounts of coupons are suspected of being fraudulently obtained or the individual is suspected of committing more than one fraudulent act. DCCA shall confer with the CNMI Attorney General's Office to determine the types of cases which will be accepted for possible prosecution. DCCA shall also encourage the Attorney General's Office to recommend to the courts that a disqualification penalty as provided above be imposed in addition to any other civil or criminal fraud penalties.
- c. The State agency shall disqualify an individual found guilty of fraud for the length of time specified by the court. If disqualification is ordered but a date for

tiating the disqualification period is not specified, the State agency shall initiate the disqualification period for currently eligible individuals with the first month following the date the disqualification was ordered. If the court fails to address or specify a disqualification period, the State agency shall impose a six-month disqualification period unless contrary to the court order. The court imposed disqualification shall begin the first month following the date the court found a currently eligible individual guilty of civil or criminal fraud. If the individual is not eligible for the program at the time the disqualification period is to begin, the period shall be postponed until the individual applies for and is determined eligible for benefits. If the periods of disqualification imposed by a court and by an administrative fraud hearing coincide, the court-ordered disqualification shall run concurrently with the 3-month disqualification period imposed through an administrative fraud hearing. The State agency shall not initiate or continue a court imposed or administratively imposed fraud disqualification period contrary to a court order.

- d. If the court finds that the household member committed fraud, the State agency shall mail a written notice to the household. The notice shall be sent within five working days of the receipt of the court order. The notice shall inform the household of the decision and the reason for the decision. The notice shall also advise the remaining household members, if any, of the allotment they will receive if the household is still eligible, during the period of disqualification. The notice shall also inform the household member of the date disqualification will take effect and of the fraud claim repayment requirements in this manual. In addition, the State agency shall include the form letter of agreement for restitution.
- 15. Reversed fraud disqualifications. In cases where the determination of fraud is reversed by a court of appropriate jurisdiction, the State agency shall reinstate the individual in the program if the household is eligible and restore benefits that were lost as a result of the disqualification, subject to availability of funds earmarked for program benefits.

P. Restoration of Lost Benefits.

1. Entitlement. The State agency shall restore to the household benefits which were lost whenever the loss was caused by an error by the State agency, or a fraud disqualification was subsequently reversed. With the exception of benefits which are restored as a result of a reversal of a fraud disqualification penalty, benefits shall not be restored if lost more than 2 months prior to the most recent of the following:

- a. The month the State agency was notified by the household or by another person or agency in writing or orally of the possible loss to that specific household;
- b. The month the State agency discovers in the normal course of business that a loss to a specific household has occurred; or
- c. The date the household requested a fair hearing to contest the adverse action which resulted in the loss.
- 2. Error discovered by the State agency. If the State agency determines that a loss of benefits has occurred, and the household is entitled to restoration of those benefits, the State agency shall automatically take action to restore any benefits that were lost. No action by the household is necessary. However, benefits shall not be restored if the benefits were lost more than 2 months prior to the month the loss was discovered by the State agency in the normal course of business, or were lost more than 2 months prior to the month the State agency was notified in writing or orally of a possible loss to a specific household. The State agency shall notify the household of its entitlement, the amount of benefits to be restored, any offsetting that was done, the method of restoration, and the right to appeal through the fair hearing process if the household disagrees with any aspect of the proposed lost benefit restoration.

3. Disputed benefits.

- If the State agency determines that a household is a. entitled to restoration of lost benefits, but the household does not agree with the amount to be restored as calculated by the State agency or any other action taken by the State agency to restore lost benefits, the household may request a fair hearing within 60 days of the date the household is notified if its entitlement to restoration of lost benefits. If a fair hearing is requested prior to or during the time lost benefits are being restored, the household shall receive the lost benefits as determined by the State agency pending the results of the fair hearing. If the fair hearing decision is favorable to the household, the State agency shall restore the lost benefits in accordance with that decision.
- b. If a household believes it is entitled to restoration of lost benefits but the State agency, after reviewing the casefile, does not agree, the household has 60 days from the date of the State agency determination to request a fair hearing. DCCA shall restore lost benefits to the household only if the fair hearing decision is favorable to the household. Benefits lost more than 2 months

prior to the date the State agency was initially informed of the household's possible entitlement to lost benefits shall not be restored.

- 4. Computing the amount to be restored. After correcting the loss for future months and excluding those months for which benefits may have been lost prior to the 2-month time limit described in this section, the State agency shall calculate the amount to be restored as follows:
 - a. If the household was eligible but received an incorrect allotment, the loss of benefits shall be calculated only for those months the household participated.
 - b. If an eligible household's application was erroneously denied, the month the loss initially occurred shall be the month following the month of application, or for an eligible household filing a timely reapplication, the month following the expiration of its certification period.
 - c. If a household's benefits were erroneously terminated, the month the loss initially occurred shall be the first month benefits were not received as a result of the erroneous action.
 - d. After computing the date the loss initially occurred, the loss shall be calculated for each month subsequent to that date until either the first month the error is corrected or the first month the household is found ineligible.
 - e. For each month affected by the loss, the State agency shall determine if the household was actually eligible. In cases when there is no information in the household's casefile to document that the household was actually eligible, the State agency shall advise the household of what information must be provided to determine eligibility for these months. For each month the household cannot provide the necessary information to demonstrate its eligibility, the household shall be considered ineligible.
 - f. For the months the household was eligible, the State agency shall calculate the allotment the household should have received. If the household received a smaller allotment than it was eligible to receive, the difference between the actual and correct allotments equals the amount to be restored.
 - g. If a claim against a household is unpaid or held in suspense the amount to be restored shall be offset against the amount due on the claim before the balance, if any, is restored to the household.

- 5. Lost benefits to individuals descualified for fraud. Individuals disqualified for fraud are entitled to restoration of any benefits lost during the months they were disqualified only if the decision which resulted in disqualification is subsequently reversed. For example, an individual would not be entitled to restoration of lost benefits for the 3-month period it was disqualified based solely on the fact that a criminal conviction could not be obtained, unless the individual successfully challenged the 3-month disqualification in a separate court action. For each month the individual was disqualified, the amount to be restored, if any, shall be determined by comparing the allotment the household received with the allotment the household would have received had the disqualified member been allowed to participate. If the household received a smaller allotment than it should have received, the difference equals the amount to be restored. Benefits shall be restored regardless of the length of time that has elapsed since the household member was disqualified.
- 6. Method of restoration. Regardless of whether a household is currently eligible or ineligible, the State agency shall restore lost benefits to a household by issuing an allotment equal to the amount of benefits that were lost. The amount restored shall be issued in addition to the allotment currently eligible households are entitled to receive. The State agency shall honor reasonable requests by households to restore lost benefits in monthly installments if, for example, the household fears the excess coupons may be stolen, or that the amount to be restored is more than it can use in a reasonable period of time.
- 7. Accounting procedures. DCCA will maintain two sets of ledgers: One for documenting a household's entitlement to restoration of lost benefits and for recording the balance of lost benefits that must be restored to the household; and the other is to account for outstanding claims. The casefile contact sheet shall document how the amount to be restored was calculated and the reason lost benefits must be restored. The EW will check the outstanding claims ledger to, identify those situations where a claim against a household can be used to offset the amount to be restored prior to establishing a restoration account for any household.

Q. Claims against households

- 1. Establishing claims against the household. Notwithstanding the fraud disqualification provisions of this Manual, claims may be established against any household that has received more food stamp benefits than it is entitled to receive. These include but are not limited to the following:
 - a. The household failed to provide the EW with correct or complete information.
 - b. The household failed to provide the EW changes in its household circumstances.
 - c. The household altered its ATP.
 - d. The household transacted both the original and its replacement ATP.
 - e. The EW failed to take prompt action on a change reported by the household.
 - f. The EW incorrectly computed the household's income or deductions, or otherwise assigned an incorrect allotment.
 - g. The EW incorrectly issued duplicate ATP's to a household which were subsequently transacted.
 - h. The household was found to be ineligible or eligible for fewer benefits that it received pending a fair hearing decision.
- 2. Nonfraud claims. Nonfraud claims are those claims established against households for overissuances which were not caused by fraud, such as, but not limited to overissuances caused by administrative error on the part of the EW or a misunderstanding or inadvertent error on the part of the household.
 - a. Criteria for establishing a nonfraud claim. If less than 12 months have elapsed between the month a nonfraud overissuance occurred and the month the EW discovered a specific case involving an overissuance, the EW shall take action to establish a claim against the household which received the overissuance. A nonfraud claim shall not be established if an overissuance occurred as a direct result of the following errors.
 - i. An EW failed to ensure that a household signed the application form, completed a current work registration form, or was certified in the correct island center.

- allotments after its certification period has expired without benefit of a reapplication determination, regardless of a subsequent determination of eligibility or ineligibility.
- iii. A household transacted an expired ATP, unless the household altered its ATP in which case the household would be subject to fraud procedures.
- b. Calculating the amount of the nonfraud claim.
 - i. After excluding those months that are more than 12 months prior to the date the overissuance was discovered, the EW shall determine the correct amount of food stamp benefits the household should have received for those months the household participated while the overissuance is in effect. The EW shall complete the CL-Ol Claim Determination Report. In cases involving reported changes, the EW shall determine the month the overissuance initially occurred as follows:
 - (A) If the household failed to report a change in its household circumstances within 10 days of the date the change became known to the household, the first month affected by the household's failure to report shall be the month in which the change occurred. The ten day notice of adverse action requirement shall not apply in this instance.
 - (B) If the household timely reported a change, but the EW did not timely act on the change, the first month affected by the EW's failure to act shall be the first month the EW should have made the change effective, subject to the ten day notice of adverse action requirement.
 - (C) For example, a change that rendered a participating household ineligible occurred on April 20. The household continued participating through June 30. If the household had reported the change within 10 days as required and had not waived 10 day notice of adverse action, the first month of overissuance would be June [change occurred on 4/20 plus ten days to report = 4/30 plus ten days notice of adverse action = 5/10. The first issuance which could be affected by the notice of adverse action is 6/1]. In another example, if the household had reported the change which had occurred on April 10 on April 19, the first month of overissuance would be

May [change occurred on 4/10 plus ten days to report = (4/20) actually reported on 4/19 plus ten days notice of adverse action = 4/29. The first issuance which could be affected by adverse action is 5/1]. However, if the household fails to report a change which occurred in April within ten days of the change, the first month of overissuance would be April.

- ii. If the household received a larger allotment than it was entitled to receive, the EW shall establish a claim against the household equal to the difference between the allotment the household received and the allotment the household should have received.
- iii. After calculating the amount of the nonfraud claim, the EW shall offset the amount of the claim against the following months allotment or initiate collection action.
- c. Collecting nonfraud claims.
 - i. The State agency shall initiate collection action on all nonfraud claims unless the claim is collected through offset; the total amount of the nonfraud claim is less than ten (10) dollars; the EW has documentation which shows that the household cannot be located.
 - ii. The State agency shall initiate collection action through an agency conference, notice of adverse action, or by sending the household a written demand letter, which informs the household of the amount owed, the reason for the claim, the period of time the claim covers, any offsetting that was done to reduce the claim, how the household may pay the claim, and the household's right to a fair hearing if the household disagrees with the EW's determination. In addition, the demand letter for nonfraud claims will include a statement which specifies that, if a household falls behind in making payments or is unable to pay the claim, the household's level of benefits will be affected. If the household pays the claim, the payments shall be accepted and submitted to the State agency's account at the Department of Finance.
 - iii. If the household does not respond to the first demand letter, the State agency shall have the option of filing an action in small claims court or sending a second letter within 30 days, and each

month thereafter, until the household has responded by paying or agreeing to pay the claim, or until the criteria for suspending collection action, as specified below have been met.

- d. Criteria for suspending collection of a nonfraud claim. A claim shall be suspended if no collection action was initiated because of conditions specified in Q2ci above. If collection action was initiated, and at least one demand letter has been sent, further collection action shall be suspended when:
 - The household is financially unable to pay the claim;
 - ii. There is little likelihood that the household will pay the claim;
 - iii. The household cannot be located; or
 - iv. The cost of further collection is likely to exceed the amount that can be recovered.
- e. Terminating collection action of a nonfraud claim. A claim shall be determined uncollectible after it is held in suspense for 3 years.
- 3. Fraud claim. A claim shall be handled as a fraud claim only if an administrative fraud hearing or a court of appropriate jurisdiction has found a household member guilty of fraud. Prior to the determination of fraud, the claim against the household shall be handled as a nonfraud claim.
 - Establishing a fraud claim. For each month that a a. household member fraudulently participated, the EW shall determine the correct amount of food stamp benefits, if any, the household was entitled to receive. The amount of the fraud claim shall be calculated back to the month the fraudulent act occurred, regardless of the length of time that elapsed until the determination of fraud was made. If the household member is determined to have committed fraud knowingly, willfully and with deceitful intent by failing to report a change in its household's circumstances, the first month benefits were overissued shall be the month in which the change occurred. Once the amount of the fraud claim is established, the EW shall offset the claim against all subsequent allotments or restoration of lost benefits if the household is still eligible after the disqualification period of either the household member(s) or the entire household.

- i. If a household member is found to have committed fraud (through an administrative determination or by a court of appropriate jurisdiction) the NAP Division shall either hold an agency conference with the household to settle the claim or send the individual a form letter of agreement for restitution. The NAP Division shall not initiate such collection if it has documentation which shows the household cannot be located, or the legal representative prosecuting a member of the household for fraud advises, in writing, that collection action will prejudice the case. In cases where a household member was found guilty of fraud by a court, the State agency shall request the matter of restitution be brought before the court.
- ii. One month prior to the end of the specified period of disqualification, if the household member found guilty of fraud has not responded to the agreement letter, the State agency shall advise the individual that he/she will remain disqualified until such time as an agreement to repay is executed in accordance with the procedures established in O6a below. The disqualified member shall not be considered a household member until a repayment agreement is reached. The income and resources of this disqualified member shall be counted as part of the household's income and resources in determining eligibility and benefit levels. A demand letter for an unpaid or partially paid claim shall be sent even if the household has previously received a nonfraud demand letter because the time period covered by the claim and the method of collection is different from fraud and nonfraud claims. The State agency may also initiate civil court action to obtain the claim.
- iii. The individual who committed fraud or the remaining household members may begin restitution prior to or during the period of disqualification imposed by NAP or a court of law. The State agency shall follow the procedures for collecting and submitting payments as well as the applicable accounting procedures in paragraphs Q6 and Q7 below.
- iv. If the household executes a repayment agreement, the State agency shall follow the procedures prescribed in paragraphs Q6 and Q7 below for collecting and submitting payments or the procedures for reducing the food stamp allotment of the fraudulent individual's household.

- v. If the State agency can document that the fraudulent individual cannot be located, collection action shall be suspended. A claim shall be determined uncollectible after it is held in suspense for three years.
- 4. Change in household composition.
 - a. Nonfraud claims. The State agency shall initiate collection against the head of the household or against the individual who was the head of the household at the time of the nonfraud claim. If the head of the household is no longer living or cannot be located, the State agency shall initiate collection against the household containing a majority of the individuals who were household members at the time the error occurred.
 - b. Fraud claims. If the household member found guilty of fraud moves, resulting in a change in household membership, the State agency shall initiate collection against the household currently containing the fraudulent individual.
- 5. Methods of collecting payments Nonfraud.
 - a. The State agency shall collect payments for nonfraud claims in one of the following ways:
 - i. Lump sum. The State agency shall collect payments in one lump sum if the household is financially able to pay the claim in one lump sum. However, the household shall not be required to liquidate all of its resources to make this repayment.
 - ii. Repayment in installments. If the household agrees to a repayment in cash but has insufficient liquid resources or is otherwise unable to pay the claim in one lump sum, a repayment schedule shall be negotiated with the household. Payments shall be accepted by the State agency in regular installments. The household shall not be required to liquidate all of its resources to make this repayment. However, the State agency should attempt to recover the full amount within a year of the establishment of the claim. If the full amount of claim cannot be liquidated in 3 years, the State agency shall compromise the claim by reducing it to an amount that will allow the individual to pay the claim in 3 years. The State agency will use the full amount of the claim (including any amount compromised) to offset benefits as provided herein.
 - iii. Reduction in food stamp allotment. Prior to reduction, the State agency shall discuss with the household the amount of food stamps to be recovered

each month. The amount of food stamps to be recovered each month shall be 25 percent of the household's monthly allotment or the disqualified individual's pro rata share of the entitlement, whichever is greater. Recovery of less than these amounts shall be accepted only if it results in equal increments or if the full amount can be recovered within a year. If the full amount of the claim cannot be liquidated by recovering 25% of the monthly allotment each month for one year, the State agency shall compromise the claim by reducing it to an amount that will allow the household to make restitution within 3 years or less.

- b. If the household member fails to make a payment in accordance with the established cash repayment schedule (either a lesser amount or no payment), the State agency shall send the individual a notice explaining that a payment or an insufficient payment was received. The notice shall also inform the household that unless it makes the overdue payments or contacts the State agency to discuss renegotiation of the payment schedule, the State agency may invoke allotment reduction. If the household does not respond, the State agency shall take one of the following actions as appropriate:
 - i. If the household makes the overdue payments and wishes to continue payments based on the previous schedule, permit the household to do so;
 - ii. If the household requests renegotiation, and if the State agency concurs with the request, the EW shall negotiate a new payment schedule and execute a new written agreement with the household. If during the renegotiation it becomes clear to the EW that the full amount cannot be liquidated in one year, he shall recommend that the State agency compromise the claim by reducing it to an amount that will allow the household to make restitution in three years or less.
- 6. Method of Collecting Payments Fraud.
 - a. The State agency shall collect payments for fraud claims in one of the following ways:
 - i. Lump sum. The State agency shall collect payments in one lump sum if the household is financially able to pay the claim in one lump sum. However, the household shall not be required to liquidate all of its resources to make this repayment.
 - ii. Repayment in installments. If the household member found guilty of fraud agrees to a repayment in cash, but the household has insufficient liquid

resources or is otherwise unable to pay the claim in one lump sum, payments shall be accepted in regular installments. The household shall not be required to liquidate all of its resources to make this repayment. However, the State agency should attempt to recover the full amount within a year of the establishment of the claim. If the full amount of claim cannot be liquidated in 3 years, the State agency shall compromise the claim by reducing it to an amount that will allow the individual to pay the claim in 3 years. The State agency will use the full amount of the claim (including any amount compromised) to offset benefits as provided herein.

- iii. Reduction in food stamp allotment. Prior to reduction, the State agency shall discuss with the household the amount of food stamps to be recovered each month. The amount of food stamps to be recovered each month shall be 25 percent of the household's monthly allotment. Recovery of less than these amounts shall be accepted only if it results in equal increments and if the full amount of the claim can be recovered within a year. If the full amount of the claim cannot be liquidated by recovering 25% of the monthly allotment each month for one year, the State agency shall compromise the claim by reducing it to an amount that will allow the household to make restitution in three years or less.
- b. If the household member fails to make a payment in accordance with the established cash repayment schedule (either a lesser amount or no payment), the State agency shall send the individual a notice explaining that a payment or an insufficient payment was received. The notice shall also inform the household that unless it makes the overdue payments or contacts the State agency to discuss renegotiation of the payment schedule, the State agency may invoke allotment reduction. If the household does not respond, the State agency shall take one of the following actions as appropriate:
 - i. If the household makes the overdue payments and wishes to continue payments based on the previous schedule, permit the household to do so;
 - ii. If the household requests renegotiation, and if the State agency concurs with the request, the EW shall negotiate a new payment schedule and execute a new written agreement with the household. If during the renegotiation it becomes clear to the EW that the full amount cannot be liquidated in one year, he shall recommend that the State agency compromise the claim by reducing it to an amount that will allow the household to make restitution in three years or less.

- Accounting.
 - a. The State agency shall maintain a ledger to account for outstanding claims. At a minimum, the ledgers shall contain the following information for each case: Case number; case name; original amount of claim; monthly repayments; outstanding balance, if any; and entry dates. The EW shall check the ledger for any outstanding balances prior to processing benefit restoration for any household.
 - b. Monthly summary report. A summary report shall be submitted by the State agency to the Governor's Office each month no later than the fifth of the month following the report month. At a minimum, the report shall contain the following information for each claim category: Total amount collected during the report month (offset and cash); Total amount of new claims established during the report month (offset and cash); Total amount of nonfraud claim suspended during the month; Total amount compromised; Year to date balances for each of the previous headings; and the Total claims outstanding at the end of the report month.

- A. The State agency shall issue NAP Coupons designated for purchase of local foods only. These coupons shall be easily distinguishable from the NAP general-purpose coupons which may be used to purchase any eligible food or non-food item (such as farming and fishing implements). The earmarked coupon shall bear on its face the statement "LOCAL FOOD ONLY".
- B. "Local Food Only" coupons may be used to purchase only food or food products grown, raised, caught, or processed into a finished food product in the Northern Mariana Islands.
- C. An amount equal to 25% of the eligible household's total monthly coupon allotment shall be issued to the household in "Local Food Only" coupons during each monthly issuance.
- D. The percentage of program benefits allocated to local foods to take effect in the coming fiscal year (October 1) shall be determined by the State agency no later than July 31 of the current fiscal year. The State agency shall base its determination on the amount of local foods forecast for the coming fiscal year. The State agency may waive or modify the restriction on the use of earmarked coupons as necessary in response to unexpected shortages in the available local food supply.
- E. Earmarked coupons shall be printed only in one-dollar denominations and shall not be used for change in a NAP transaction.
- F. To encourage and promote the sale of local foods, the State agency shall authorize food stores to accept NAP coupons only if they carry 10% of their declared food sales in local foods. The State agency shall conduct periodic on-site inspection of authorized stores to ensure compliance with this requirement. The State agency shall provide a written warning to participating retailers who are out of compliance that their authorization may be withdrawn unless they meet the 10% local food requirement within 30 days. The State agency shall withdraw the authorization from stores which fail to comply the day after the 30 day warning period.
- G. Persons using or accepting earmarked coupons for anything other than local foods shall be subject to prosecution under pertinent local fraud statutes and the pertinent sections of this Manual.

A. Basic Issuance Requirements.

The State agency is responsible for the timely and accurate issuance of coupons to eligible households in accordance with the provisions of this manual. The State agency shall establish an issuance and accountability system which will ensure that only certified households receive benefits; coupons are accepted, stored, and protected after delivery to receiving points within CNMI; Program benefits are timely distributed in the correct amounts; and coupon issuance and reconciliation activities are properly conducted.

B. Contracting or Delegating Issuance Responsibilities.

The State agency may assign to other parties such as banks, savings and loan associations, or other responsible corporate entities the responsibility for issuance and storage of coupons.

- 1. Any assignment of issuance functions shall clearly delineate the responsibilities of both parties. The State agency remains responsible, regardless of any agreements to the contrary, for ensuring that assigned duties are carried out in accordance with this Manual.
- 2. All issuance contracts shall follow procurement standards set forth by OMB. The State agency shall contract only with rsponsible contractors who possess the ability to perform successfully under the terms and conditions of the proposed procurement. In making its selection, the State agency shall consider contractor integrity, the record of past performance, financial and technical resources, and the availability of other necessary resources.
- 3. The State agency shall not assign the issuance of coupons to any retail grocery store authorized to redeem coupons from participant households.

C. State Monitoring of Coupon Issuers.

- 1. The State agency's accountability system shall include procedures for monitoring coupon issuers to assure that the day-to-day operations of all coupon issuers comply with these provisions and to identify and correct deficiencies.
- 2. The State agency shall conduct an onsite review of each coupon issuer and bulk storage point at least once every 3 months. All offices or units of a coupon issuer are subject to this review requirement. The State agency shall base each review on the specific activities performed by each coupon issuer or bulk storage point. A physical inventory of coupons shall be taken at each location and that count compared with perpetual inventory records and the monthly reports of the coupon issuer or bulk storage point.

- 1. System classifications. NAP will issue food coupons through an authorization to participate (ATP) system in which an authorizing document is distributed on a monthly basis to eligible households and surrendered by the households to the coupon issuer to obtain coupons.
- 2. Certification documentation. The State agency shall use a notice of change document and transmit information on household eligibility or participation from the certification unit to the data management unit of the State agency.

3. HIR master file.

- a. The State agency shall establish an HIR master file which is a composite of the issuance records of all certified food stamp households. The State agency shall establish the HIR master file in a manner compatible with the system used for maintaining case records and divide the HIR master file into active and inactive HIR's. The HIR master file shall contain all the information needed to identify certified households, issue ATP's, record the participation activity for each household, and supply all information necessary to fulfill the reporting requirements of the State agency.
- b. The HIR master file shall be kept current and accurate. HIR's will be updated, or terminated, based upon notices of change and controls for expired certification periods.
- c. Before estabishing an HIR for a participant household, the State agency shall check the HIR master file to ensure that the household is not currently participating or disqualified.

4. ATP issuance.

- a. ATP's issued by the State agency shall contain, at a minimum:
 - i. Serial numbers:
 - ii. Case name, address, and food stamp case number;
 - iii. The coupon allotment for the household;
 - iv. Expiration date;
 - v. Project area for which the ATP is issued; and
 - vi. Space for the signature of the household member or the authorized representative.
- b. The State agency shall clearly mark each ATP with an expiration date. The ATP shall be valid for the entire month of issuance.

- c. The State agency shall void all ATP's mutilated or otherwise rejected during the preparation process. The voided ATP's shall either be filed for audit purposes or destroyed. Destruction shall be witnessed by at least two people and the State agency shall maintain a list of all destroyed ATP's.
- d. Participating households shall sign for their ATP's when they obtain their ATP's at the State agency issuance office.
- A household may designate an emergency authorized e. representative to obtain the household's allotment with a particular ATP. The emergency authorized representative must present the household's ID card and a statement signed by the representative and a household member already named on the ID card authorizing the representative to obtain the household's coupons and attesting to the signature of the emergency authorized representative. The household shall not be required to travel to a food stamp office to execute the designation. Control comparable to that of normal issuance transaction is achieved by the comparison of the signature of the household member named on the ID card with the signature designating the emergency authorized representative, and the signature on the ATP at the issuance point with the emergency authorized representative's signature attested to by the household member. A separate written designation is needed each time an emergency authorized representative is used.
- f. Prior to coupon issuance, the cashier shall ask the person requesting food stamps for identification as the certified participant, authorized representative or emergency authorized representative. This person shall present to the cashier both the food stamp ID card and ATP. The cashier shall examine the ATP for authenticity, alteration, and date of expiration. If the ATP is valid, the person requesting food stamps shall sign the ATP in the presence of the cashier. The cashier shall compare the signature on the ATP with the signature on the ID card. In cases where an emergency representative obtains the coupons, the signature and identification check shall be governed by the policy discussed in (e) immediately preceeding. If the person requesting coupons has already signed the ATP, the person shall be required to sign a separate piece of paper for signature comparison. If the signatures agree, coupons shall be issued.
- g. The State agency shall clearly differentiate between initial and replacement ATP issuances.

- h. The coupon issuer shall reconcile its issuance on a daily basis.
- i. The State agency shall provide for the issuance of coupon replacements due to improper manufacture or mutilation.
 - The State agency shall examine the improperly manufactured or mutilated coupons to determine the validity of the claim and the amount of coupons to be replaced.
 - ii. If the State agency can determine the value of the improperly manufactured or mutilated coupons, the State agency shall replace the unusable coupons on a dollar-for-dollar exchange. If the unusable coupons are those earmarked for purchase of local foods only, the State agency shall replace them with similarly identified coupons. After exchange, the State agency shall destroy the flawed coupons in accordance with procedures contained in this Manual.
 - iii. If the State agency cannot determine the value of the improperly manufactured or mutilated coupons, the State agency shall cancel the coupons by writing or stamping "cancelled" across the face of the coupons and check with the Issuance Agent to determine the amount issued to the client.
- 5. Manually prepared ATP's.
 - a. The State agency shall manually prepare and issue ATP's at the local level if necessary to provide an opportunity to participate to households certified on an expedited basis, to comply with processing standards for initial and recertifications and for action on reported changes, and to replace lost or stolen ATP's or allotments. To minimize the possibility of misuse of manually prepared ATP's, the State agency shall:
 - i. Divide responsibility for the issuance of the ATP between at least two people to prevent a single individual from having complete control over both the documents which authorize the issuance of ATP's and the ATP's themselves; and,
 - ii. Record immediately on the HIR master file the serial number and other issuance information from the ATP.
 - iii. Require the NAP Administrator to approve all over-the-counter ATP's prepared after the cut-off date for machine-generated ATP's. Manually prepared ATP's may be issued to households who

are certified up to the 10th of the month. Under no circumstances, however, will a household be issued an over the counter ATP after the 10th of the month unless the NAP Administrator determines that there is an emergent need and approves the issuance in writing.

- b. For initial certifications, the State agency shall prevent duplicate or unauthorized participation by checking its records prior to issuing the manual ATP to assure that the household is not currently certified for that month or is not disqualified from participation.
- c. The State agency shall issue an emergency replacement ATP only if the original ATP is reported lost or stolen in the period for which it was intended.
 - i. Prior to authorizing the issuance of a replacement ATP, the State agency shall determine if the household is currently certified and if the lost or stolen ATP was valid for the current month.
 - ii. The participant must sign an affidavit stating that the original ATP will be returned to the State agency if recovered by the household. The affidavit shall be filed in the casefile. The State agency shall compile a list of ATP's reported lost during the month and check the Transacted ATP List at the end of the month to determine if lost ATP's were used to obtain coupons. The State agency shall investigate incidences of lost ATP's which were transacted and, based on its findings, take appropriate action.
- 6. Issuance of coupons to households. The Issuance Agent shall issue coupon books in accordance with the table for coupon book issuance provided by the State agency. The Issuance Agent may deviate from the table if the specified coupon books are unavailable. Exceptions from the table are authorized for blind and visually handicapped participants who request that all coupons be of one denomination. The State agency shall issue the coupon books in consecutive serial number order whenever possible, starting with the lowest serial number of each coupon book denomination. The household member whose name appears on the ID card shall sign the coupon books.

E. <u>Distribution of Coupons</u>.

1. Coupon inventory management. The State agency shall establish a coupon inventory management system which ensures that coupons are requisitioned and inventories are maintained in accordance with the requirements of this manual of operations.

- a. The State agency shall monitor the coupon inventories of the coupon issuer and bulk storage point to ensure inventories are at proper levels and are not in excess of the reasonable needs of the coupon issuer. The State agency shall consider, among other things, in determining the reasonable inventory needs, the ease and feasibility of resupplying such inventories from the manufacturer. The inventory levels at each of the coupon issuer sites and bulk storage point shall not exceed a 3-month supply.
- b. The State agency shall establish an accounting system for monitoring the inventory activities of the coupon issuer. The State agency shall review periodic reports from the coupon issuer to determine the propriety and reasonableness of the inventories at least once a month. Reports of improperly manufactured or mutilated coupons, reports of shortages or overages of food coupon books and physical inventory controls shall be used by the State agency to assure the accuracy of monthly reports and the Issuance Agent's compliance with required inventory levels and the accuracy and reasonableness of coupon orders.
- 2. Coupon controls. The State agency shall establish control and security procedures to safeguard coupons similar to those used to protect currency. The State agency and all people in organizations acting on its behalf, shall take the necessary precautions to:
 - Safeguard coupons from theft, embezzlement, loss, damage, or destruction;
 - b. Avoid unauthorized transfer, negotiation, or use of coupons; and,
 - c. Avoid issuance and transfer of altered or counterfeit coupons.

The exact nature of security arrangements will depend on State agency evaluation of local coupon issuance and storage facilities. These arrangements will permit the timely issuance of coupons while affording a reasonable degree of coupon security.

- 3. State coupon requisitioning. The State agency shall arrange for the ordering of coupons and the prompt verification and written acceptance of the contents of each coupon shipment. The State agency shall maintain on file copies of appropriate delivery acknowledgments.
- 4. Transporting coupons. In every instance when coupons are transported, the person(s) transporting the coupons shall:

- Acknowledge their receipt in writing;
- Accord the coupons as much protection as is reasonable; and,
- c. Advise issuance supervisors of the routes to be taken, the shipment departure time and the estimated arrival time.
- 5. Specimen coupons. The State agency will provide non-negotiable specimen coupons to firms upon written request for the purpose of educating and training employees on Program operations.
 - a. Authorized firms shall store specimen coupons in secure storage with access limited to authorized personnel.
 - b. Specimen coupons that are mutilated, improperly manufactured, or otherwise unusable, shall be destroyed by the State agency. Such destruction shall be witnessed by two people and noted on the file.

F. Responsibilities of coupon issuers.

- 1. Receipt of coupons. Coupon issuers shall promptly verify and acknowledge, in writing, the contents of each coupon shipment or coupon transfer delivered to them and shall be responsible for the custody, care, control, and storage of coupons.
- Inventory level. Coupon issuers shall maintain a proper level of coupon inventory not in excess of reasonable needs, taking into consideration the ease and feasibility of resupplying such coupon inventories. Such inventory levels shall not exceed a 3-month supply.
- 3. Reporting. Coupon issuers shall report weekly to the State agency. These reports shall be signed by the coupon issuer or appropriate corporate official, certifying that the information is true and correct to the best of that person's knowledge and belief. At a minimum, the weekly report shall indicate by book size the number of coupons received, and the number of coupons issued, the number of ATP's transacted, and the number of coupons on hand (by book size).
- 4. Supporting documentation. Coupon issuance points shall submit to the State agency supporting documentation which will allow verification of the weekly report. At a minimum, such documentation shall include documents supporting coupon shipments, transfers and issuances.

The coupon issuer shall submit transacted ATP's batched according to each week's activity, in accordance with the schedule prescribed by the State agency.

Improperly manufactured or mutilated coupons. Coupon issuers shall cancel improperly manufactured or mutilated coupons or coupon books by writing or stamping "cancelled" across the face of the coupon(s) and coupon book(s). The coupon issuer shall hold the coupons in secure storage for examination and destruction by the State agency.

G. Reconciliation

- 1. Verification of ATP issuance.
 - a. The State agency shall verify the number of transacted ATP's received from the coupon issuer and the total value of authorized coupon issuances. The reconciliation process will be completed and a reconciliation report issued no later than 10 days after

the end of the month in which the transacted ATPs were in effect.

- b. ATP batches not reconciled shall be maintained intact by the State agency until the discrepancy is resolved with the coupon issuer.
- c. Following receipt and verification of the final batch of ATP's for the month, the State agency shall determine the total value of authorized issuances for each coupon issuer. Any expired or out-of-State ATP's shall be handled as coupon issuer errors and shall not be reported as authorized issuances on the reconciliation report. The coupon issuance agent shall reimburse the State agency for any unauthorized issuance of coupons within 30 days of the overissuance.
- Reconciliation of ATP's with the HIR master file.
 - The State agency shall post and reconcile all transacted a. ATP's against the HIR master file. The reconciliation of ATP's shall be accomplished at the level in the State agency where the HIR was created from the notices of change. This posting and reconciliation shall, at a minimum, include for each ATP a comparison of the total coupon allotment. The State agency shall merge the records of the manually prepared initial and replacement ATP issuances with the HIR master file prior to posting and reconciling the transacted ATP's. ATP's issued to replace ATP's reported lost or stolen shall be separately identifiable, as the transaction of both the original and replacement ATP represents a duplicate issuance which must be reported on a reconciliation report.

b. Identification of unreconciled ATP's. The State agency shall identify all transacted ATP's that are not reconciled with the HIR Master file as expired, duplicate, altered, stolen, counterfeit, or out-of-State. Unreconciled ATP's shall be recorded on a reconciliation report. This identification shall be used to establish the liabilities of the Issuance agent and for determination of corrective or claims action.

H. Issuance record retention and security.

- 1. Availability of issuance records. The State agency and the Issuance agent shall maintain issuance records for a period of 3 years from the month of origin.
 - a. Issuance records shall include, at a minimum: Notices of change, inventory records, transacted ATP's, Issuance agent's weekly reports, and substantiating documents, cashier's daily reports, receptionist's daily tally sheets, and the HIR master file.
 - b. In lieu of the records themselves, microfilm, microfiche, or computer tapes may be maintained, as long as they are easily retrievable for audit review purposes.
- 2. Control of issuance documents. The State agency shall control all issuance documents which establish household eligibility while the documents are transferred and processed within the State agency. The State agency shall use numbers, batching, inventory control logs, or similar controls from the point of initial receipt through the issuance and reconciliation process. The State agency shall also ensure the security and control of ATP's in transit from the manufacturer to the State agency.
- 3. ATPs as accountable documents. ATP's shall be considered accountable documents. The State agency shall provide the following minimum security and control procedures for these documents:
 - a. Preprinted serial numbers;
 - b. Secure storage;
 - c. Access limited to authorized personnel;
 - d. Bulk inventory control records;
 - e. Subsequent control records maintained through the point of issuance or use; and
 - f. Periodic review and validation of inventory controls and records by parties not otherwise involved in maintaining control records. At a minimum, these reviews shall be conducted once a month.

Notice of whange and ID card security. For blank ID cards and notices of change which initiate, update, or terminate the HIR, the State agency shall at a minimum, provide secure storage and limit access to authorized personnel.

I. State agency reporting destruction of unusable coupons.

- 1. State agency reporting.
 - a. The State agency shall review periodic reports from coupon issuers for accuracy, completeness and reasonableness.
 - b. The State agency shall compile figures after the end of the issuance month based on HIR card data or transacted ATP's. These figures shall include all issuances supported by issuance documents including expired, altered, stolen, counterfeit, and duplicate issuances which occurred during the report month.
 - c. The State agency shall prepare a monthly summary report containing the data enumerated in Item b immediately above.
- 2. Destruction of unusable coupons.
 - a. The State agency shall require coupon issuers and the coupon manufacturer to hold the unusable coupons in secure storage pending examination and destruction by the State agency. After verification of the reports from those points, the State agency shall destroy improperly manufactured or mutilated coupons or coupon books received from the coupon issuers and coupon manufacturer, and unusable coupons or coupon books returned by households.
 - b. The State agency shall destroy the coupons and coupon books by burning, shredding, tearing, or cutting so they are not negotiable. A State agency official shall witness and certify the destruction. Such certification shall be kept on file with the monthly summary report discussed in Item I lc above.

J. Closeout of a coupon issuer.

Definition of responsibilities. Whenever the services of a coupon issuer or bulk storage point are terminated, the State agency shall perform the responsibilities described below. If a coupon issuer has more than one functioning unit and one of these facilities is terminated, the coupon issuer shall notify the State agency at least 30 days in advance of the pending termination of any of its services prior to the actual termination.

- 2. Closeout accountability. The State agency shall perform a closeout audit of a coupon issuer within 30 days of termination of the issuance.
- 3. Transfer of coupon inventory.
 - a. Prior to the transfer of coupon inventory to another coupon issuer, the State agency shall perform an actual physical count of coupons on hand.
 - b. The State agency shall transfer the inventory to another issuer. The transfer of coupons shall be properly reported and documented by both the point being terminated and the point receiving the inventory.
- 4. Maintenance of participant service.
 - a. At least 30 days before actual termination of a coupon issuer, the State agency shall notify affected participants of the impending closure. Notification shall include identification of alternate issuance locations. The State agency shall post notices at the offices of the coupon issuer of the impending closure and may use mass media or ATP stuffers to advise participants about the expected closure of the issuance office.
 - b. If closure of the issuer will affect a substantial portion of the caseload or a specific geographic area, the State agency shall take whatever action is necessary to maintain participant service without interruption.
 - c. If a coupon issuer is to be closed for noncompliance with contractual requirements and alternate issuance facilities or systems are not readily available, the State agency may continue to use the coupon issuer for a limited time. In these situations, the State agency shall perform weekly onsite reconciliations of coupon issuance. The State agency shall continue to actively seek other issuance alternatives.

K. Use of Coupons by Eligible Households.

1. Eligible food. A household member must sign each coupon book issued to the household. The coupons may be used only by the household, or other people the household selects, to purchase eligible food for the household and basic farming and fishing equipment and livestock. Food coupons identified as for purchase of local foods only shall not be used to purchase food imported from outside the NMI nor shall they be used as change. Uncancelled and unendorsed coupons of \$1 denomination and \$5 denomination, returned as change by authorized retail food stores, may be presented as payment

- for step ble food. All other detached coupons may be accepted only if accompanied by the coupon book which bears the same serial number as the detached coupons. It is the right of the household or the authorized representative to detach the coupons from the book.
- 2. Livestock. Eligible households may use all or any part of the coupons issued to them to purchase livestock. Food coupons identified as for purchase of local foods only may be used to purchase livestock.
- 3. Farming/fishing equipment. Eligible households may use all or any part of the coupons issued to them except for food coupons identified as for purchase of local foods only to purchase basic farming equipment such as rakes, hoes, sickles, shovels, seeds, plant cuttings and fertilizer; and fishing equipment such as hooks, rods, harpoons, knives, lines, nets, spears, reels, diving masks and goggles, and underwater flashlights.
- 4. Use of ID cards. The household or the authorized representative shall present the household's ID card to the retail food store when exchanging food coupons for eligible food.
- 5. Prior payment prohibition. Coupons shall not be used to pay for any eligible food purchased prior to the time at which the coupons are presented to authorized retail food stores. Neither shall coupons be used to pay for any eligible food in advance of the receipt of food, except when prior payment is for food purchased for Northern Islands recipients.
- 6. Cash change. When change in an amount less than \$1 is required in a coupon transaction, the household shall receive the change in cash not to exceed 99 cents.
- 7. Changemaking. Only unendorsed uncancelled \$1 coupon and \$5 coupon may be used as change in food coupon transactions. \$1 coupon earmarked for local foods only shall not be used for changemaking.



Commonwealth of the Northern, Affice of Islands, of

Filed this

Department of Public Health & Environmental Services
Division of Environmental Quality
Saipan, Mariana Islands 96950

Cable Address: Cov. NMI Saipan Tel. 6984/6114

PUBLIC NOTICE

PROPOSED EARTHMOVING AND EROSION CONTROL REGULATIONS
FOR PUBLIC LAW 3-23
DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENTAL SERVICES

The Director of the Department of Public Health and Environmental Services of the Commonwealth of the Northern Mariana Islands is proposing to promulgate new regulations for the protection of the environment through the control of erosion caused by earthmoving activities. These regulations will be used under the authority of CNMI Public Law 3-23.

The purpose of these regulations and technical provisions is to establish certain minimum standards and requirements as determined by the Department to be necessary for control of nonpoint source runoff from man related activities for the protection of water quality and their beneficial uses, and natural resources in the marine and fresh water environment as set forth by Commonwealth law and regulation.

The proposed regulations include the following subject areas:

- 1. The authority and purpose of the regulations.
- 2. Compliance and permit surrender procedures.
- 3. The permit system, procedure, and application.
- 4. Required investigations, reports, and plans.
- Inspections.
- 6. Standards of grading, filling, and clearing.
- 7. Variances.
- 8. Violation and enforcement.

Copies of the proposed regulations may be obtained from the Department of Public Health and Environmental Services, Division of Environmental Quality, located at Dr. Torres Hospital, Saipan, CM 96950.

Anyone interested in commenting on the proposed Earthmoving and Erosion Control Regulations may do so by submitting comments in writing to the Director, Department of Public Health and Environmental Service, Dr. Torres Hospital, Saipan, CM 96950, within thirty (30) days from the date this notice is published in the Commonwealth Register.

5// 9/ / 7 Date

DR. JOSE T VILLAGOMEZ, Director Public Health & Environmental Services

Commonwealth of the Northern Harrana Islands Ma

Department of Bublic Wealth & Environmental Services Division of Environmental Quality Saipan, Mariana Islands 96950

NOTISIAN PUBLIKO

Cable Address: Cov. NMI Saipan Tel. 6984/6114

Maproposa na regulasion maguaddok odda' yan para u masueta finagassen odda' ginen i ichan pat manglo' para i lai Publiko 3-23 ginen i Depattamenton Hinemlo' Publiko yan setbision Environmental

I Direktot i Depattamenton Hinemlo' Publiko yan Setbision Environmental gi Commonwealth i Sankatan na Islas Marianas ha proposa na umanaguaha un nuebo na regulasion pot para umanaguaha yan umaprotehe i maguaddok odda' yan para u masueta fina gassen odda ginen i ichan pat manglo gi Commonwealth. Este na regulasion para umausa komo patte gi Lai Publiko 3-23.

I propositon este na regulasion teknikat yan espsifikasion pot para uma establesi i minimum standards ni manasisita sigum i madetetmina nu i Depattamento komo presiso para proteksion i fina gassen odda finen i ichan pat manglo' ni finachocho taotao para proteksion kualidat hanom, usu para probecho, yan naturat na guinahan tano' yan fasi no mana' guahahayi ni lai yan regulasion gi Commonwealth.

I mapropoposa na regulasion ha inklulusu i i sigente siha na asunto:

- 1. I atoridat yan propositon regulasion siha.
- 2. Hu ma kompli yan u mana' i direchu i mana'in lisensia para otro siha na
- 3. I sisteman lisensia, areklamenton lisensia yan applikasion.
- Madimanda inbestigasion, repot, yan planu siha. 4.
- 5 Rikonosimento.
- 6. Ginagagao para u masupiyu, matatni yan mana gasgas.
- I otro siha na manera yan i manasuha i areklamento para ayu siha na sistema no to sina madalalake i mas propio yan kantida na asunto maguaddok odda' yan fina'gassen odda' ginen i ichan pat manglo'.
- Kontradiksion yan areklamenton regulasion siha. 8.

Kopian i maproposa na regulasion siha sina machule' ginen i Depattamenton Hinemlo' Publiko yan Setbision Environmental, Dibision i Kualidat Environmental, Dr. Torres Hospital, Saipan, CM 96950.

Kuatkiet petsona na malago' u espresa i opinion-na pot mapropoposa na regulasion maguaddok odda' yan fina'gassen odda'ginen i ichan pat manglo', makombibida na u tuge' i opinion-na ya u satmiti guatu gi Direktot i Depattamenton Hinemlo' yan Setbision Environmental, Dr. Torres Hospital, Saipan, CM 96950 gi halom trenta (30) dias finen ayu na fecha anai mapublika este na notisia gi Commonwealth Register.

DR./JOSE T. WILLAGOMEZ
Direktot i Depattamenton Hinem o' yan Setbision Environmental

EARTHMOVING AND EROSION CONTROL

REGULATIONS

Filed this March 19

Office of Registrar of Corporations
Commonwealth of the Northern Mariana Islands

PART 1 AUTHORITY

These regulations have been promulgated by the Department in accordance with the Commonwealth of the Northern Mariana Islands Public Law 3-23. These regulations and technical provisions shall have the force and effect of law and shall be binding on all persons and other legal entities subject to the jurisdiction of the Commonwealth of the Northern Mariana Islands.

The purpose of these regulations and technical provisions is to establish certain minimum standards and requirements as determined by the Department to be necessary for control of nonpoint source runoff from man related activities for the protection of water quality, beneficial uses, and natural resources, in the marine and fresh water environment as set forth by Commonwealth law and regulation.

PART 2 GENERAL PROVISIONS

2.1 Compliance

Construction and maintenance of any landfills, excavations and cuts and clearing of vegetation and the revegetation of cleared areas, and all other earthmoving activities, shall be in compliance with the terms of this regulation. Permits shall be required as provided in this regulation and such permits shall be granted or denied in conformity with the provisions of this regulation.

2.2 Interpretation and Severability

Th provisions of this regulation shall be literally construed to effectuate their purposes. If any section, clause, provision or portion of this regulation is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this regulation shall not be affected thereby.

2.3 Permit Surrender

The DEQ may take administrative action to relieve an applicant of undue procedural requirements by utilizing such devices as permit surrender and consolidated permit applications, upon a finding that such actions will be in the best interest of the Commonwealth and will meet or cause to be met by any applicable law, standard, rule, or regulation in force.

PART 3 DEFINITIONS

For the purpose of this regulation, certain terms or words used herein shall be interpreted as follows: words in the present tense include the future; words in the singular number include the singular number; and the word "shall" is mandatory, not permissive. The following terms whereever used in this regulation shall have the following meaning unless the context clearly indicates otherwise:

- (a) "Area of Instability" means an area where there is a risk of rock movement.
 - (b) "Chief" means the Chief, Division of Environmental Quality.
- (c) "Clearing of Vegetation" means total or partial removal of naturally occurring vegetation on an area of land.
- (d) ."Commonwealth" means the Commonwealth of the Northern Mariana Islands.
- (e) "Department" menas the Department of Public Health and Environmental Services.
- (f) "Director" means the Director of Public Health and Environmental Services.
 - (g) "DEQ" means the Division of Environmental Quality.
- (h) "Earthmoving Activity" means any construction or other activity which disturbs or alters the surface of the land, a coral reef, or bottom of a lagoon, or ocean floor, including but not limited to excavations, dredging, embankments, land reclamation in a lagoon, land development, subdivision development, mineral extraction, ocean disposal and the moving, depositing or storing of soil, rock, coral or earth; sand mining, except at sites that are approved and regulated by the Department of Public Works or designated government agency.
- (i) "Fill" means any rock, soil, gravel, sand or other material deposited by man.
- (j) "Geological Terms" means any term used in this regulation which pertains to the science of geology as defined and set forth in the latest edition of the "Glossary of Geology" published by the American Geological Institute, unless such term is otherwise defined herein.
- (k) "Grading" means cutting through or otherwise disturbing the layers of the soil mantle so as to change the existing landform.
- (1) "Permit Surrender" means the transfer or delegation of one agency's or one level of permit authority to regulate a particular aspect of development to another agency.
- (m) "Person" means an individual, partnership, corporation, business association, or group of individuals and any governmental entity.
- (n) "Sand Mining" means the taking of any rock, sand, gravel or other material from any site, including all areas from the landward vegetation line to the seaward outer slope of the barrier or fringing reef.

4.1 When Required.

No earthmoving activity shall take place unless clearance has been obtained from the CNMI Historic Preservation Office in accordance with P.L.3-29. After this clearance has been obtained and except as set forth in Section 4.11, no person shall commence or continue any grading, excavating, filling or clearing of vegetation without having first obtained a permit in accordance with this regulation.

4.11 Exceptions.

A permit under this regulation shall not be required if the proposed work is limited to any of the following circumstances, though all other applicable provisions of this regulation shall apply to such work:

- (a) The work is an exploratory excavation under the direction of a soils engineer or geologist not to exceed an aggregate area of four hundred (400) square meters;
 - (b) The work is for field plowing or agricultural purposes;
- (c) The work is for the purpose of erecting a one (1) or two (2) family residence:
- (d) The work is for refuse disposal sites controlled by other regulations;
- (e) The work is the clearing of vegetation for landscape purposes or site inspection which does not exceed two (2) hectares in area and there is sufficient prevention of erosion, and the applicant can demonstrate to DEQ that there will be no adverse environmental impact to any surface water as a result of the earthmoving activity.
- (f) The work is by a public agency in accordance with plans approved by DEQ.

4.2 Permit Procedure.

4.21 General Requirements.

- (a) No person shall commence or continue any of the following grading, filling or clearing of vegetation without first obtaining permit from DEQ:
 - (1) That requiring a variance pursuant to the provisions of Part 9;
 - (2) For ongoing activities/operations of a continuous nature, such as dredging, quarrying, etc., shall be in compliance with these regulations within six (6) months from the effective date; and
 - (3) Development and/or construction operations shall comply immediately with this regulation to the extent possible.

- b) Upon receipt of an application the DEQ shall review it, applying the standards and requirements of this regulation and within thirty (30) days from date of receipt either issue, issue with conditions or deny said permit in accordance with said standards and requirements. The DEQ shall not issue a permit which does not comply with the provisions of this regulation. A processing fee shall be required based on the amount of review time.
- (c) If the application is incomplete or insufficient in any manner, the DEQ shall reject it and inform the applicant of the items needed to make it complete. An incomplete or insufficient application shall not be a proposal requiring action by the DEQ within any deadline for action prescribed by this regulation.
- (d) An appeal from the determination of DEQ staff may be made by any aggrived party by lodging with DEQ staff a written notice of appeal within ten (10) days of the date of determination. On appeal, the DEQ may affirm, reverse or modify their determination and such action shall be final.

4.22 Application Form and Required Information for Permits

Applicants for a permit shall submit an application to DEQ upon a form prescribed by DEQ. Applicants for a permit shall furnish to DEQ an information report prepared by individuals qualified by training and experience to have knowledge of the subject. The DEQ shall determine the adequacy of the report and may require the submission of additional information where necessary. The report shall provide the following information except to the extent that the DEQ determine that such information is not applicable to the project.

- (a) Erosion an Sediment Control Plan.
 - (1) The plan shall be prepared by a qualified professional engineer;
- (2) A map clearly depicting the land capabilities of the property on which the grading is to be performed, including the applicable soil name, soil group, hydrologic group, slope, runoff potential, soil depth, erosion potential, and natural drainage;
- (3) A map clearly depicting accurate contours at two (2) foot intervals showing the topography of the ground to be cleared, graded or filled. The map shall extend beyond the site to be developed far enough so that any impact of erosion from the site and its deposition on adjacent properties may be assessed;
- (4) A subsurface soil and geological report including subsurface investigations, if such report is required pursuant to Part 5 of this regulation;
- (5) An accurate plot plan showing the exterior boundaries of the property on which the grading is to be performed, which plot plan shall include a grading plan prepared in accordance with engineering and planning practices, applicable codes and restrictions imposed by the recommendations of the subsurface soil and geological report;
- (6) Elevations and dimensions, including quantity, location and extent of proposed grading;

- (7) Location, construction and maintenance of sediment retention structures and equipment.
 - (i) The site plan shall specify the type, dimensions and location of all sediment retention or stormwater management structures and equipment.
 - (ii) The plan shall indicate the construction sequence of erosion control structures coordinated with the increment development schedule.
 - (iii) A maintenance program for the control facilities during the construction phase shall be prepared that includes plans for the removal and disposal of materials from the control facilities on the project area.
- (8) A map and report showing existing tree locations size, species, and the proposed extent and manner of tree cutting and vegetation clearing, including a plan for disposing of cut trees and vegetation and protection of vegetation remaining on site;
- (9) A description of equipment and methods to be employed in disposing of soil and other material that is removed from the grading site:
- (10) A schedule showing when each stage of the project will be completed, and all clearing grading and stabilization operations shall be completed on a specified increment before moving on to the next specified increment.
- (b) A Slope Stabilization and Revegetation Plan
- (1) The applicant shall submit a slope stabilization and revegetation plan which shall include a complete description of the existing vegetation, the vegetation to be removed and its disposal, the vegetation to be planted, erosion control and slope stabilization measures to be installed.
- (2) The plan shall include an analysis of the environmental effects of such operations, including the effects on slope stability, soil erosion, water quality, and fish and wildlife.
- PART 5 REQUIRED INVESTIGATIONS, REPORTS AND PLANS
 - 5.1 General Requirements of Subsurface Investigations

If a subsurface soil and geological report is required pursuant to Part 5.2, subsurface investigations shall be performed throughout the area to sufficiently describe the existing conditions.

5.2 Specific Requirements of Subsurface Investigations

Subsurface investigation shall be conducted, and a subsurface soil and geological report prepared, where stability may be lessened by the proposed grading or filling or when such grading or filling will be performed at any of the following locations:

- (a) Zones of trapped water or high water table
- (b) Where a fill slope is to be placed above a cut slope;
- (c) Where pile driving is to be conducted;
- (d) Proposed or existing fills exceeding twenty (20) feet in height;
- (e) Proposed or existing cuts exceeding twenty (20) feet in height, unless in extremely competent rock; or
- (f) Where side hill fills are to be placed on existing slopes steeper than sixteen percent (16%).

Where any of the particular problem areas listed above or other weaknesses are found, the subsurface investigation shall be of sufficient intensity to describe the problem thoroughly. The person making the report shall submit a written report of findings and recommendations.

5.3 Additional Investigations and Reports

When requested by the DEQ, the applicant shall procure and furnish at his own expense additional engineering, geologic and ownership reports, plans or surveys and other material necessary to determine and evaluate site conditions and the effect of the proposed work on abutting properties, public ways and public welfare and safety within the purposes of this regulation.

PART 6 INSPECTION

6.1 Inspections at Reasonable Times

All construction or work for which a permit is required shall be subject to inspection at reasonable times by authorized employees of the DEQ.

6.2 General Inspections

The DEQ may make any inspections of any construction work deemed necessary to ascertain compliance with the provision of this regulation or other regulations of the DEQ.

6.3 Notification

The permitee or his agent shall notify the DEQ at least two (2) working days in advance of the start of the grading, filling or clearing operation.

6.4 Inconsistent Conditions

If the inspector finds the soil or other conditions other than as stated in the application for permit he may revoke the permit and refuse to approve work until approval is obtained for a revised permit which will conform to the existing conditions. In such event, all work shall cease until a revised permit is obtained.

6.5 Inspection of Concealed Work

Whenever any work on which inspections are required by this regulation is covered or concealed by additional work without first having been inspected, the DEQ may require, by written notice, that such work be exposed for examination. The work of exposing and recovering shall not entail expense to the DEQ.

PART 7 STANDARDS OF GRADING, FILLING AND CLEARING

7.1 Criteria for Grading, Filling and Clearing Operations

All grading, filling and clearing operations, whether or not requiring a permit under this regulation, shall be designed:

- (a) To preserve, match or blend with the natural contours and undulations of the land:
- (b) To retain trees and other native vegetation, to stabilize hillsides, retain moisture, reduce erosion, siltation and nutrient runoff and preserve the natural scenic beauty;
 - (c) To minimize scars from cuts and fills;
- (d) To reduce the amount of cuts and fills and to round off sharp angles at the top, toe and sides of all necessary cut and fill slopes;
 - (e) To limit development on steep terrain;
- (f) To take into consideration geologic fragileness and adverse soil conditions and their effect on the future stability of the development;
- (g) To assure that all cleared slopes, cuts and fills and other areas vulnerable to erosion shall be stabilized;
- (h) To assure that construction, clearing of vegetation or disturbance of the soil will be limited to those areas of proven stability;
- (i) To assure that the natural geological erosion of hillsides, slopes, graded areas, cleared areas, filled areas, will not be exceeded; and
- (j) To assure that sediment or other material deposited in the marine waters or coastline, or any other public or private lands will not exceed that which would have been deposited if the land had been left in its natural state;

7.2 Discharge Prohibitions

7.21 Direct Discharge

No person shall discharge solid or liquid waste materials including soil, silt, clay, sand, and other organic or earthen materials into the lagoon, ocean, or coastline, surface waters such as lakes, wetlands, streams or springs, or other peoples property.

1772 Indirect Discharge

No material shall be placed near the coastline or ocean water, wetlands, streams, springs or lakes in such a manner, that it would be susceptable to erosion and/or deposition into said waters.

7.23 Discharge Control Devices

In order to prevent such discharges from occurring, approved erosion and siltation control devices and measures shall be required for all grading and filling. Control devices and measures which may be required include, but are not limited, the following:

- (a) Energy absorbing devices to reduce the velocity of runoff waters:
- (b) Sedimentation controls such as desilting basins and catch basins. Any trapped sediment shall be removed to a site approved by the DEQ;
- (c) Dissipation of water runoff from developed areas over large undistributed areas;
- (d) Discharge of water runoff developed areas into drainage fields to dissipate the runoff into the subsoil;
- (e) Multiple discharge points to reduce the volume of runoff over the localized discharge areas; and
 - (f) Physical erosion control device.

7.24 Temporary Control

Approved temporary erosion and sedimentation control devices, facilities and measures shall be required during construction.

7.3 Dust Control

Whenever the native ground cover is removed or distrubed or whenever fill material is placed on the site, the exposed surface shall be treated to the extent necessary to eliminate dust arising from the exposed material.

7.4 Prohibition of Grading During Inclement Weather

Grading, filling, clearing of vegetation or other disturbance of the soil are prohibited during inclement weather and for resulting period of time when the site is in a saturated, muddy or unstable condition. Major earthmoving should wherever practicable be scheduled to coincide with the dry season.

7.5 Schedule of Operations

All grading and filling operations shall proceed according to a work schedule included in the grading plan. The schedule shall be prepared to limit to the shortest possible period of time that exposed soil is unprotected.

7.6 Disposal of Cleared Vegetation

Vegetation removed during clearing operations shall be disposed by stockpiling it on the site for use as mulch or compost, or shall be disposed of in a manner and at a location approved by the DEQ.

7.7 Disposal of Removed Earthen Materials

Earthen materials removed during operations hereunder shall be disposed of as follows:

- (a) By stock piling all or some of the top soil on the site for use or areas to be revegetated; or
 - (b) By disposal of the material at a location approved by the DEQ.

7.8 Cuts

7.81 Maximum Slope

The maximum cut slope shall be determined on the basis of the risk of soil instability or soil erodibility as shown by the information report, the subsurface soil and geological report or other available information.

7.82 Slope Materials

If the material of the slope is of such composition and character as to be unstable under the maximum moisture content anticipated, the DEQ shall require such measures as are necessary in insure the stability of the slope.

7.83 Mechanical Stabilization

Where mechanical stabilization or containment of the slope by other than the use of native material is employed, the stabilization devices shall be at least partially screened by vegetation.

7.9 Fills

7.91 Maximum Slope

The maximum fill slope shall be determined on the basis of the risk of instability or soil erodibility as shown by the information report, the subsurface soil and geological report or other available information.

7.92 Fill Material

No organic material, such as vegetation or rubbish, or any other material not subject to proper compaction, or otherwise not conductive to stability, shall be permitted in fills.

7.93 Compaction

Each layer of material for fill shall be compacted to relative compaction of not less than ninety percent (90%) ASTM - D1557-70 as certified by the applicant to the DEQ.

PART 8 PLANT MATERIAL PROTECTION

8.1 Restriction of Vehicles to Graded Areas

Construction equipment shall be limited to the actual area to be graded according to the approved plans. No vehicles of any kind shall pass over areas to be left in their natural state according to the approved plans.

The permitee, contractor and subcontractor shall be fully responsible for compliance with the requirements of this regulation, including, any damage caused to existing trees or other vegetation.

PART 9 VARIANCES

A variance from the provisions of this regulation may be granted in specific instances or circumstances where it is expressly found by the DEQ that: (a) owing to special conditions a literal enforcement will result in unnecessary hardship; (b) the variance will not be contrary to the public interest nor the purpose of this regulation; and (c) the variance will not nullify the objectives of this regulation.

PART 10 VIOLATION

Violation of any provision of this regulation is a misdemeanor. Each day's violation shall constitute a separate offence.

PART 11 CERTIFICATION

The undersigned hereby certifies that these regulations have been officially promulgated and adopted as final regulations pursuant to the authority contained in the Commonwealth of the Northern Mariana Islands Public Law 3-23.

DR. JOSE T. VILLAGOMEZ, Director Department of Public Health and Environmental Services Date