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Filed this day of

Office of Registrar of Corporations Commonwealth of the Northern Mariana Islands

PUBLIC NOTICE

NOTICE OF ADOPTION OF AMENDMENTS TO THE REGULATIONS FOR THE NUTRITION ASSISTANCE PROGRAM, DEPARTMENT OF COMMUNITY AND CULTURAL AFFAIRS.

The Director of the Department of Community and Cultural Affairs hereby adopts the amendments to the Regulations for the Administration of the Nutrition Assistance Program in the Northern Marianas which were proposed in the Commonwealth Register, Volume 7 Number 1 dated January 15, 1985.

The purpose of these amendments is to modify policies and procedures embodied in the NAP Manual of Operation which pertain to the following subject areas:

- 1. Fair Hearing
- 2. Fraud Hearing
- 3. Application Processing (Additional Requirement, Social Security Number)
- 4. Household Concept
- 5. Voluntary Changes

For a nominal fee, copies of the amended Regulations may be obtained from the Department of Community and Cultural Affairs, Nutrition Assistance Program Division, Lower Base, Saipan CM 96950.

Date: 0/

Gilbert C. Ada Director, C&CA

NUTITSTA PARA I PUBLIKU

Nutisia para i ma'amenda ya ma'adapta na regulasion gi halom i Programan i Nutrition Assistance gi Depattamenton i Community yan i Cultural Affairs.

I Direktot i Depattamenton i Community yan i Cultural Affairs ha indidika i ma'adapta ni ma'amenda gi Regulasion para i Atministrasion gi Programan i Nutrition Assistance gi halom i Northern Marianas ya mana'halom gi Commonwealth Register, Volume 7 Numiru I gi fecha Enuru dia 15, 1985.

I rason pot este siha na amendasion pot para u madalalaki todu areklo yan hafa siha para u fanmacho gue gi NAP Manual of Operation ni mantinitika gi mansigente siha na ineyak:

- 1. Uma'ekungok gi direchu na manera
- 2. Uma'ekungok gi ti mandirechu na manera
- 3. Aplikasion ni para u macho gue (ma'inklusu na ginagao, i numiron i Social Security)
- 4. I guinahan guma'
- 5. I bulontario na tinilaika

Taiguigui ha' i apas, i kopia ni ma'amenda na Regulasion siña ha' machule' gi Depattamenton i Community yan i Cultural Affairs guatu gi Nutrition Assistance Program Division, Lower Base, Saipan CM 96950.

Fecha:

Gilbert C. Ada Direktot i C&CA

ARONGORONGOL TOWLAP

ARONGORONGOL LLIIWELIL MWÓGHÚTÚGHÚTÚL <u>NUTRITION ASSISTANCE</u>
<u>PROGRAM, DEPATTAMENTOOL COMMUNITY ME CULTURAL AFFAIRS.</u>

Direktoodul Depattamentool <u>Community</u> me <u>Cultural Affairs</u> aa alléghúúwló lliiwelil mwóghútúghútúl ómwóghútúl <u>Nutrition</u>

<u>Assistance Program</u> mellól <u>Northern Marianas iwe aa</u> alúghúlúghúló mellól <u>Commonwealth Register, Volume</u> 7 numuro eew (1) iwe aa alléghéló wóól Eneero 15, 1985, we.

Bwulúl lliiwel kkaal nge ebwe ábwááriíló mwóghútúghútúl fféérúl NAP Manual of Operation iye e tabweey milikka e táttáletiw:

- 1. Arongorongol Ammataf
- 2. Arongorongol Rugh
- 3. Fféérúl <u>Application</u> (me bwal ákkááw, numurool Social Security).
- 4. Schóól llól limw
- 5. Lliiwel Llól Tipómw

Kopiyaal lliiwelil mwóghútúghút kkaal emmwel schagh ówbwe ló bweibwogh me Depattamentool <u>Community</u> me <u>Cultural Affairs</u>.

<u>Nutrition Assistance Division</u>, Lower Base, Saipan, CM 96950.

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Gilbert C. Ada Direktoodul, C&CA 0

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

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PUBLIC NOTICE

The Administrator of the Coastal Resources Management Office has adopted rules and regulations pursuant to 2 CMC Section 153(e) except the regulations were not transmitted to the Legislature for approval pursuant to Attorney General Opinion 84-131 (September 4, 1984) and Immigration and Natualization Service v. Chadha, 103 S. Ct. 2764 (1983). The regulations were first proposed on November 15, 1984 and were adopted with amendments on December 15, 1984. Since the regulations and their amendments were published separately, the CRMO hereby publishes the adopted regulations in their entirety as they took effect on December 25, 1984.

MANUEL T. ŚABŁAN

Administrator, CRMO

OFFICE OF COASTAL RESOURCES MANAGEMENT

PROPOSED RULES AND REGULATIONS

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OFFICE OF COASTAL RESOURCES MANAGEMENT RULES AND REGULATIONS

Department of Natural Resources Department of Commerce and Labor Department of Community and Cultural Affairs Department of Public Health Department of Public Works

Section 1. SHORT TITLE.

These Rules and Regulations shall be cited as the "Coastal Resources Management Rules and Regulations of 1984."

Section 2. AUTHORITY.

Pursuant to the authority of CNMI Public Law 3-47, §8(d) and 9(c), and 1 CMC §9115, the following Rules and Regulations are hereby established. They shall apply to all areas designated by CNMI P.L. 347, §7, as subject to the jurisdiction of the CRM Program.

Section 3. PURPOSE.

These Rules and Regulations govern practice and procedure within the federally-approved CRM Program and set standards for the CRM program in implementing its responsibilities, as approved by the Office of Coastal Resources Management, U.S. Department of Commerce. Provisions of these Rules and Regulations are not intended to negate or otherwise limit the authority of any agency of the Commonwealth Government with respect to coastal resources, provided that actions by agencies shall be consistent with provisions contained herein. These Rules and Regulations shall be consistent with the Federal Coastal Zone Management Act (CZMA) and applicable rules and regulations.

Section 4. CONSTRUCTION.

These Rules and Regulations shall be construed to secure the just and efficient administration of the CRM Program and the just and efficient determination of the CRM Permit process. In any conflict between a general rule or provision and a particular rule or provision, the particular shall control over the general.

Section 5. DEFINITIONS.

"APC" means an Area of Particular Concern consisting of a delineated geographic areas within the coastal zone which is subject to special management

- within the standards established in Section 9(B). APCs addressed in these Rules and Regulations include lagoon and reef, wetland and mangrove, shoreline, and port and industrial, all of which are separately defined herein. APC's shall also include new APCs as may be designated hereinafter.
- B. <u>"Aquaculture or Mariculture Facility"</u> means a facility, either land or water based, for the culture or commercial production of aquatic plants or animals, for research or food production, sales or distribution.
- C. <u>"Beach"</u> means an accumulation of unconsolidated deposits along the shore with their seaward boundary being at the low-tide or reef flat platform level and extending in a landward direction to the strand vegetation of first change in physiographic relief to topographic shoreline.
- D. "Coastal Land" means all lands and the resources thereon and therein located within the jurisdiction of the CRM Program.
- E. "Coastal Resources" means all coastal lands and waters and the resources therein located within the jurisdiction of the CRM Program.
- F. "Conclusions of Law" means statements of the propositions of law that the decision maker arrives at after, and as a result of, finding certain facts in a case.
 - G. "CRM" means Coastal Resources Management.
- H. "CRM Administrator" means the Coastal Resources Management Program Administrator, appointed by the CNMI Governor to administer the CRM Program, pursuant to CNMI P.L. 347, §2.
- I. "CRM Agency Official" means a designated representative of a Coastal Resources Management Regulatory Agency; such agencies include the departments of Natural Resources, Commerce and Labor, Public Works, Public Health and Environmental Services (Division of Environmental Quality), and Community and Cultural Affairs (Division of Historic Preservation).
- J. <u>"CRM Appeals Board"</u> means the Coastal Resources Management Appeals Board, consisting of three members appointed by the CNMI Governor, pursuant to CNMI P.L. 347, §10.
- K. "CRM Coastal Advisory Council" means the council established by CNMI P.L. 3-47, §5, comprised of the mayors of Rota, Tinian, Saipan and the Northern Islands, the Special Assistant for Carolinian Affairs, Chairman of the Marianas Public Land Corporation, the Executive Director of the Commonwealth Ports Authority, the Executive Director of Marianas Visitors Bureau, the President of the Chamber of Commerce, and the Historic Preservation Officer. In addition, the Council includes one member of the public representing fisheries, one member of the public representing a subsistence lifestyle and one staff member each from the Commonwealth Legislature House and Senate Committees on Resources and Development.

- "CRM Office" means the Coastal Resources Management Office, within the Office of the CNMI Governor, headed by the CRM Administrator, pursuant to CNMI P.L. 347, §2.
- "CRM Permit" means a permit that is issued by CRM Agency Officials for Μ. a proposed project that is subject to CRM Program jurisdiction.
- "CRM Program" means the Coastal Management Program established by CNMI P.L. 3-47, including the CRM Office, the CRM Administrator, the CRM Agency Officials, the CRM Appeals Board, and the CRM Coastal Advisory Council. all of which are charged with implementing coastal resources management in the Commonwealth of the Northern Mariana Islands.
- "CRM Variance" means a variance, issued by the CRM Program Agency Officials which provides for commencement of a proposed project on a site subject to CRM jurisdiction without obtaining a CRM Permit prior to initiation and completion of the project.
- "Degradation" means a diminution or reduction of strength, efficacy, value or magnitude.
- "Development" means the placement or erection of any solid material or structure, discharge or disposal of any dredge materials or of any gaseous, liquid, solid, or thermal waste, the grading, removing, dredging, mining, or extraction of any materials, a change in the density or intensity of use of land including, but not limited to, subdivision of land and any other division of land including lot parcelling, a change in the intensity of use of water, the thereto, or the access thereto, a construction ecology related reconstruction, demolition, or alteration of any structure, including any facility of any private or public utility, and the removal of significant vegetation.
- "Direct and Significant Impact" means the impact which is casually related to or derives as a consequence of a proposed project, use, development, activity or structure which contributes to a material change or alteration in the natural or social characteristics of all coastal resources.
- "Endangered or Threatened Wildlife" means species of plants or animals which are: 1) determined to be of such limited numbers as to be in immediate danger of extinction or reduction to a critically low population level in and around the Commonwealth of the Northern Mariana Islands if subjected to continued taking or reduction, or alteration of habitat; or 2) so designated by the U.S. Department of Interior's Fish and Wildlife Service on the latest list of "Endangered and Threatened Wildlife and Plants."
- "Findings of Fact" means determination of fact by way of reasonable Τ. interpretation of evidence.
- "Lagoon and Reef APC" means that geographic area of particular concern consisting of a partially enclosed body of water formed by sand pits, baymouth bars, barrier beaches or coral reefs, of the Northern Mariana Islands chain.

- "Littoral Drift" means the movement of sedimentary material within the near-shore zone under the influence of tides, waves and currents.
- "Major Siting" means any proposed project which has the potential to directly and significantly impact coastal resources, as provided for in Section 9(D) of these regulations.
- "Marine Resources" means those resources found in or near the coastal waters of the Commonwealth such as fish, dissolved minerals, aquatic biota and other resources.
- "Party" means a person, legal or natural, or any department of government, organization or other entity that is a CRM Permit applicant or intervenor, or a successor in interest.
- "Permit Holder" means a person or entity that holds the beneficial interest in a CRM Permit and may be either a CRM Permit applicant, a successor in interest if the project site has been sold, leased, or otherwise transferred, or a real party in interest if the benefit of the CRM Permit is for one other than the applicant or a successor in interest.
- "Person" means the Government of the United States of America or any agency or department thereof; or the Government of the Commonwealth or any agency or department of any municipality thereof; any sovereign state or nation; a public or private institution; a public or private corporation, association, partnership, or joint venture, or lessee or other occupant of property. or individual, acting singly or as a group.

The term "person" does not otherwise apply to the United States or any agency or instrumentality of the United States Government with respect to the requirement to obtain coastal permits or with respect to penalties, or to the Commonwealth of the Northern Mariana Islands with respect to obtaining coastal permit or with respect to penalties.

- BB. "Port and Industrial APC" means the land and water areas of particular concern surrounding the commercial ports of the Northern Mariana Islands chain which consists of projects, industrial uses and all related activities.
- CC. "Project" means any structure, use, development or other activity subject to CRM Program jurisdiction.
- DD. "Resources" means natural advantages and products including, but not limited to, marine biota, vegetation, minerals and scenic, aesthetic, cultural and historic resources subject to the jurisdiction of the CRM Program.
- EE. "Shoreline APC" means the geographic area of particular concern consisting of the area between the mean high water mark or the edge of a shoreline cliff and one hundred fifty (150) feet inland on the islands of the Northern Mariana Islands chain.
 - FF. "Under Penalty of Perjury" means any statement, oral or written,

certified as true and correct under penalty of perjury, pursuant to CNMI P.L. 3-48, and which precludes the necessity of a notarized affidavit for written statements, as in the following example:

I declare under the penalty of foregoing is true and correct declaration was executed on	
at	, CNMI.
(Signatur	re)

- GG. "Water-dependent Use" means a waterfront location that is necessary for its physical function, such as seaports and other similar facilities.
- "Water-oriented Use" means facing or overlooking the shoreline or water, but not requiring a location on the shoreline or waterfront, such uses include but are not limited to restaurants, hotels and residential developments. Such uses must have adequate setbacks from the shoreline.
- "Wetland and Mangrove APC" means any geographic area of particular concern which include areas inundated by surface or ground water with a frequency sufficient to support a prevalence of plant or aquatic life that require saturated or seasonally saturated soil conditions for growth and Wetlands include swamps, marshes, mangroves, lakes, natural ponds, surface springs, streams, estuaries and similar areas in the Northern Mariana Islands chain.
- "Federally Excluded Lands" those federal lands, the use of which is owned, leased, or by law subject solely to the discretion of or which are held in trust by the Federal Government, its officers or agents.
- "Hazardous Material" means a material or combination of materials which may: 1) cause or contribute to an increase in mortality or an increase in serious illness; 2) pose a potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed.
- "Impact" is any modification in an element of the environment, including modification as to quality, quantity, aesthetics, or human or natural use thereof.
- MM. <u>"Infrastructure"</u> means those structures, support sys tems and appurtenances necessary to provide the public with such utilities as are required for economic development, including but not limited to systems providing water, sewerage, transportation and energy.
 - NN. "Infrastructure Corridors" means a strip or strips of land, not

- including highways, forming passageways which carry infrastructure.
- "Coastal Resources Management Program Boundaries" the coastal waters (including the lands there is and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shoreline and further including islands, transition and intertidal areas, salt marshes, wetlands and beaches, which boundaries extend seaward to the extent of the territorial waters of the Commonwealth. Coastal Resources Management boundaries extend inland from the shorelines to include the total land areas of the Commonwealth, with the exception of federally-excluded lands.
- PP. "Coastal Waters" all waters and the submerged lands under the marine resources located within the boundaries of the Coastal Resources Management Program.
- "Water-related Use" means requiring water itself as a resource, but does not require a waterfront location. Includes most industries requiring cooling water, or industries that receive raw material via navigable waters for manufacture or processing. Such uses must have adequate setbacks, as required by the CRM Office.
- "Minor Permits" are those permits specified in Section 7(D)(iv) of these regulations.
- SS. "Intervenors" means a department, agency or official of the CNMI or Federal Government or an individual who has a property interest that may be affected by the permit application or could show that the general public interest would be adversely affected by the proposed CRM Permit project.
 - TT. "Underground Injection" means a "well injection".
- "Well Injection" means the subsurfaced emplacement of "fluids" through a bored, drilled, or driven "well", or through a dug well, where the depth of the dug well is greater than the largest surface dimension.
- "Fluid" means any material or substance which flows or moves, whether in a semisolid, liquid, sludge, gas, or any other form or state.
- "Well" means a bored, drilled or driven shaft, or a dug hole, whose depth is greater than the largest surface dimension.

Section 6. CRM PERMIT REQUIREMENT.

- When CRM Action Required. Prior to the commencement of a proposed project wholly or partially within an APC, or which constitutes a Major Siting under Section 9(D) herein, the party responsible for initiating the proposed project shall obtain a CRM Permit.
- Multiple APC Permit. If a proposed project is to be located in more than one APC, CRM Permit standards and policies for each applicable APC shall be evaluated in a single CRM Permit decision.

Section 7. EXCEPTIONS TO CRM PERMIT REQUIREMENTS.

A. Excluded Federal Lands. Notwithstanding the language of Section 6, a CRM Permit shall not be required for proposed projects on federal lands the use of which is by law subject solely to the discretion of the Federal Government, its officers and agents, or lands leased or held in trust by the Federal Government; provided that all activities on federally-excluded lands shall be consistent with these rules and regulations and applicable Federal and Commonwealth laws.

B. CRM Variances.

- (i). General CRM Variance Requirements. A CRM Permit shall not be required for proposed projects granted a CRM Variance by the CRM Administrator. A party seeking a CRM Variance shall submit a petition for CRM Variance to the CRM Office stating facts sufficient to establish conformity with variance standards listed below. A petition for CRM Variance shall be signed by the petitioner or its designated representative under penalty of perjury.
- (ii). <u>CRM Variance Issuance</u>. Upon application, the CRM Program Agency Officials may grant, by their unanimous approval, a CRM Variance if the applicant demonstrates that:
 - (a-1) enforcement of the applicable CRM regulations will cause the applicant extreme difficulty and undue hardship, and
 - (a-2) such hardship results from conditions peculiar to the applicant's property, and
 - (a-3) such conditions could not reasonably have been anticipated by the CRMO when the regulations were adopted, and
 - (a-4) the proposed project is consistent with the spirit, purpose and intent of the CRMP regulations and the policies set out in Section 3 of P.L. 3-47; or
 - (b-1) there is an urgent need to provide emergency services or repairs as a result of catastrophe.

If the CRM Administrator issues a CRM Variance, it shall be in writing, accompanied by findings of fact and conclusions of law, and subject to the following notice provisions.

(iii). Notice of CRM Variance and Intervention. If a variance is sought under subsection B(iii)(a) of this Section, the CRM Administrator shall publish notice of a proposed CRM Variance in a newspaper of general circulation within the Commonwealth at least two (2) weeks prior to its issuance. The notice shall state the essential terms of the petition for CRM Variance, and invite petitions for intervenor in opposition to, or in support of, the CRM Variance. Petitions for intervenor shall be filed within fourteen (14) days of first publication of

Time notice at the CRM Office in Saipan, and shall conform to the requirements of intervenor as provided in §8(G). The decision on the variance application shall be published within ten (10) days in a local newspaper of general circulation.

If the variance is sought under subsection B(iii)(b) of this Section, the CRM Administrator shall follow these notice requirements where practicable.

(iv). Review of Issuance of Variance. Parties denied a CRM Variance may not appeal that decision but may seek a CRM Permit through normal permit procedures. Existing intervenors who oppose the granting of a CRM Variance may seek review of the Variance granted before the CRM Appeals Board.

Exceptions from Coastal Permit Requirements. C.

- (i) A coastal permit may not be required for the following types of projects, except as set forth in clauses (ii) and (iii) of this subsection C. Any relief from coastal permit requirements does not remove a project proponent's responsibility to comply with CRM Program goals and policies, nor does it exempt a project from any other commonwealth regulatory authority.
 - (a) A proposed project situated completely outside of any APC and which does not constitute a major siting.
 - (b) Agricultural activities on lands which have been historically used for such activities; cutting of trees and branches by hand tools, not driven by power or gas.
 - (c) Hunting, fishing and trapping.
 - (d) The preservation of scenic, historic, and scientific areas, including wildlife preserves which do not require any development.
 - (e) Construction of small scale non-intensive projects such as family dwellings, duplexes, out-buildings sinale neighborhood businesses outside of an APC.
- (ii). If any proposed project exempted by Subsection C(i), above, may have a direct and significant impact on coastal resources, then the project proponent shall notify the CRM Office and provide such information regarding the proposed projects as may be required by the CRM Office in deciding whether the proposed project requires a coastal permit.
- (iii). Should it be found that a particular proposed project exempted by Subsection C(i) above may have a direct and significant impact on coastal resources, the CRM Office or its designee may conduct such investigation(s) as may be appropriate to ascertain the facts and may require the person(s) applying for such proposed project(s) to provide all of the necessary information regarding the project in order that a determination may be made as to whether the proposed project requires a coastal permit.

- Permits for Minor Developments Under Expedited Procedures.
- (i). Applications for permits for minor developments shall be expeditiously processed so as to enable their promptest feasible disposition.
- (ii). Applications for permits for minor developments shall be considered and determined by the CRM Program Administrator utilizing these CRM Rules and Regulations.
- (iii). Failure of the CRM Program Administrator to approve or deny an application for a minor permit within ten (10) working days from receipt of application shall be treated as approval of the application, provided that the CRM Program Administrator may extend the deadline by not more than an additional ten (10) days where necessary.

(iv). Minor developments shall include:

- (a) Normal maintenance and repair activities for existing structures or developments which cause only minimal adverse environmental impacts;
- (b) Normal maintenance and repair of: roads; existing rights of way; underground utility lines, including water, sewer, power and telephone; minor appurtenant structures to such; pad mounted transformers and sewer pump stations, provided that normal maintenance and repair shall not include the extension or expansion of existing lines, structures or rights of way;
- (c) Temporary pala pala construction for fundraising, carnival or cultural activities:
- (d) Construction of picnic shelters (pala palas), picnic tables and/or barbeque pits;
 - (e) Construction of non-concrete volleyball or tennis courts;
- (f) Temporary photographic activities (such as advertising sets) which are demonstrated by the applicant to have an insignificant impact on coastal resources;
 - (g) Public landscaping and beautification projects;
- (h) Memorial and monument projects covering ten (10) square meters or less;
 - (i) Security fencing which does not impede public access;
- (j) Placement of swimming, navigation or temporary or small boat mooring bouys;
- (k) Single family residential expansion including sewer connections;

- (1) Archeological/scientific research, evaluated on a case-by-case basis, and found by CRMO to cause no adverse environmental impacts;
 - (m) Agricultural activities;
 - (n) Debris incineration;
 - (o) Normal maintenance and repair of existing drainage channels;
 - (p) Strip clearing for survey sighting activities, except in Wetland APC;
 - (q) Construction of bus stop shelters;
 - (r) Construction of an accessory building incident to an existing acceptable activity in the Port and Industrial APC.

(v). Condition for minor permits.

- (a) In granting or extending a minor permit, the CRM Program Administrator may attach conditions or modifications and restrictions regarding the location, character or other features of the proposed development to ensure that mitigating measures are employed to minimize impacts on coastal resources.
- (b) Issuance of a minor permit does not exempt the applicant from otherwise complying with the goals, policies and use regulations of CRM.
- (c) When denying a permit, the CRM Program Administrator shall make findings of fact in support of stated conclusions that the proposed development would be inconsistent with the specific objectives and policies of the CRMP. If a minor permit is denied, the applicant has the option to treat the project as major.

(vi). Appeal.

Any decision to grant or deny the issuance of a minor permit by the CRM Program Administrator may be appealed to the CRM Appeals Board by either the applicant or an aggrieved party.

(vii). Minor Permits: Evaluation.

CRM Minor permit application will involve a full evaluation of individual and cumulative impacts and include an application review, site inspection and the issuance of a standard permit (with appropriate conditions). The conditions to be attached to the minor permit will be based on a case-by-case evaluation of each particular project.

In the case of projects to be located on Rota and Tinian, the above mentioned review will be conducted by the respective Coastal Coordinator

and the permit application will be sent to Saipan for the approval and certification by the CRM Program Administrator. For projects proposed for location on Saipan, the permit application will be reviewed and processed by CRMO.

Section 8. CRM Permit Process

All persons proposing to conduct any activities affecting or which may affect the coastal resources of the Commonwealth shall apply for a CRM Permit. A pre-application conference shall be conducted with the applicant by the staff of the CRM Program at a designated time. The pre-application conference shall be held to discuss the proposed activity, to provide the applicant with information pertaining to the CRM Program goals, policies, and requirements, and to answer questions the applicant may have regarding the CRM Program and its requirements. The following permit process shall govern all coastal permit applications.

- A. <u>Application</u>. CRM permit application forms shall be maintained at the CRM Office on Saipan. Copies of the application form shall also be maintained at CRM Branch Offices on Rota and Tinian. CRM Permit applicants shall complete and file an application for each proposed project within an APC, or those constituting a Major Siting as defined in Section 5 herein. The following conditions shall apply to all CRM Permit applications:
 - (i). <u>Copies</u>. The applicant shall file an original CRM Permit application with exhibits and attachments, and five (5) copies thereof.
 - (ii). Filing Location. CRM Permit applications shall be filed at the CRM Office in Saipan, though filing may be at the CRM Branch Office on Rota or Tinian, if the proposed project is to be on either of those islands.
 - (iii). <u>Certification</u>. CRM Permit applications shall be certified by the applicant that the information supplied in the application and its exhibits and attachments are true. The certification shall be by affidavit or declaration under the penalty of perjury.
 - (iv). Attachments. CRM Permit applications shall, to the extent necessary, contain attachments and necessary supporting materials including statements, drawings, maps, etc., which are relevant to the CRM Permit application.

Except for minor permit applications, CRM shall require the applicant to demonstrate by a fair preponderance of evidence that the project will not have a significant adverse impact on the coastal environment or its resources. Adverse impacts may include but are not limited to:

(a) The alteration of chemical or physical properties of coastal or marine waters so that they no longer provide a suitable habitat for natural biological communities;

- (b) The accumulation of toxins, carcinogens or pathogens which threaten the welfare of man or aquatic organisms;
- (c) Disruption of the ecological balances in coastal or marine waters upon which natural biological communities depend;
- (d) The addition of man-made substances foreign to the coastal or marine environment for which organisms have had no opportunity for adaptation and whose impacts are largely known;
 - (e) The disruption or burial of bottom communities; or
 - (f) Interference with fishing activities.
- (v). Fees. CRM Permit applications shall be accompanied by a non-refundable CRM Permit application fee in accordance with the following fee schedule, by check made payble to CNMI Treasurer.
 - (a) No fee for government projects.
 - (b) \$10.00 fee for minor permits and variances.
 - (c) For all others, the fee shall be as follows:

FEE AMOUNT	SIZE OF PROJECT
\$25.00	Under or equal to \$30,000.00
\$75.00	Over \$30,000, but less than or equal to \$50,000.00
\$150.00	Over \$50,000.00, but less than or equal to \$250,000.00
\$200.00	Over \$250,000.00, but less than or equal to \$500,000.00
\$275.00	Over \$500,000.00, but less than or equal to 1,000,000.00
\$350.00	Over \$1,000,000.00.

For each \$1 million increment in the cost/size of the project, there shall be assessed an additional fee of \$250.00.

- (vi). Information. CRM Permit applications shall require the following for review by the CRM Office:
 - (a) applicant's name;
 - (b) applicant's representative (if any);
 - (c) site owner (if different from applicant);

-) owner's representative (if any);
- (e) project name;
- (f) site description and location;
- (g) construction methods;
- (h) vegetation, wildlife, and wildlife habitat description;
- (i) excavation requirements;
- (j) distance from mean high water;
- (k) environmental impacts -
 - (1) air,
 - (2) noise,
 - (3) water;
- (1) budget;
- (m) other necessary permits;
- (n) adjacent site descriptions;
- (o) alternative site construction;
- (p) adjacent property owners;
- (q) current and projected utility requirements and connections;
- (r) exhibits -
 - (1) vicinity or location map,
 - (2) topographic view or site plan,
 - (3) elevation,
 - (4) title documents,
 - (5) certification of truth of statements;
- (s) effect on statutory policy set out in Section 3 of Public Law 3-47;
- (t) proof of conformity with applicable standards contained in these regulations;

The above information shall be notarized or declared under penalty of perjury.

(vii). Certification of Completion of Application.

Within thirty (30) days of the date on which an application for a CRM Permit is received by the CRM Office, the CRM Administrator shall review the application and certify its completion to the applicant or notify the applicant of any defects or omitted necessary information. The time commencing review of an application specified in Section 8(C) shall begin on the date an application is certified complete.

- B. Notice of Application. The CRM Office shall cause notice of each application for CRM Permit to be published in a newspaper of general circulation within the Commonwealth within fifteen (15) days of receipt of the application. The notice shall state the nature, scope and location of the proposed project, invite comments by the public, provide information on requesting a public hearing and also for petitioning by intervenor in the permit process pursuant to Section 8(F).
- C. Review of Application. The CRM Administrator and the CRM Agency Officials shall have sixty (60) days following certification of completion of application to grant or deny a CRM Permit. For purposes of Section 9(a) of the Coastal Resources Management Act of 1983 (P.L. 3-47), the term "receipt of any request for review" shall mean "CRM Certification of Completion of a permit application." The CRM Office shall review the application, publish notice of its contents, schedule a CRM Permit hearing if mandatory or requested by a party or intervenor, and transmit the application to the CRM Agency officials for review. The CRM Office shall provide technical findings on the impacts of proposed project to assist CRM Agency officials in reaching a unanimous decision on CRM Permit applications and ensure compliance of CRM Permit decisions with these Rules and Regulations and CNMI P.L. 3-47. Where a decision cannot be reached, the matter shall be submitted to the Governor for his determination pursuant to Section 9(d) of P.L. 3-47.
- D. <u>CRM Permit Hearing.</u> When a hearing on a permit application is required or requested pursuant to Section 8(B), the CRM Administrator shall schedule the hearing, inform the party or parties involved of the hearing date and publish notices of the hearing two times in a newspaper of general circulation in the Commonwealth at least fourteen (14) days prior to the hearing.
 - (i). When Permit Hearing Appropriate. The CRM Administrator shall schedule a CRM Permit hearing if:
 - (a) The proposed project constitutes a Major Siting within the definition established by Section 5, or as determined by the CRMO pursuant to Section 9(D); or
 - (b) The proposed project does not constitute a Major Siting but falls within one of the coastal APCs and the applicant or an intervenor submits a written request for hearing; or

- (c) If the CRM agency officials require a hearing on a proposed project.
- (ii). Review Period. The sixty (60) day period of review shall be begin on the day the application is certified to be complete by the CRM Office.
- (iii). Presiding Officer. The CRM Administrator or his designee shall preside at CRM Permit hearings. The presiding officer shall control the taking of testimony and evidence. Evidence offered in a hearing need not conform with any prescribed rules of evidence; further, the presiding officer may allow and limit evidence and testimony in any manner he reasonably determines to be just and efficient.
 - (iv). Public Invited. CRM Permit hearings shall be open to the public.
- (v). Location. Public meetings may be held at any location within the Commonwealth. Public hearings pursuant to permit applications shall be conducted on the island where the proposed project is located. Appellate hearings shall be held on the same island as the permit hearings, or if no CRM Permit hearing was held, on the island where the proposed project is located. All other public hearings shall be conducted on Saipan.
- (vi). Parties. Any party to a hearing on a CRM Permit application may appear on his/her own behalf. Parties may appear through an authorized representative of a partnership, corporation, trust or association. An authorized employee or officer of a government department or agency may represent the department or agency in any hearings.
- (vii). Record. The CRM Office shall provide for an audio recording or a stenographic record of CRM Permit hearings. Transcription of the record shall not be required unless requested by a CRM Permit applicant or intervenor, or the CRM Administrator, and except for the latter, any party requesting transcription shall pay the cost incurred in the preparation of the transcript. Public access to the contents of the record and CRM records retention responsibilities are discussed in Section 16.
- Filing of Documents. Documents filed in support of, or in opposition to, CRM Permit applications shall conform to the following standards.
 - (i). Form and Size. Pleadings and briefs shall be bound by staple in the upper left hand corner and shall be typewritten upon white paper eight-and-a-half by eleven inches $(8\frac{1}{2}$ " x 11") in size. Tables, maps, charts, exhibits or appendices, if larger, shall be folded to that size where practicable. Text shall appear on one side of the paper and shall be double-spaced, except that footnotes and quotations in excess of a few lines may be single-spaced.
 - (ii). Title and Number. Petitions, pleadings, briefs, and other documents shall show the title and number of the proceeding and the name and address of the party or its attorney.

- (iii). <u>Signatures.</u> The original of each application, petition, amendment or other legal document shall be signed in ink by the party or its counsel. If the party is a corporation or a partnership, the document may be signed by a corporate officer or partner. Motions, petitions, notices, pleadings and briefs may be signed by an attorney. Certifications as to truth and correctness of information in the document shall be by affidavit or declaration under penalty of perjury by the person charged with making the statements contained therein.
- (iv). <u>Copies.</u> Unless otherwise required, there shall be filed with the CRM Office an original and five (5) copies of each document.

F. Intervenor.

(i). <u>Petition for Intervenor</u>. Petitions for intervenor shall be in writing and filed with the CRM Administrator no later than fourteen (14) days following the first publication of the notice of the CRM Permit Application as provided in Section 8(B).

(ii). Intervenors allowed.

- (a) <u>Government</u>. All departments, agencies or official representatives of the Commonwealth or Federal Governments may be admitted as parties upon timely filing of a petition for intervenor.
- (b) <u>Interested Landholders</u>. All persons who have a property interest in the land subject to the CRM Permit application or who lawfully reside on the land subject to the CRM Permit application, or who are an adjacent landowner, shall be admitted as parties upon timely filing of a petition for intervenor.
- (c) <u>Injury to the Public</u>. Any person who can show that the general public would be adversely affected by the proposed CRM Permit project shall be admitted as parties upon timely filing of a petition for intervenor.
- (iii). <u>Discretionary Denial of Intervenor.</u> The CRM Administrator shall grant the petition for intervention if any of the above criteria is satisfied except that the CRM Administrator may deny an otherwise qualified petitioner the opportunity to intervene if:
 - (a) The position of the petitioner is substantially the same as the position of an existing party, and
 - (b) The existing party is capable of adequately representing the rights of the petitioner.
- (iv). <u>Contents of Petition for Intervention</u>. The Petition shall, where applicable, refer to the following:
 - (a) The nature of the petitioner's right to intervene;

- (b) The nature and extent of the petitioner's property interests, and if an abutting property possessor or owner shall provide, a description or map of the property;
- (c) The effect of a decision in the permit process on the petitioner's interest, whether it be property or otherwise;
- (d) the extent that the petitioner's interest will not be represented by existing parties;
- (e) The extent that the petitioner's interest differs from that of existing parties;
- (f) How the petitioner's intervention will assist in developing a complete record and promote the public interest.
- (v). Opposition to Intervention. If any party opposes a petition for intervention, the party shall file its response to the petition within seven (7) days after being served with the petition for intervention.
- (vi). Grant or Denial of Petition. A petition for intervenor shall be decided by the CRM Administrator within seven (7) days of receipt of the petition or seven (7) days of receipt of a response in opposition thereto, whichever is later. The CRM Administrator shall issue his decision in writing which shall state findings as to whether the petition satisfies the criteria for intervention.
- (vii). Appeal of Decision of Petition to Intervene. A party aggrieved by a decision of the CRM Administrator on a petition for intervention may appeal to the CRM Appeals Board, as provided in these regulations.
- Decision on CRM Permit. The CRM Agency Officials shall review the CRM Permit application, hearing transcripts, if any, CRMO technical findings, supporting documentation and relevant laws, rules and regulations, and issue a unanimous written decision to grant, deny or grant, with conditions, a CRM Permit in accordance with the policies of CNMI P.L. No. 3-47 and applicable rules and regulations. In reviewing a CRM Permit application, the following procedures shall apply.
 - (i). Voluntary Disqualification. CRM Agency Officials participating in decisions regarding CRM Permits shall do so in an impartial manner. They shall not contribute to decisions on CRM Permits where there exists an appearance of bias, or where actual bias may prevent them from exercising Should a CRM Agency Official determine, after independent judgement. considering the subject matter of a CRM Permit application, that bias. or the appearance of bias, might appear to prevent him from exercising independent judgement, he shall excuse himself from that decision and appoint an alternate with comparable qualifications to act in his stead.
 - (ii). Disqualification by Challenge. If a CRM Agengy Official refuses to disqualify himself under Section 8(G)(i), an applicant or intervenor may petition the CRM Administrator at any time prior to the issuance of a

permit decision, for disqualification of a CRM Agency Official because of bias or the appearance of bias. A petition for disqualification shall be accompanied by a declaration under the penalty of perjury containing facts supporting the assertion of bias. The CRM Administrator shall review the petition and determine whether the facts give rise to a significant inference of bias, and if so, he shall inform the challenged CRM Agency Official, who shall disqualify himself. If a CRM Agency Official is disqualified, the CRM Administrator shall appoint a qualified alternate from the same Department, to act in the disqualified CRM Official's stead. Alternates are also subject to disqualification by challenge of a party or intervenor.

- (iii). Unanimous Decision Required. Decisions regarding issuance or denial of CRM Permits by the CRM Officials shall be by unanimous vote. Disagreements among the CRM Agency Officials shall be mediated by the CRM Administrator, and he shall assist in the preparation of a joint decision in order to achieve unanimous consent. Further, the CRM Administrator shall certify that each CRM Permit decision complies with CNMI P.L. 3-47 and applicable rules and regulations.
- (iv). Deadlock Resolution by Governor. In the event that the unanimity required by Section 8(G)(iii) is not obtained, and/or the CRM Administrator is unable to certify that a unanimous decision of CRM Agency Officials complies with CNMI P.L. 3-47 and/or applicable rules and regulations, the CRM Administrator shall forward the CRM Permit application to the Governor for resolution of the deadlock.
 - (a) Referral. Determination that a deadlock exists regarding a decision over a CRM Permit application shall be made by the CRM Administrator within the sixty (60) day period of review by CRM Agency Officials specified by Section 8(C). A deadlocked CRM Permit application shall be referred to the Governor for resolution within ten (10) days following this determination.
 - (b) Supporting Documentation. In addition to the deadlocked CRM Permit application, the CRM Administrator shall forward all supporting documentation, including additional briefs, if any, filed by the applicant or any intervenor, and statements of support or opposition by CRM Agency Officials. If a deadlock results solely from the CRM Administrator's denial of certification of compliance with CRM Laws, then he shall supply a statement of his objections. If a deadlock results from dispute among CRM Agency Officials, then statements reflecting the divergent views on the CRM Permit application shall be obtained from the CRM Agency Officials and forwarded with the CRM Permit application to the Governor for his review.
 - After receipt of the deadlocked CRM Permit (c) Decision. application and accompanying documents, briefs and statements referred to above, the Governor shall have thirty (30) days to render his He may either grant, deny or conditionally grant a CRM Permit, but he must issue written findings of facts and conclusions of law for his decision.

- (d) Review. The decision of the Governor in a deadlock resolution under this Section shall be conclusive for purposes of permit issuance or denial. Parties or intervenors objecting to the Governor's decision may, if they seek review of the Governor's decision, appeal directly to the appeals Board.
- (v). Written Findings and Conclusions. Decisions rendered by the CRM Agency Officials on granting, denying or conditionally granting CRM Permits shall be accompanied by written findings of facts and conclusions of law. The CRM Office shall assist the CRM Agency officials in preparing a consensus draft of findings of fact and conclusions of law for signature by CRM Agency Officials and the CRM Administrator.
- (vi). <u>Issuance of CRM Permit.</u> If the CRM Agency Officials unanimously agree on the issuance or conditioned issuance of a CRM Permit and the CRM Administrator certifie that the CRM Permit complies with CNMI P.L. 3-47 and applicable rules and regulations, the CRM Permit shall be issued. In the case of a deadlocked CRM Permit application, if the Governor finds that it is proper to grant or conditionally grant a CRM Permit, then the CRM Office shall prepare a written CRM Permit stating the terms and conditions of issuance and obtain the signatures of the following on the CRM Permit:
 - (a) The CRM Agency Officials; and
 - (b) The CRM Administrator
- (vii). "He Who Decides Must Hear." In those cases where public hearing is held on a CRM Permit application, the CRM Agency Officials shall review and consider the matters discussed or presented at the hearing. To this end, CRM Agency officials shall, whenever practicable, attend CRM Permit hearings, and if unable to attend a hearing, they shall listen to the audio recording of the hearing, or obtain and read a stenographic transcript prior to rendering any decision on the affected CRM Permit application.
- H. Appeal of CRM Permit Decision. Any person aggrieved by a decision of the CRM Agency Officials to grant, deny or condition a new CRM Permit or Variance may appeal the decision to the CRM Appeals Board by filing a notice of appeal with the CRM Office within thirty (30) days of the issuance of the CRM Permit decision.
 - (i). Any Person Aggrieved. "Any person aggrieved" shall mean any applicant or intervenor whose position as advanced in the CRM Permit process is substantially adverse to the decision rendered. The CRM Administrator shall then schedule an appellate hearing before the CRM Appeals Board.
 - (ii). <u>Disqualification</u>; <u>Voluntary or by Challenge</u>. In the same manner and for the same reasons specified for CRM Agency Officials in Section 8(G), the three members of the CRM Appeals Board shall render decisions on CRM Permit applications in an impartial manner. They shall voluntarily disqualify themselves for bias or the appearance of bias, and they are

- subject to disqualification by challenge in the manner prescribed for CRM Agency Officials in Section 8(G).
- (iii). Quorum, Vote. At least two (2) members of the CRM Appeals Board shall constitute a quorum and must be present to act upon review of a CRM Agency Official decision and the vote of at least two (2) members is necessary for Board action on the appeal.
- (iv). Briefs, Statements. Any aggrieved person who requests an appeal before the CRM Appeals Board shall file with the CRM Office within fifteen (15) days following its request for appeal, a written statement of objections to the CRM Permit decision. In addition, any existing party or existing intervenor may, within five (5) days of receipt of appellant's statement, submit to the CRM Office a statement or brief providing arguments in support of or in opposition to, the permit decision. Statements filed under this subsection shall be filed in accordance with the format and standards listed in Section 8(E).
- (v). Papers Considered by CRM Appeals Board. For the purpose of reviewing the CRM Permit application decision, the CRM Appeals Board shall receive and review the following:
 - (a) Findings of facts and conclusions of law adopted by the CRM Agency Officials;
 - (b) CRM Permit application;
 - (c) CRM Permit, if issued;
 - (d) Record of the CRM Permit hearing, if any;
 - (e) Statements filed with the CRM Office in support of, or in opposition to, the appeal; and
 - (f) Any other documents, correspondence or testimony considered in the permit decision-making process.
- (vi). Oral Argument. Upon written request to the CRM Office by the appellant or other party to the appeal, oral argument shall be permitted. The scope of oral argument shall be limited to the written statements in support of, or in opposition to, the appeal. Oral argument shall be scheduled by the CRM Administrator before the full membership of the CRM Appeals Board. Oral argument shall be heard after the submission of written statements by the appellant and opponents, if any, and within twenty-five (25) days after the issuance of the CRM Permit by CRM Agency Officials.
- (vii). Scope of Appeal. In reviewing the CRM Permit decision of CRM Agency Officials, the CRM Appeals Board shall reverse the decision below, and remand if necessary when:

- (a It is clear perroneous in the policies established in CNMI P.L. 3-47; or
- (b) It is in violation of applicable Federal or CNMI constitutional or statutory provisions; or
- (c) It is arbitrary or capricious; or
- (d) It was not issued in accordance with required procedures.
- (viii). Written Decision. After reviewing the record and considering the arguments, the CRM Appeals Board shall render a written decision detailing the reasons in support of its determination. The decision of the Board shall be the final administrative decision, subject to judicial review. In drafting its decision, the Appeals Board may utilize the resources of the CRM Office.
- (ix). Automatic Affirmance. If no decision is rendered by the CRM Appeals Board within thirty (30) days of the date the notice of appeals was received by the Coastal Resources Management Office, the CRM Administrator shall issued a notice of summary affirmance of the CRM Permit decision. The party or parties aggrieved by the CRM Permit decision, as defined at Section 8(H)(i), may then appeal to the Commonwealth Trial Court, pursuant to Section 8(I).
- I. <u>Commonwealth Trial Court.</u> Any aggrieved person may seek judicial review of a final CRM Program action, ruling, or order, provided that he has exhausted his administrative remedies as set forth in these regulations. Actions may include declaratory judgments and complaints for prohibitory or mandatory injunctions.
 - (i). Scope of Review. To the extent necessary to review a CRM Permit decision and when presented, the reviewing court, pursuant to 1CMC §9112(b), shall decide relevant questions of law, interpret constitutional and statutory provisions and determine the meaning or applicability of CRM Program rules and regulations. The reviewing court shall hold unlawful and set aside CRM Program actions, findings, and conclusions found to be:
 - (a) Arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
 - (b) Contrary to constitutional right, power, privilege or immunity;
 - (c) In excess of statutory jurisdiction, authority or limitations, or short of statutory rights;
 - (d) Contrary to procedures required by law; or
 - (e) Unsupported by substantial evidence on the record taken as a whole.

Section 9. STANDARDS FOR CRM PERMIT ISSUANCE.

- A. General Standards for All CRM Permits. In the course of reviewing all CRM Permits for proposed projects located wholly, partially or intermittently within an Area of Particular Concern (APC), or designated as a Major Siting, the CRM Agency Officials and the CRM Administrator shall base their decisions on technical findings and the policy set out in Section 3 of P.L. 3-47 and shall apply the following general standards.
 - (i). <u>Cumulative Impact</u>. The CRM Administrator and CRM Agency Officials shall determine the impact of existing uses and activities on coastal resources and determine whether the added impact of the proposed project seeking a CRM Permit will result, when added to the existing use, in a significant degradation of the coastal resources.
 - (ii). <u>Compatibility</u>. The CRM Administrator and CRM Agency Officials shall determine, to the extent practicable, whether the proposed project is compatible with existing adjacent uses and is not contrary to designated land and water uses being followed or approved by the Commonwealth Government, its departments or agencies.
 - (iii). <u>Alternatives</u>. The CRM Administrator and CRM Agency Officials shall determine whether or not a reasonable alternative site exists for the proposed project.
 - (iv). <u>Conservation</u>. The CRM Administrator and CRM Agency Officials shall determine, to the extent practicable, the extent of the impact of the proposed project on the marine, freshwater, wetland and terrestrial habitat, and preserve, to the extent practicable, the physical and chemical characteristics of the site necessary to support living resources.
 - (v). Compliance with Local and Federal Laws. The CRM Administrator and CRM Agency Officials shall require compliance with Federal and CNMI laws, including, but not limited to, air and water quality standards, land use, Federal and CNMI Constitutional standards, and applicable permit processes necessary for completion of the proposed project.
 - (vi). Right to a Clean and Healthful Environment. Projects shall be undertaken and completed so as to maintain and, where appropriate, enhance and protect the Commonwealth's inherent natural beauty and natural resources, so as to ensure the protection of the people's constitutional right to a clean and healthful environment.
 - (vii). <u>Effect on Existing Public Services</u>. Activities and uses which would place excessive pressure on existing facilities and services to the detriment of the Commonwealth's interests, plans and policies, shall be discouraged.
- B. <u>Specific Standards</u>; Areas of <u>Particular Concern.</u> Prior to the issuance of any CRM Permit for a proposed project within an APC, the CRM Agency Officials and the CRM Administrator shall evaluate the proposed project in terms of its compatability with the standards and relative priorities listed below,

and the General Standards provided above in Section 9(A). If more than one project requiring a CRM Permit is proposed for a particular location, the project determined by the CRM Regulatory Officials to be the most compatible with the General and Specific standards provided herein shall be given priority over the less compatible project.

(i). Lagoon and Reef APC; Management Standards.

- (a) Any project proposed for location within the Lagoon and Reef shall be evaluated to determine its compatibility with the following standards:
 - (1) Subsistence usage of coastal areas and resources shall be insured:
 - (2) Living marine resources, particularly resources, shall be managed so as to maintain optimum sustainable yields;
 - Significant adverse impacts to reefs and corals shall be prevented;
 - (4) Lagoon and reef areas shall be managed so as to maintain or enhance subsistence, commercial and sportfisheries:
 - (5) Lagoon and reef areas shall be managed so as to assure the maintenance of natural water flows, natural circulation patterns, natural nutrient and oxygen levels and to avoid the discharge of toxic wastes. sewage, petroleum products, siltation and destruction of productive habitat;
 - (6) Areas and objects of historic and cultural significance shall be preserved and maintained; and
 - (7) Underwater preservation areas shall be designated.

(ii). Lagoon and Reef APC; Use Priorities.

(a) General Lagoon and Reef APCs. Activities listed within a use priority category are neither priority-ranked nor exhaustive. Use priority categories for the lagoon and reef APCs of the Northern Mariana Islands are as follows:

(1) Highest.

(a) Projects promoting conservation of space, high water quality, historic and cultural resources:

- Projects promoting or enhancing public. (b) recreation and access:
- Water-dependent projects which are compatible (c) with adjacent uses:
- Sport and small-scale taking of edible marine (d) resources within sustainable levels;
- (e) Activities related to the prevention of beach erosion:
- (f) Projects preserving fish and wildlife habitat.

(2) Moderate.

- (a) Commercial taking of edible marine resources within sustainable levels;
- Aquaculture projects which do not adversely affect the productivity of coastal waters or natural beach processes;
- Piers and docks which are constructed with floating materials or which, by design, do not impede or alter natural processes and littoral drift.

(3) Lowest.

- Point source discharge of drainage water (a) which will not result in significant permanent degradation in the water quality of the lagoon;
- Dredge and fill activity for the purpose of constructing piers, launching facilities, infrastructure, and boat harbors, if designed to prevent or mitigate adverse environmental impacts.

(4) Unacceptable.

- Discharge of untreated sewage, petroleum (a) products or other hazardous materials;
- Taking of sand and aggregate materials not associated with permitted activities and uses:

- (c) Destruction of coralline reef matter not associated with permitted activities and uses;
- (d) Dumping of trash, litter, garbage or other refuse into the lagoon, or at a place on shore where entry into the lagoon is inevitable;
- (e) Dredge and fill activities not associated with permitted construction of piers, launching facilities, infrastructure and boat harbors.
- (b) <u>Lagoon and Reef APC; Managaha</u>. Use Priority Categories for Managaha Island (Saipan), in addition to those listed for general Lagoon and Reef APCs, shall be as follows:

(1) Highest.

(a) Maintenance of the island as an uninhabited place used only for cultural and passive recreational purposes.

(2) Moderate.

(a) Improvements for the purposes of sanitation and navigation.

(3) Lowest.

(a) Commercial activity situated on the island related to cultural and passive recreational pursuits.

(4) <u>Unacceptable</u>.

- (a) Development, uses or activities which preclude or deter or are unrelated to the use of the island by residents of the Commonwealth for cultural or passive recreational purposes.
- (c) <u>Lagoon and Reef APC; Anjota Island.</u> Use Priority Categories for Anjota Island (Rota) shall be as follows:

(1) Highest.

(a) Maintenance of that part of the island outside the port and industrial APC as a wildlife sanctuary and for passive recreation.

(2) Unacceptable.

- Expansion of the Port and Industrial Section of Anjota Island which would encroach upon or have significant adverse impact upon the maintenance of a wildlife preserve or upon recreational uses of the island.
- (d) Lagoon and Reef APC; Coral Reefs. The Use Priority Categories for the Coral Reefs of Saipan, Tinian and Rota shall be as follows:

(1) Highest.

- (a) Maintenance of highest levels of primary productivity.
- (b) Creation of underwater preserves in pristing areas.

(2) Moderate.

(a) Dredging of moderately productive corals and reefs associated with permitted uses and activities.

(3) Lowest.

(a) Taking corals for cultural use (i.e. production of lime).

(4) Unacceptable.

- (a) Destruction of reefs and corals not associated with permitted projects; and
- Taking corals for other than scientific (b) study.

(iii). Wetland and Mangrove APC; Management Standards.

- (a) Any project proposed for location within the wetland and mangrove APC shall be evaluated to determine its compatibility with the following standards:
 - (1) Significant adverse impact on natural patterns, the destruction of important habitat and the discharge of toxic substances shall be prohibited; adequate water flow, nutrients and oxygen levels shall be ensured.
 - (2) The natural ecological and hydrological processes and mangrove areas shall be preserved.

- (3) Critical wetland habitat shall be maintained and, where possible, enhanced so as to increase the potential for survival of rare and endangered flora and fauna;
- (4) Public landholdings in and adjacent to the wetland and mangrove APC shall be maintained and, to the extent possible, increased, for the purpose of access and/or hazard mitigation, through land trades with Marianas Public Land Corporation, land purchasers, creation of easement or through taking by eminent domain;
- Wetland resources shall be utilized for appropriate agriculture, recreation, education, public open space and other compatible uses which would not degrade productivity.

(iv). Wetland and Mangrove APC; Use Priorities.

(a) Activities listed within a use priority category are neither priority ranked nor exhaustive. Use priority categories for the wetland and mangrove APC are as follows:

(1) Highest.

- (a) Preservation and enhancement of wetland and mangrove areas;
- Preservation of wildlife, primary productivity, conservation areas and historical properties in both wetland and mangrove areas.

(2) Moderate.

- (a) Non-intensive agriculture benefitted by innundation, low density grazing;
- (b) Infrastructure corridors designed to significant adverse impacts to natural hydrological processes and values as wildlife habitat;
- Non-commercial recreation including light duty. elevated. non-permanent structures such footbridges. observation decks similar and non-enclosed recreational and access structures.

(3) Lowest.

(a) Residential development designed to avoid adverse environmental impacts and which is not susceptible to damage by flooding.

(4) <u>Unacceptable.</u>

- (a) Land fill and dumping not associated with flood control and infrastructure corridors or other allowable activities and uses:
- (b) Land clearing, grading or removal of natural vegetation not associated with allowable activities, which would result in extensive sedimentation of wetland, mangrove areas and coastal waters.

(v). Shoreline APC; Management Standards.

- (a) Any project proposed for location within the shoreline APC shall be evaluated to determine its compatibility with the following standards:
 - (1) The impact of onshore activities upon wildlife, marine or aesthetic resources shall be minimized;
 - (2) The effects of shoreline development on natural beach processes shall be minimized;
 - (3) The taking of sand, gravel or other aggregates and minerals from the beach and near shore areas shall not be allowed;
 - (4) Removal of hazardous debris from beaches and coastal areas shall be strongly encouraged;
 - Where possible public landholdings along the shore shall be maintained and increased, for the purpose of access and hazard mitigation, through land trades with Land Corporation Public (MPLC), Marianas creation of easements, and where no purchases. alternative practicable exists, through the constitutional authority of eminent domain; and
- (b) In addition to deciding whether the proposed project is consistent with the above standards, CRM Agency Officials shall consider the following in their review of coastal permit applications:
 - (1) Whether the proposed project is water-dependent or water-oriented in nature.
 - (2) Whether the proposed project is to facilitate or enhance coastal recreational, subsistence, or cultural opportunities. (i.e., docking, uut, fishing, swimming, picnicking, navigation devices).

- (3 Whether the existence of roadways, has irreversibly committed the area to uses compatible with the proposed project, particularly water oriented uses, and provided that the proposed project does not create adverse cumulative impacts.
- (4) Whether the proposed project is a single-family dwelling in an existing residential area and would occur on private property owned by the same owner as of the effective date of the program, of which all or a significant portion is located in the Shoreline APC, or no reasonable alternative is open to the property owner to trade land, relocate or sell to the government.
- (5) Whether the proposed project would be safely located on a rocky shoreline and would cause significant adverse impacts to wildlife, marine or scenic resources.
- (6) Whether the proposed project is designed to prevent or mitigate shoreline erosion.
- (7) Whether the proposed project would be more appropriately located in the Port and Industrial APC.

(vi). Shoreline APC; Use Priorities.

(a) Activities listed within a use priority category are neither priority ranked nor exhaustive. Use priority categories for the shoreline APCs of the entire Northern Mariana Islands chain are as follows:

(1) Highest.

- (a) Public recreational uses of beach areas, including the creation of public shoreline parks and the construction of structures enhancing access and use, such as barbeque grills, picnic tables, docks, shelters or boardwalks;
- (b) Compatible water-dependent development which cannot be reasonably accommodated in other locations;
- (c) Traditional cultural and historic practices;
- (d) Preservation of fish and wildlife habitat;
- (e) Preservation of natural open areas of high scenic beauty and scientific value;

(f) Activities related to the prevention of beach erosion through non-structural means.

(2) Moderate.

- (a) Single-family dwelling in existing residential areas;
- (b) Agriculture/aquaculture which requires or is enhanced by conditions inherent in this APC;
- (c) Improvements to or expansion of existing water-oriented structures which are compatible with designated land uses and do not otherwise conflict with or obstruct public recreational use of coastal areas or other water-dependent or water-related uses.

(3) Lowest.

- (a) Projects which result in growth or improvements to existing commercial, non-recreational public, or multi-unit residential uses;
- (b) Water related and new water-oriented development compatible with designated land uses, which cannot be accommodated in other locations and which neither conflicts with recreational uses nor restricts access to or along the shoreline.

(4) <u>Unacceptable.</u>

- (a) New commercial structures, industrial structures, or non-recreational public structures which are not water-dependent, water-oriented or water-related;
- (b) Disposal of litter and refuse; and
- (c) The taking of sand for other than cultural usage, and mining of gravel and extraction of minerals, oil and gas, or other extractive uses.

(vii). Port and Industrial APC; Management Standards.

- (a) Any project proposed for location within the Port and Industrial APC shall be evaluated to determine its compatibility with the following standards:
 - (1) Projects shall be undertaken and completed so as to maintain and, where appropriate, enhance and protect the Commonwealth's inherent natural beauty and natural

- resources and so as to ensure inverteble rotection of the people's constitutional right to a clean and healthful environment.
- (2) In the siting of port and industrial development, its suitability in terms of meeting the long-term economic and social expectations of the Commonwealth.
- (3) Recognize the limited availability of the port and industrial resources in making allocation decisions.
- (4) Ensure that development is done with respect for the Commonwealth's inherent natural beauty and the people's constitutionally protected right to a clean and healthful environment.
- (5) Develop improvements to infrastructure in the Port and Industrial APC.
- (6) Prohibit projects which would result in significant adverse impacts, including cumulative impacts on coastal resources outside the Port and Industrial APC.
- (7) Conserve shoreline locations for water-dependent projects.
- (8) Consider and assist in resolution of possible conflicts by identifying and planning for the potential exercise of Military Retention Area options affecting port resources.
- (9) Locate, to the maximum extent practicable, petroleum based coastal energy facilities within the Port and Industrial APC.
- (10) Consider development proposals from the perspective of federal port related opportunities and constraints which are applicable to the Commonwealth.
- (11) The amount of shoreline frontage utilized by any project, regardless of the extent to which the project may be water-dependent, shall be minimized to the greatest extent practicable.

(viii). Port and Industrial APC; Use Priorities.

(a) Activities listed within a use priority category are neither priority ranked nor exhaustive. Use priority categories for the port

and industrial APCs in the entire Northern Mariana Islands chain are as follows:

(1) Highest.

- (a) Water-dependent port and industrial activities and uses located on the APC shoreline.
- (b) Industrial uses that are not water-dependent would cause adverse impacts if situated outside the Port and Industrial APC and would not be sited directly on the Port and Industrial APC shoreline, and would not preclude opportunity for water-dependent activities and uses.
- (c) Industries and services that support water-dependent industry and labor, which are not located on the Port and Industrial APC shoreline and do not interfere with water-dependent uses.

(2) Moderate.

- (a) Recreational boating facilities;
- Clearing, grading or blasting which does not have long-term adverse effects and environmental quality, drainage patterns or adjacent APCs. so long as the activity is related to the permitted project.

(3) Lowest.

- (a) Indefinite storage or stockpiling of hazardous materials:
- Indefinite storage of goods, not water-borne transport, in a shorefront location;
- which are acceptable Uses or activities in other APCs and which do not enhance or are not reasonably necessary to support permissible uses, activities and priorities in the Port Industrial APC.

(4) Unacceptable.

Non-port and industrial related and uses which, if permitted, would result in conversion to other uses at the expense of Port and Industrial related growth, or would induce

- port and industrial related growth into other APCs or areas; and
- (b) Uses and activities which would have an impact on other APCs, the American adverse Memorial Park, An.jota Preserve. historic properties and other significant coastal resources.

Standards for APC Creation and Modification.

- (i). Authority. The CRM Agency Officials or the CRM Administrator may seek designation of any area within the Commonwealth as an APC or propose a change in any APC boundary. Further, the CRM Administrator may review requests from private parties for designation or modification of APC's.
- (ii). Procedure. Requests for new or modified APCs shall include detailed documentation supporting the APC designation or boundary change. The documentation shall be based on criteria set forth in subparagraph (iii) below, but may include other information pertinent to the area nominated or proposed boundary change. Within thirty (30) days of a nomination or proposed boundary change, the CRM Administrator shall circulate it to the CRM Agency Officials and the CRM Coastal Advisory The CRM Administrator shall, within that same period, publish notice of the nomination or proposed boundary change, describing the area involved, in a newspaper of general circulation within the Commonwealth. The CRM Office shall be available to receive public comment for a period of forty-five 45) days from the date such notice is published. Within the forty-five (45) day comment period, the CRM Agency Officials and the CRM Coastal Advisory Council shall submit to the CRM Office comments and recommendations, and a public hearing shall be conducted by the CRM Office. Within thirty (30) days after the closure of the comment period, the CRM Coastal Advisory Council shall, after adequate consideration of the comments received, issue a recommendation on the nomination to the CRM Agency Officials who shall make the final decision regarding the proposed creation or modification.
- Criteria for Creation and Modification. In reviewing a request for designation or modification of an APC, the CRM Administrator and the CRM Agency Officials shall consider whether the areas requiring special management are:
 - (a) Areas of unique, scarce, fragile or vulnerable natural habitat; have a unique or fragile physical configuration (e.g. Saipan Lagoon); are of historical significance, cultural value or scenic importance (including resources on or determine to be eligible for the National or CNMI Register of Historic Places);
 - (b) Areas of high natural productivity or essential habitat for living resources, including fish, wildlife and endangered

- species and the various trophic levels in the food web critical to their well-being;
- (c) Areas of substantial recreational value or potential;
- (d) Areas where developments and facilities are dependent either upon the utilization of, or access to coastal waters or of geographic significance for industrial or commercial development or for dredge spoil disposal;
- (e) Areas of urban concentration where shoreline utilization and water uses are highly competitive;
- (f) Areas which, if development were permitted, might be subject to significant hazard due to storms, slides, floods, erosions, settlement or salt water intrusion;
- (g) Areas needed to protect, maintain or replenish coastal lands or resources, including coastal flood plains, aquifiers and their recharge areas, estuaries, sand dunes, coral and other reefs, beaches, and offshore sand deposits;
- (h) Areas needed for the preservation or restoration of coastal resources due to the value of those resources for conservation, recreational, ecological, or aesthetic purposes.
- (iv). New APC Standards and Use Priorities. Upon a determination to designate a new APC, the CRM Administrator shall draft management standards and use priorities. Designation of the area as an APC and publication of the new Standards and Use Priorities shall be effected by publication of the designated APC and Standards and Use Priorities in the Commonwealth Register pursuant to 1 CMC, D.W.9, Chapter 1.
- D. <u>Determination of Major Siting</u>. The determination of whether a proposed of whether a proposed project, inside or outside a coastal APC, constitutes a Major Siting shall be issued by the CRM Office based on a documented consensus of CRM Program agencies stating the rationale therefor. Major Sitings requiring a CRM permit, shall include but not be limited to the following:
 - (i). Energy related facilities, waste-water treatment facilities, pipelines, transportation facilities, surface water control projects, harbor structures.
 - (ii). Sanitary land fills, disposal of dredged materials, mining activities, quarries, basalt extraction, incinerator projects;
 - (iii). Dredging and filling in marine or fresh waters, point source discharge of water or air pollutants, shoreline modification, ocean dumping, artificial reef construction;

- (iv). Proposed projects with potential for significant adverse effects on submerged lands, groundwater recharge areas, cultural areas, historic or archeological sites and properties, designated conservation and pristine areas, or uninhabited islands, sparsely populated islands, mangroves, reefs, wetlands, beaches and lakes, areas of scientific interest, recreational areas, limestone, volcanic and cocos forest, and endangered or threatened species or marine mammal habitats;
- (v). Major recreational developments and major urban or government developments;
- (vi). Construction and major repair of highways and infrastructure development;
- (vii). Aquaculture or mariculture facilities, and silva-culture or timbering operations; and
- (viii). Any project with the potential of affecting coastal resources which requires a federal license, permit or other authorization from any regulatory agency of the U.S. Government.
- (ix). Any project, or proposed project, that may cause underground injection of hazardous wastes, of fluids used for extraction of minerals, oil and energy, and of certain other fluids with potential to contaminate ground water. Any such project, or proposed project, shall be primarily governed by the CNMI Underground Injection Control Regulations and supplemented by these Regulations.
- (x). Any other proposed project which, by consensus of the CRM Agency Officials, has the potential for causing a direct and significant impact on coastal resources.

All major siting shall be in conformity with the policy enumerated in Section 3 of P.L. 3-47.

- E. <u>Specific Standards</u>; <u>Major Sitings</u>. The CRM Agency Officials and the CRM Administrator shall evaluate a proposed project which may constitute a major siting based on the specific standards listed below, as well as the general standards for all CRM Permits listed in Section 9(A) above.
 - (i). <u>Project Site Development</u>. The proposed project site development shall be planned and managed so as to ensure compatibility with existing and projected uses of the site and surrounding area.
 - (ii). Minimum Site Preparation. Proposed projects shall, to the extent practicable, be located at sites with pre-existing infrastructure, or which require a minimum of site preparation (e.g. excavation, filling, removal of vegetation, utility connection).
 - (iii). Adverse Impact on Fish and Wildlife. The proposed project shall not adversely impact fragile fish and wildlife habitats, or other environmentally sensitive areas.

- (iv). <u>Cumulative Environmental Impact</u>. The proposed project site shall be selected in order to minimize adverse primary, secondary or cumulative environmental impacts.
- (v). <u>Future Development Options</u>. The proposed project site shall not unreasonably restrict the range of future development options in the adjacent areas.
- (vi). <u>Mitigation of Adverse Impact</u>. Wherever practicable, adverse impact of the proposed project on the environment shall be mitigated.
- (vii). <u>Cultural-historic Values</u>. Consider siting alternatives that promote the Commonwealth's goals with respect to cultural-historic values.

Section 10. CRM PERMIT CONDITIONS.

- A. <u>Use of Conditions in CRM Permits</u>. CRM Agency Officials may delineate the scope of an approved activity, or otherwise limit CRM Permits, by issuing conditions to CRM Permits. The conditions shall be set out individually in writing, shall be accompanied by a specific reason for each condition and shall be issued contemporaneously with the CRM permit. Satisfaction of or compliance with the CRM Permit conditions shall be required for the CRM Permit to be valid. In permitted projects of an ongoing nature, the requirement for satisfaction of or compliance with CRM Permit conditions shall continue for the duration of the permitted activity. Violation of a CRM Permit condition at any time shall be cause for the CRM Administrator to take enforcement action pursuant to Sections 12 and 13.
- B. <u>Purpose and Scope</u>. The purpose of issuing CRM Permits subject to specific conditions is to ensure that a permitted project complies with the Standards for CRM Permit Issuance listed in Section 9, and CRM Program policies. Any lawful condition consistent with the standards and policies reffered to above may be the basis of a CRM Permit condition.
- C. <u>Mandatory Conditions</u>. All CRM Permits shall contain at least the following conditions.
 - (i). <u>Inspection</u>. The CRM Administrator or his designee shall have the right to make reasonable inspections of the out-of-doors portions of a permitted project site at any reasonable time in order to assess compliance with the CRM Permit and its conditions.
 - (ii). Timing and Duration. Permitted physical development of the project site subject to a CRM Permit shall begin within one (1) year of the date of the issuance of the CRM Permit and be completed within three (3) years. The permittee shall deliver to the CRM Office a Completion Certificate. If the project is not completed within three (3) years, the permit will be reviewed by CRM Agency Officials who will do one of the following: (1) extend or amend the permit or (2) terminate the permit. Conditions attached to the permit shall be of perpetual validity unless action is taken to amend, suspend, revoke or otherwise modify the CRM Permit.

- (iii). <u>Duty to Inform</u>. The CRM Permit holder, whether it be the applicant, a successor in interest or a real party in interest, shall be required to notify the CRM Administrator in writing if he/she has knowledge that any information in the CRM Permit application was untrue at the time of its submission or if he/she has knowledge of any unforeseen adverse environmental impacts of the permitted project. A CRM Permit holder shall further have the duty to inform any successor in interest of the permit granted and the conditions attached thereto, if any; and the successor in interest shall, within five (5) days thereafter, advise the CRM Office of his/her interest in writing.
- (iv). <u>Compliance with Other Law</u>. The CRM Permit is valid only if the permitted project is otherwise lawful and in compliance with other necessary governmental permits.

Section 11. CRM PERMIT AMENDMENT.

An amended CRM Permit shall be required of all projects before they are significantly altered or substantially expanded. Such an amendment shall require submittal of a revised CRM Permit application to the CRM Office. Alterations and expansions requiring amended CRM Permits include, but are not limited to, project changes which exceed \$5,000.00 of the monetary value of the permitted project as described in the original CRM Permit application. Where a substantially new project is proposed, a new and different permit must be obtained.

Section 12. ENFORCEMENT OF CRM PERMITS.

- A. <u>Purpose</u>. The provisions of this Section are intended to establish procedures whereby the CRM Administrator may enforce the terms and conditions of CRM Permits. The actions of the CRM Administrator based upon this Section are directly reviewable only by the Commonwealth Trial Court pursuant to Section 8(I).
- B. <u>Grounds for Action</u>. The CRM Administrator shall take action to enforce compliance with CRM Program policies and CRM Permit conditions in any of the following cases.
 - (i). <u>Misstatement</u>. The CRM Permit applicant, a party or any participant in a hearing on the CRM Permit application made a material misstatement that directly and significantly affected the CRM Permit decision.
 - (ii.) <u>Permit Violation</u>. The CRM Permit applicant, its successor in interest, or a real party in interest has violated a material term or condition of the CRM Permit.
 - (iii). <u>Supervening Illegality</u>. The permit project, as constructed or operated, has become unlawful by subsequent case law, statute, regulation or other illegality.

- (iv). New Environmental Impact. The permitted project has a newly discovered adverse environmental impact.
- C. <u>Warning</u>. The CRM Administrator, upon a determination that a permitted project violates one or more provisions of Section 12(B), may issue a cease and desist order to the CRM Permit holder declaring notice of intent to undertake CRM Permit suspension or revocation proceedings unless the CRM Permit holder accomplishes corrective measures. The cease and desist order shall state corrective measures necessary to satisfy CRM Permit compliance and provide for a period in which compliance shall be effected. This warning procedure shall not affect the CRM Administrator's duties and responsibilities under Section 12(D).
- D. <u>Permit Enforcement Notice</u>. If, within thirty (30) days of determining a violation under Section 12(B), the CRM Administrator has issued a cease and desist order under Section 12(C), and the CRM Permit holder has failed to take corrective action, or continues to be in violation of its CRM Permit, the CRM Administrator shall issue a written Permit Enforcement Notice to issue to the CRM Permit holder.
 - (i). Content of Notice. A Permit Enforcement Notice shall include a statement of facts or conduct constituting the violation and shall indicate the intended action to be taken by the CRM Administrator. A Permit Enforcement Notice shall provide for Permit Enforcement hearings, if requested, and inform the CRM Permit holder of his responsibilities and rights under this Section.
 - (ii). <u>Service</u>. A Permit Enforcement Notice shall be delivered by the CRM Office staff in person to the CRM Permit holder, or served by certified U.S. mail addressed to the CRM Permit holder, or his designated agent.
 - (iii). Response to Notice. If the CRM Permit holder disagrees with the facts or conduct constituting violation in the Permit Enforcement Notice and desires a Permit Enforcement Hearing, he/she shall respond in writing to the CRM Administrator within thirty (30) days of service of the Permit Enforcement Notice. This response shall include a written statement indicating the CRM Permit holder's arguments.
 - (iv). Emergency Suspension. If the CRM Administrator determines that a CRM Permit holder has willfully violated a provision of Section 12(B) or the public health, safety, or welfare imperatively requires immediate action, the CRM Administrator may order emergency summary suspension of a CRM Permit pending proceedings for revocation or other action, notwithstanding, any notice requirement under this Section. If a Permit Enforcement Hearing is requested, the proceeding shall be promptly instituted and determined pursuant to Section 8(D).
- E. Permit Enforcement Hearing. Upon receipt of a request for Permit Enforcement Hearing, the CRM Administrator shall schedule a hearing within fifteen (15) days. Permit Enforcement Hearings shall conform to the provisions of Section 8(D). The CRM Administrator shall issue a decision within ten (10) days of the close of the Permit Enforcement Hearing, and all orders shall be in

- writing and accompanied by written findings of fact and conclusions of law.
- Remedies. Upon a determination by the CRM Administrator and/or CRM Agency Officials that a violation did occur, the CRM Administrator may order any or all of the following remedies.
 - (i). Revocation. The CRM Permit may be revoked in its entirety.
 - (ii). Suspension. The CRM Permit may be temporarily suspended for a given period, or until the occurrence of a given event or satisfaction of a specific condition.
 - (iii). Corrective Measures. Measures may be ordered of the CRM Permit holder so that the project conforms to the CRM Permit terms and conditions.

Section 13. ENFORCEMENT OF CRM STANDARDS AND POLICIES.

- Purpose. The provisions of this Section are intended to establish procedures whereby the CRM Administrator and/or CRM Agency Officials may enforce penalties against persons conducting activities or participating in projects within the jurisdiction of the CRM Program either without a required CRM Permit or CRM Variance or in violation of a CRM Permit or Variance terms and Remedies listed herein are cumulative and not exclusive and shall be in addition to remedies provided in Section 12 and those at law or equity. The actions of the CRM Administrator and/or CRM Agency Officials based upon this Section are reviewable by the Commonwealth Trial Court.
- The CRM Administrator shall have the authority to Investigation. direct investigations of suspected or known violations of CNMI P.L. 3-47 or CRM Rules and Regulations. The CRM Administrator may direct the investigation of any fact, circumstance or activity that is reasonably related to his duties and responsibilities. If practicable, the CRM Administrator shall first request the person or persons having knowledge or custody of the information to voluntarily produce or allow access to it. If voluntary production of or access to the information is not forthcoming, the CRM Administrator may implement the following measures to compel disclosure.

(i). Authority to Search.

- (a) Consent from Permit Application. The CRM Administrator or his designee may enter, at any reasonable time, the site of a proposed project for which there exists a signed CRM Permit application on file with the CRM Office pursuant to the consent in the application.
- (b) Permit Authorization. The CRM Administrator or his designee may enter, at any reasonable time, the site of a project for which there has been granted a CRM Permit.
- (c) Search Warrant. The CRM Administrator may, if necessary, apply to the Commonwealth Trial Court for a search warrant allowing entry onto a project site on land

subject to CRM Program jurisdiction, pursuant to applicable law of administrative searches, regardless of the existence of a pending CRM Permit application or a currently valid CRM permit.

- C. Prohibited Activites. The CRM Administrator may act pursuant to this Section upon a reasonable determination that a violation of CNMI P.L. 3-47 or CRM Rules and Regulations has occured. Such violations include, but are not limited to, projects undertaken without a required CRM Permit or CRM Variance and activities that do not conform to CRM Permit terms and conditions. Specific provisions regarding CRM Permit revocation, suspension or other action affecting the status of an issued CRM Permit, as provided in Section 12, are in addition to, and not exclusive of, the remedies in this Section.
- D. <u>Warning</u>. Upon a determination that a violation of law subject to CRM Program jurisdiction has occured, the CRM Administrator may issue a cease and desist order to the person(s) responsible for the violation and state notice of intent to undertake legal proceedings unless corrective measures are undertaken. The letter shall state the corrective measures necessary and shall provide for a period in which compliance shall be effected.
- E. <u>Enforcement</u>. Upon a determination that a person other than a CRM Permit holder is in violation of CNMI P.L. 3-47 or applicable rules and regulations, the CRM Administrator shall promptly issue an Enforcement Notice to the offending party. The Enforcement Notice shall be delivered personally to the offending party or, if such service is not reasonably possible, it may be sent by certified mail to his residence or place of business.

(i). Content of Enforcement.

- (a) Completed Violation. If acts constituting a violation are complete and the violation is not of an ongoing nature, the Enforcement Notice shall include a statement of the facts and conduct constituting the violation, the amount of an imposed fine, if any, a warning not to repeat the unlawful activity and a statement that a hearing on the fine is available if the CRM Administrator is so requested, in writing, within seven (7) days of service of the Enforcement Notice.
- (b) Continuing Violation. If acts constituting a violation are of an ongoing nature or likely to be repeated, the Enforcement Notice shall include a statement of facts and conduct constituting the violation, a statement of an imposed, continuing fine, if any, an order to cease and desist the activity giving rise to a violation, a warning that additional fines may be imposed for failure to cease and desist the prohibited activity and a statement that an Enforcement Hearing on the fine is available if the CRM Administrator is so requested, in writing, within seven (7) days of service of the Enforcement Notice.

- (ii). Response to Notice. If the party to whom Enforcement Notice is sent objects to the finding of violation, or seeks an Enforcement Hearing on the fine, he shall submit a written response to the Enforcement Hearing within seven (7) days of service of the Enforcement Notice. Failure to provide written response or to demand an Enforcement Hearing within the prescribed period shall be deemed a waiver of defenses and the right to an Enforcement Hearing and the fine, as set in the Enforcement Notice, shall upon expiration of the seven (7) day period, become immediately due and payable to the CNMI Treasurer. All fines shall be paid by check made payable to the Treasurer of the CNMI. A copy of the payment receipt shall be provided the CRM Office by the violator.
- F. Determination of Fines. The CRM Administrator shall, in his sound discretion, set fines in an amount calculated to compel compliance with applicable law and shall consider the value of the existing and potential value of the damage to the environment proximately caused by the violation. In no event, however, shall any fine imposed exceed the ceiling imposed by Section 12 of P.L. 3-47.
- G. Enforcement Hearing. If a written response to an Enforcement Notice is filed with the CRM Office requesting an Enforcement Hearing, an Enforcement Hearing shall be conducted by CRM Administrator in accordance with the provisions of Section 8(D). The decision of the CRM Administrator shall be final as within the CRM Program. Appeal from an enforcement decision shall be directed to the Appeals Board within thirty (30) days following issuance of a written enforcement decision by the CRM Administrator.
- H. <u>Enforcement by Commonwealth Trial Court</u>. Fines and cease and desist orders issued by the CRM Administrator for purposes of enforcement constitute official agency orders and must be complied with by persons determined in violation of CRM Program policies or CRM Permit conditions. In the event fines are imposed or cease and desist orders issued, and compliance with either is refused, the CRM Administrator shall have the power to file in the Commonwealth Trial Court seeking court enforcement.
 - (i). Attorney General Representation. Whenever it is necessary for the CRM Administrator to file an action in the Commonwealth Trial Court for enforcement of imposed fines or cease or desist orders, he shall be advised and represented by the Office of the Attorney General.
 - (a) Collection of Civil Fines. The CRM Administrator shall, with the advise and representation of the Attorney General, file an action in the Commonwealth Trial Court for nonpayment of fines imposed.
 - (b) <u>Cease and Desist Orders</u>. The CRM Administrator shall, with the advise and representation of the Attorney General, file an action for injunctive relief in the Commonwealth Trial Court for failure to comply with a cease and desist order.
- I. <u>Enforcement by Criminal Prosecutions</u>. If the CRM Administrator has reason to believe that a person in violation of CRM Program policies or CRM

Permit conditions has committed criminal offense within the definition provided in CNMI P.L. 3-47 §12, he shall promptly submit a report of the violation to the Attorney General.

Section 14. PUBLIC INFORMATION AND EDUCATION.

The CRM Office shall make information and educational materials available to the public and CRM Agency Officials. The CRM Office, under the direction of the CRM Administrator, shall assist a CRM permit applicant any CRM Permit intervenors, CRM Variance applicants, CRM Agency Officials, the Governor and the CRM Appeals Board, by explaining the policies and procedures of the CRM Permit process.

- (i). Vernacular. When requested and reasonably necessary, the CRM Office shall provide translation of official business into the appropriate vernacular.
- (ii). Media. The CRM Office shall, to the extent practicable, develop and maintain a continuing program of public information and education. Information regarding coastal resources management and conservation shall be disseminated through newspapers, television, radio, posters and brochures supplied by the CRM Office.
- (iii). Public Hearings. Any hearing or meeting held for purposes of the CRM Permit or Enforcement process, or the Coastal Advisory Council, shall be open to the public.
- (iv). APC Maps. The CRM Office shall maintain a current series of island maps clearly showing the Areas of Particular Concern.

Section 15. CRM COASTAL ADVISORY COUNCIL.

Pursuant to CNMI P.L. 3-47, §6, a CRM Coastal Advisory Council (CAC) shall be established, consisting of those members listed in Section 15(E) herein.

- A. Adopt Internal Procedures. The CAC shall adopt internal procedures which shall govern its meetings, provided that CAC shall have no coastal resources management regulatory authority of its own.
- Advise CRM. The CAC shall advise the CRM Office and the CRM Administrator on any proposed change in the CRM Program or the CRM Permit process or any proposed rules and regulations considered useful implementing the CRM Program.
- Conduct Meetings. The CAC shall conduct meetings from time to time in public sessions, in order to receive information from the public on the impact or advisability of programs and policies in the CRM Program. Meetings shall be scheduled by the Council or as requested by CRM Administrator, as he deems necessary for purposes of obtaining input and advice, and shall be scheduled at least twice each calendar year.

Section 16. CRM PUBLIC RECORDS.

- A. Retention. The CRM Office shall retain and preserve the following documents for a minimum of five (5) years following their receipt or acquisition, unless the CRM Office determines that they shall be retained for a longer period of time. After five (5) years, all pertinent materials shall be safely stored.
 - (i). <u>CRM Permit Application Materials</u>. All applications, permits, variances, pleadings, motions, affidavits, charts, petitions, statements, briefs or other documentation submitted in support of or opposition to applications for CRM Permits or Variances, or prepared by the CRM Office in the course of the CRM Permit Process, shall be retained and preserved.
 - (ii). <u>CRM Hearing Records</u>. Stenographic or tape recordings of all CRM Permit or <u>Enforcement Hearings</u> and written minutes of CAC meetings shall be retained and preserved.
 - (iii). <u>Coastal Resources Materials</u>. All studies, guides, plans, policy statements, charts, special reports, educational materials or other information obtained or prepared by the CRM Office in order to provide public information and education shall be retained and preserved.
- B. Public Access to CRM Records. All CRM Program records shall be available for inspection for a period of five (5) years by any person during established business hours at the CRM Office in Saipan. The public's right to inspect records shall not extend to any record otherwise deemed confidential by law.
 - (i). Minutes and Transcripts. Minutes of CAC meetings and transcripts or tapes of CRM Permit or Enforcement Hearings shall be made available upon request to the public within thirty (30) days after the meeting or hearing involved, except where the disclosure would be inconsistent with law, or where the public distribution of minutes of meetings held in executive session would defeat the lawful purpose of the executive meeting. All CRM Permit or Enforcement Hearings must be open to the public, and all transcripts of the hearing shall be made available upon request; provided, however, that those persons requesting transcription shall pay the costs of transcription at the time of the request.
 - (ii). Copies of Documents. Copies of CRM public records shall be made available to any member of the public requesting them provided that reasonable fees or costs incurred in reproducing the records shall be paid by check into the CNMI Treasury by the requesting party.
 - (iii). <u>Denial of Inspection</u>. Any person aggrieved by a denial of access to CRM Program records, or transcription or copying thereof may apply to the Commonwealth Trial Court for an order directing inspection or copies or extracts of CRM Program public records. The Court shall grant the order after hearing upon finding that the denial was not for just and proper cause.

Section 17. CRM ACCESS TO RECORDS.

The Administrator, on behalf of himself, the CRM Office, the CRM Agency Officials, the Governor, the CRM Appeals Board and the CRM Coastal Advisory Council, shall have access to such records necessary for conducting official CRM business.

- CNMI Government Records. The CRM Administrator shall have access to relevant CNMI governmental records for the purpose of obtaining information for official CRM business. This access may include government reports, reviews, policy statements and any other data not protected as confidential by law. The CRM Administrator shall keep his requests reasonable in scope and accompany his requests for information with payment for copying or gathering of specific information.
- Private Records. The CRM Administrator shall request from interested parties such records and documents deemed necessary for the CRM permit process.

Section 18. COMPUTATION OF TIME.

In computing any period of time under these Rules and Regulations, the time begins with the day following the act, event or default, and includes the last day of the period unless it is a Saturday, Sunday, or legal holiday, in which event, the period runs until the end of the next work day. When the prescribed period of time is ten (10) days or less, Saturdays, Sundays, or holidays within the designated period shall be excluded from the computation.

Section 19. FEDERAL CONSISTENCY.

Α. General Law.

Federal activities and development projects which directly affect the coastal zone must be conducted or supported in a manner which is, to the maximum extent practicable, consistent with the CRM Program. Federally licensed or permitted activities and the provisions for federal financial assistance for activities affecting land or water uses of the coastal zone must be consistent with the CRM Program. Furthermore, any federal agency proposing to undertake any development project in the coastal zone shall insure that the project is, to maximum extent practicable, consistent with the CRM Program. implementation of these federal consistency provisions will be carried out in accordance with Section 307 of the CZMA and Federal Regulations at 15 CFR , Part 930.

Standards for Determining Consistency.

The CRMO shall apply the following enforceable standards in making consistency determinations:

- (i). The goals and policies set forth in CNMI Public Law 3-47;
- (ii). The standards and priorities set forth in these Regulations;

- (iii). Federal air and water quality standards and regulations, to the extent applicable to the Commonwealth of the Northern Mariana Islands; and
- (iv). Air and water quality standards and regulations of the CNMI, including, but not limited to, the CNMI Underground Injection Control Regulations and the CNMI Drinking Water Regulations; and
- (v). Any additional policies, regulations, standards priorities and plans that are enforceable and incorporated into any amendment of the CRM Program in the future.

C. Federal Activities and Development Projects.

- (i). A Federal development project includes any Federal activity involving the planning, construction, modification or removal of public works, facilities, or other structures, and the acquisition, utilization or disposal of land or water resources.
- (ii). "Federal activities" include those Federal agency actions which are either development projects or licenses, permits, or assistance actions as described herein below. Examples include Federal agency activities requiring a Federal permit and Federal assistance to entities other than the local government. Although Federal lands in the CNMI are excluded from the CRM Program jurisdiction pursuant to Section 7 of P.L. 3-47, Federal activities occurring on Federal lands which result in spillover impacts which directly affect the Commonwealth's coastal zone must be consistent, to the maximum extent practicable, with the CRM Program.
- (iii). In the event that a Federal agency plans to undertake a Federal activity, including a development project, which is likely to directly affect the coastal zone, the Federal agency must notify the CRMO of the proposal at least ninety (90) days before any final decision on the Federal action, unless both the Federal agency and CRMO agree to an alternative notification schedule. Such notification must include a brief statement indicating how the proposed project will be undertaken in a manner consistent, to the maximum extent practicable, with the CRM Program. The Federal agency's consistency determination must be based upon an evaluation of the relevant provisions of the CRM Program. Consistency determinations must include:
 - (a) A detailed description of the proposed project;
 - (b) The project's associated facilities;
 - (c) The combined, cumulative coastal effect of the project; and
 - (d) Data and information sufficient to support the Federal agency's conclusion.
- (iv). If CRMO does not issue a written response within forty-five (45) days from the receipt of the Federal agency notification, the Federal agency may presume CRMO's agreement that the activity is consistent with

- Requests for an extension of time may be made for a the CRM Program. period of not more than fifteen (15) days, unless the Federal agency agrees to longer or additional extension requests. CRMO agreement shall not be presumed if CRMO requests an extension of time within the forty-five (45) day review period.
- (v). CRMO's concurrence with or objection to a Federal agency's consistency determination must be set forth in writing with reasons and information supporting the agreement or disagreement and sent to the Federal agency. In case of disagreement, CRMO will attempt to resolve its differences with the Federal agency's consistency determination within the ninety (90) day notification period.
- (vi). In the event that the CRMO and the Federal agency are unable to come to an agreement on the manner in which a Federal activity or development project may be conducted or supported in a manner consistent, to the maximum extent practicable, with the CRMP, the CRMO or Federal agency may request mediation of the disagreement pursuant to the procedures set forth in Section 307 of the Federal Coastal Zone Management Act of 1972 (P.L. 92-583, as amended) and 15 CFR 930, Subpart H.

Federal Licenses and Permits. D.

- (i). Federal licenses and permits include any authorization. certification, approval or other form of permission which any Federal agency is empowered to issue to an applicant.
- (ii). An applicant includes any individual or organization, except a Federal agency, which, following management program approval, files an application for a Federal license or permit to conduct an activity affecting the coastal zone.
- (iii). An applicant for a Federal license or permit for an activity affecting the coastal zone must file, along with the application, a certification that the activity will be conducted in a manner consistent with the CRM Program. A copy of the application and certification, along with all necessary data and information, should also be sent to the CRMO. The Federal agency shall not issue the license or permit unless CRMO concurs in the consistency certification or its concurrence is presumed because CRMO has failed to respond in six (6) months. The applicant's consistency certification statement, which will then be reviewed along with the application by the CRMO, must be accompanied by sufficient information to support the applicant's consistency determination.
- (iv). The Federal agency licenses and permits that the CRM Office will review for consistency with the CRMP are those listed in Attachment A, incorporated and made a part hereof. If, in the future, it is found that the issuance of the types of Federal permits and licenses cause direct and significant impact on coastal land and water resources, the said listing will be expanded as necessary.

CRMO shall be responsible for providing the above list to the relevant Federal agencies who in turn shall make the information available to applicants.

- (v). If any project which requires a Federal license or permit also requires a coastal permit, applications for both should be filed simultaneously. A certification of consistency with the CRM Program shall be filed with both applications. The issuance or denial of a CRM Permit will indicate consistency or the lack of consistency with the CRM Program and the CRMO shall notify the Federal agency of the CRM permitting decision for its use in its federal permitting decision. A Federal agency shall not issue a federal license or permit if CRMO objects to the applicant's certification statement, unless the Secretary of Commerce decides, pursuant to Section 307(c)(3)(A) or (B) of the CZMA, and 15 CFR 930, Subpart H, that the activity is consistent with the objectives or purposes of the CZMA, or is necessary in the interest of national security.
- (vii). A certification of consistency shall include the following clause:

"The proposed activity complies with the CNMI CRM Program and will be conducted in a manner consistent with such program."

Supporting information must be attached to the certification. This information will include a detailed description of the proposal, a brief assessment of the probable coastal zone effects and a brief set of findings indicating that the proposed activity, its associated facilities and their effects, are all consistent with the provisions of the CRM Program, including the application standards listed in Section 19(B) above.

- (viii). Interested parties may assist the applicant in providing information to the CRMO. In addition, the CRMO will, upon the request of the applicant, provide assistance to the applicant in developing the assessment and findings required.
- (ix). CRMO review begins at the time the Office receives both the applicant's consistency certification and the supporting information and determines that the information is complete. Timely public notice of the proposed activity will be made by CRMO. The public notice will include a summary of the proposal, an announcement that information submitted by the applicant is available for public inspection and a statement that public comments are invited.
- (x). At the earliest practicable time and within six (6) months after the date of receipt, the CRMO will notify the issuing Federal agency of its concurrence or objection. If CRMO has not issued a decision within three (3) months after the date of receipt, it must notify the applicant and the Federal agency of the status of the matter and the basis for futher delay, if any.

In the event that CRMO objects to the applicant's consistency determination, the Office must set out its objection, in writing, with reasons and supporting information and alternative measures, if they exist, which, if adopted, would permit the activity to be conducted in a manner consistent with the CRM Program. A CRMO objection will include a statement informing the applicant of a right to appeal to the Secretary of Commerce as provided in Section 307 of the Federal Coastal Zone Management Act, as amended.

E. Federal Assistance.

- (i). "Federal assistance" means assistance provided under a Federal grant program to an applicant agency through grant or contractual agreements, loans, subsidies, guarantees, insurance or other forms of financial aid for activities which affect the coastal zone.
- (ii). An applicant refers to any unit of the CNMI Government, which, following CRM Program consistency concurrence, submits an application for Federal assistance.
- (iii). The CRMO shall be notified of any application submitted to the Planning and Budget Affairs Office for any federal assistance program listed in the Catalog of Federal Domestic Assistance in addition to applications to the Office of Ocean and Coastal Resource Zone Management for Coastal Energy Impact Program grants through the CNMI Clearinghouse process which provides for the evaluation, review and coordination of Federally assisted programs pursuant to Presidential Executive Order 12372 and CNMI Public Law 3-68.
- (iv). Application for federal assistance for activities affecting the coastal zone must go through the clearinghouse notification and review process to ensure that the CRMO has an opportunity to review the proposed action for consistency with the CRMP. Such applications must include a certification of consistency which meets the information requirements set out in these Regulations.
- (v). If a coastal permit is required for a project utilizing federal assistance, then the coastal permit and the federal assistance applications shall be filed simultaneously.
- (vi). In the event that CRMO finds that the proposed federal assistance is not consistent with the CRMP, the application shall not be approved unless the CRMO's objection is resolved through information discussions among the Federal Program agencies, the applicant and the CRMO or the objection is set aside on appeal to the Secretary of Commerce pursuant to Section 307 of the Federal Coastal Zone Management Act. CRMO's objection must be set forth in writing with reasons, supporting information and alternative measures. The Planning and Budget Affairs Office must then notify the applicant agency and the Federal agency of CRMO's objection and must inform the applicant agency of its right to appeal to the Secretary of Commerce. If CRMO does not object to an application proposal during the clearinghouse process, the Federal agency may grant the federal assistance.

Section 20. REPEALER.

The Rules and Regulations promulgated pursuant to CNMI Executive Order Number 15 are hereby repealed in their entirety upon the effective date of these Rules and Regulations.

Section 21. SEVERABILITY PROVISION.

If any provision of these Rules and Regulations, or the application of any provision of these Rules and Regulations to any person or any other instrumentality or circumstances shall be held invalid by a court of competent jurisdiction, the remainder of these Rules and Regulations and the application of the affected provision to other persons, instrumentalities and circumstances, shall not be affected thereby.

Section 22. EFFECTIVE DATE.

These Rules and Regulations shall become effective upon approval of both Houses of the NMI Legislature pursuant to CNMI P.L. 3-47, $\S 8(e)$.



OFFICE OF THE ATTORNEY GENERAL

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

5TH FLOOR, NAURU BUILDING SAIPAN, CM 96950

PHONE: 6207•7111

REXFORD C. KOSACK

NOTICE OF PROPOSED REGULATIONS

The Attorney General for the Commonwealth of the Northern Mariana Islands hereby proposes regulations for the registration of aliens under the authority of Sections 24(a) and 5(b)(1) of Public Law No. 3-105.

Comments on the proposed regulations will be accepted for the next 30 days. Submit them in writing to Attorney General, CNMI, Nauru Building, Susupe, Saipan, CM 96950.

Emergency regulations identical to the proposed regulations are presently in effect. The text of the regulations follows.

Dated: February 15, 1983

REXFORD C. KOSACK Attorney General



OFFICE OF THE ATTORNEY GENERAL

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

5TH FLOOR, NAURU BUILDING SAIPAN, CM 96950

PHONE: 6207•7111

REXFORD C. KOSACK ATTORNEY GENERAL

NOTICIA POT I MA INTENSIOSIONA NA REGULASION

I Attorney General i San Katan na Islas Marianas ha entensiosiona na u na guaha yi regulasion pot rehistrasion i taotao hiyung komo inatoririsa nu i Sectiona 24 (a) yan 5 (b) (1) gi Lai Publiko Numero 3-105.

Yangin guaha comento, contestasion, pat inepi pot esti na regulasion debi de uma tugi papa ya uma submiti guato gi Oficinan i Attorney General (5th Floor, Nauru Building, Susupe, Saipan) gi halom trenta(30) dias ginen i mafechan este na Noticia.

Este na regulasion parehu ha yan i presenti na emergency na regulasion. I tataotao pat sustansian este na regulasion tinatiti yi nu este na Noticia.

Dated: February 15, 19

Attorney General

IMMIGRATION REGISTRATION

<u>Section 101. Purpose.</u> These regulations shall provide for a system of annual registration as required by Section 24 of Public Law No. 3-105.

Section 102. Definitions. The words and phrases used in these regulations have the meanings ascribed to them in Section 3 of Public Law No. 3-105.

Section 103. Registration.

- a. Every alien who remains in the Commonwealth longer than ninety (90) days shall register with the Office of Immigration and Naturalization.
- b. Every alien who is present in the Commonwealth on the first day of a calendar year shall register with forty-five (45) days with the Office of Immigration and Naturalization. This is a continuing obligation which must be renewed annually.
- c. Parents and legal guardians are responsible for the registration of aliens under the age of 18.

Section 104. Registered Alien Card.

- a. Aliens who file the required documents, pay the required fee, and who are legally present in the Commonwealth shall receive a Registered Alien Card.
- b. The Registered Alien Card shall have the alien's photograph on one side and the signature of the Immigration and Naturalization Officer or a Registrar on the other side. The card shall also include a physical description, the name and address of the alien's employer, the expiration dates of the entry permit, passport, and labor certificate, as well as the alien's local address. The front of the card shall have the seal of the Commonwealth of the Northern Mariana Islands printed in the background.
- c. Any alien 18 years old or older shall keep his or her Registered Alien Card in their personal possession.
- Section 105. Registration Fee. 'No Registered Alien Card shall issue until the alien has paid a ten dollar (\$10.00) application processing fee to the Treasurer of the Commonwealth of the Northern Mariana Islands. Any alien issued a card without payment of the fee shall not be deemed to have registered as required by law.

Section 106. Application.

a. The alien must complete an Alien Registration Application and sign it under penalty of perjury before a Registrar.

b. Any alien who is a nonresident worker must submit a completed Affidavit of Employer of Nonresident Worker. The affidavit must be signed under penalty of perjury.

Section 107. Examination.

- a. Upon registration the alien must appear before a registrar in the Office of Immigration and Naturalization.
- b. The registrar shall require the alien to take an oath under penalty of perjury that the information submitted is true and correct and witness the alien's signature to that effect upon the Alien Registration Application. In addition, the alien must answer under oath questions relevant to the application and the alien's immigration status.

Section 108. Not Evidence of Legal Status.

- a. The purpose of the Alien Registration Card is to provide the alien with acceptable identification.
- b. The purpose of the application is to provide the government of the Commonwealth of the Northern Mariana Islands with background information on each alien, statistical data for the purpose of analyzing immigration in the Commonwealth, and a means of a detecting overstays among aliens.
- c. The issuance of a Registered Alien Card is not an adjudicatory act determining the legality of an alien's status. It is evidence only of the receipt of information for the above purposes.
- Section 109. Immigration Processing. The Immigration and Naturalization Officer shall cause the information received to be recorded on computer. In addition, a current file system shall be established with a file for each alien containing, at the minimum, the application forms and a photograph of the alien.
- Section 110. Effective Date. These regulations shall apply to registration during 1985. However, those aliens who have registered prior to the notice of these regulations shall be deemed to have validly registered if they have submitted the required documents, the Commonwealth Treasurer retains their application fee and they have been issued an Alien Registration Card.

Office of Registrar of Corporations

Commonwealth of the Northern Mariana Islands for official use Office of the Governor

Saipan. Mariana Islands 96950

CABLE ADDRESS GOV. NMI SAIPAN REPLY TO:

DEPT. or ACTIVITY

FEBRUARY 12, 1985

PUBLIC NOTICE

PROPOSED AMENDMENT NO. 50285 REVENUE AND TAXATION REGULATIONS NO. 8301

The Director of Finance, in accordance with \$1701 and \$1818, 4 CMC, and 1 CMC \$2557 is proposing to promulgate amendment to the rules and regulations identified as Revenue and Taxation Act of 1982.

The proposed regulations will change Part IV of Revenue and Taxation Regulations No. 8301 to read Part V. and will provide for a new Part IV. The proposed amendment promulgated for the implementation of the Northern Marianas Territorial Income Tax (NMTIT).

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. Co 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, no later than March 8, 1985.

Certified by:

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:

DEPT. or ACTIVITY

Febrero 12, 1985

NOTISIAN PUBLIKA

MA INTENSIONA NA AMENDASION NO. 50285 (10285) AREGLAMENTO NUMERO 8301 PARA I REVENUE YAN TAXATION

I Direktot i Finansiat, segun i 4 CMC §\$1701 yan 1818, yan i 1 CMC \$2557, ha introdudusi para una efektibo amendasion gi areglamento yan regulasion, ya para uma rekoginisa komo amendasion No. 50285 gi Revenue yan Taxation Regulasion No. 8301 gi 1982 na akton i Revenue yan Taxation.

I ma intensiona regulasion u tinilaika i Patte IV ya uhuyung komo Patte V gi Revenue ya Taxation Regulasion No. 8301, yan uprinibeniy' nuebo na Patte IV. I ma intensiona na amendasion ma proklama para i implementasion i Northern Marianas Territorial Income Tax (o sino NMITIT).

I ma intensiona na amendasion sina ma rikonosi gi ofisina i Division i Revenue yan Taxation gi Capitol Hill, Commonwealth i Northern Mariana Islands, Saipan, CM 96950. Este na amendasion ma publika gi Commonwealth Register. Sina manuli hao kopian esta na publikasion gi ofisina i Abogadon Govietno.

I ofisina i Direktot i Financiat ma ma-maisen idea, fakto yan nota ginen i publiku, kao mauleg pat ma kokontra esta na introdusen amendasion gi Regulasion numero 8301.

Todo man interesao na individuat ni para ufan na halom opinion ni fumabot, osino ma kokontra este na amendasion gi Revenue yan Taxation Regulasion numero 8301, man ma-fafaisen na u ma satmite i matugi na opinion niha guato gi ofisinan i Direktot i Finansiat, Commonwelath i Northern Mariana Islands, Saipan, CM 96950, gi halom 30 dias deste i fecha anai ma publika este na notisia gi Commonwealth Register.

VOL. 7 NO. 2

Sinettifika As:

Tomas B. Aldan

Direktot i Financiat

Section 4.1701. General Provisions.

- (A) Public Law 4-24 repeals Chapter 7, Division 1 of Title 4, and the regulations thereunder, of the Commonwealth Code which taxes income derived from sources without the Commonwealth under the Internal Revenue Code (IRC), and re-enacts Chapter 7 to implement the IRC as defined on §4.1702.1 of this regulation on all income from sources within and without the Commonwealth. The IRC is known as the Northern Marianas Territorial "NMTIT." Income Tax or This regulation is promulgated for the implementation of the NMTIT.
- (B) The Governor as the Secretary of the Treasury, delegates his authority and designates the Director of Finance (DOF) as the Commissioner of the NMTIT. The Commissioner (DOF) in accordance with 4 CMC \$1818 and by virtue of this subsection, has the broad power and authority to promulgate needful and necessary rules and regulations for the proper administration of all tax laws.
- Section 4.1702.1. The NMTIT (IRC) and the regulations thereunder are adopted and defined to include the following subtitles and chapters:

(A) Subtitle A. Income Taxes.

- (a) Chapter 1. Normal Taxes and Surtaxes, but excluding subchapter (m), Part III Subpart (D), the possession of the United States.
- (b) Chapter 3. Withholding of Tax on Nonresident Aliens and Foreign Corporations.
- (c) Chapter 4. Rules Applicable to Recovery of Excessive Profits on Government Contracts.
- (d) Chapter 5. Tax on Transfers to Avoid Income Taxes.
 - (e) Chapter 6. Consolidated Returns.

(B) Subtitle C. Employment Taxes.

- (a) Chapter 24. Collection of Income Tax at Source on Wages.
- (b) Chapter 25. General Provisions Relating to Employment Taxes.

- (C) Subtitle F. <u>Procedure and Administration</u>, except as provided for in this regulation.
- (a) Chapter 61. Information and Returns. (See §4.1818.7, Forms and Returns).
- (b) Chapter 62. Time and Place for Paying Tax, except as provided for on §§4.1709.1(C) and 4.1818.1 of this regulation.
 - (c) Chapter 63. Assessment.
 - (d) Chapter 64. Collection.
 - (e) Chapter 65. Abatements, Credits, and Refunds.
 - (f) Chapter 66. Limitations.
 - (g) Chapter 67. Interest.
- (h) Chapter 68. Additions to the Tax, Additional Amounts, and Assessable Penalties.
 - (i) Chapter 70. Jeopardy, Receiverships, etc.
 - (j) Chapter 71. Transfers and Fiduciaries.
 - (k) Chapter 72. Licensing and Registration.
 - (1) Chapter 73. Bonds.
- (m) Chapter 74. Closing Agreements and Compromises.
- (n) Chapter 75. Crimes, Other Offenses, and Forfeitures.
 - (o) Chapter 76. Judicial Proceedings.
 - (p) Chapter 77. Miscellaneous Provisions.
- (q) Chapter 78. Discovery of Liability and Enforcement of Title.
 - (r) Chapter 79. Definitions.
 - (s) Chapter 80. General Rules.

Section 4.1702.2. The NMTIT Future Amendments:

(A) All future amendments to the IRC taking effect after January 1, 1985, are adopted and incorporated therein until rejected or repealed by Commonwealth law. The future

amendments shall be those affecting subtitles and chapters listed under §4.1702.1. Any amendments not affecting this list shall not have any effect on the NMTIT.

- (B) All present and future United States (U.S.)
 - (i) Court Cases, Tax Court Cases,
 - (ii) Revenue Rulings,
 - (iii) Revenue Procedures,
 - (iv) Treasury Decisions,
 - (v) Revenue Regulations

are adopted to the extent consistent with this chapter, and are applicable in the Commonwealth. The Commissioner (DOF) is authorized to make determinations as to the applicability of any of the above listings (§§4.1702.2(B)(i) to (v)).

Section 4.1703.1. Nonretroactivity.

- (A) The NMTIT shall in all cases be interpreted as subjecting to taxation only that income earned and accrued on or after January 1, 1985, except for:
- (a) Taxpayers having to continue filing paying tax under the provisions of the repealed 4 CMC Chapter 7 on income deriving from sources without the Commonwealth.
- (b) Taxpayers arriving in the Commonwealth during calendar year 1985 from Guam and the United States.
 - (c) Subsection (C) of this section, and
- (d) Items of income, such as interest, when it is not constructively received, or not available at the taxpayer's Such item of income when received which overlaps discretion. in time from 1984 to 1985, the year received, it shall be income the year received; and consequently a treated business deduction for the same amount the year paid.
- (B) The taxpayer's method of accounting, cash or accrual, in use prior to January 1, 1985, will generally continue or for purposes of NMTIT may elect to have the calendar year as the taxable year. Where a taxpayer is on a fiscal year, other than a calendar year, earnings accruing on and after January 1, 1985 to the fiscal year end, may file for a short year and pay taxes base on the short year income.

[Example 1. Taxpayer B at December 31, 1984, has \$5,000.00 of accounts receivable. On January 15, 1985, B receives the full amount plus interest. B should have included in his 1984 tax return the \$5,000.00 as income subject to 4 CMC Chapter 3 only. This principle also applies to individuals. The interest received is treated as 1985 income and deduction.

[Example 2. Fiscal Year. Taxpayer C is on a fiscal year, July 1 to June 30. The gross income from July 1, 1984 to June 30, 1985 is \$100,000.00 of which \$50,000.00 is earned from July 1, 1984 to December 31, 1984; the other half is earned from January 1, 1985 to June 30, sold is \$35,000.00 The cost of goods \$10,000.00 of "ordinary and necessary" business deductions of which \$5,000.00 is incurred in 1985. C would report and pay tax on the first \$50,000.00 base on 4 CMC Chapter 3 on January 1985; the second half is taxed base on the following illustration:

Gross Income	\$50 , 000
Less: Cost of Goods Sold	<35,000>
Gross Margin	15,000
Less: Business Deductions	<5,000>
Net Income	\$10,000

C would report the \$10,000.00 on his 1985 income tax return if:

	<u>Individual</u>	Corporation
on Forms	1040CM	1120 or 1120S
and pay estimated tax quarterly on Form	500	500

which are due on the dates provided on §4.1709.1(C)(b).

- (C) Special Rule on Employees' Benefits.
- Under normal circumstances (a) Paid Time-off. benefits or compensation for:
 - (1) Vacation pay,
 - (2) Annual Leave,
 - (3) Sick Pay,
 - (4) Sick Leave, and
 - (5) all other paid time-off,

are provided on the basis of prior (years) services but may be for future (years) services, and normally, such benefits are earned through rendition of personal services, and in most cases, if not all, it is not an item of income until such time that the benefit(s) is taken or used. All benefits accrued up to December 31, 1984, and taken or used after December 31, 1984, shall be subject to \$4.1709.1(A) of this regulation. However, if the employment is terminated on December 31, 1984, and all benefits are cashed in for monetary value, the benefits accrued do not apply, but are subject to 4 CMC Chapter 2.

Section 4.1703.2. Fresh Start Assets.

(A) Fresh start assets means all existing properties in use for the production of income on December 31, 1984 are treated as if acquired on January 1, 1985, and put into service for the production of income on the same day. Such property start anew for purposes of NMTIT, the depreciation, amortization, and for similar purposes, the fair market value or its basis, whichever is greater.

Section 4.1703.3. Qualified Fresh Start Assets. Qualified fresh start assets means:

- (A) All real property located in the Commonwealth.
- (B) All personal property, owned, directly or indirectly, immediately prior to and on January 1, 1985,
- (a) by taxpayers, (other than corporations) a U.S. or Commonwealth citizen, or a bona fide resident of the Commonwealth, or incorporated in or under the laws of the Commonwealth, immediately prior to and on January 1, 1985,
- (b) the sale of which, by such taxpayer, on December 31, 1984, would have been subject to 4 CMC Chapter 7 income taxation by the Commonwealth.

Section 4.1703.4. Personal Property.

- (A) Personal property means all properties tangible intangible that are not real properties or items of real property, owned by a
 - (a) Commonwealth Citizen, or a resident, or
 - (b) United States Citizen, or a resident.
- (B) Personal properties include but are not limited to:

- (a) Installment sales contracts,
- (b) Bank loans, other loans,
- (c) Pension and annuity contracts or plans (see 4.1704.1(D)),
- (d) Interests in employees' benefit plans (see §4.1703.1(C)),
- (e) Inventory items, goods and commodities for sale.

Section 4.1703.5. Fair Market Value (FMV).

- (A) Fair market value concept for purposes of qualified fresh start assets is extended to include:
 - (a) Independent Appraisal,
- (1) performed by a licensed or registered appraiser in the Commonwealth, and
- (2) the appraisal is performed six (6) months prior to or six (6) months after January 1, 1985.
- (b) Discounting the sales price back to January 1, 1985, using the prevailing NMTIT interest rate per annum, in accordance with NMTIT §6621.

[Example: Taxpayer E sold his land on June 30, 1985, for \$200,000.00, when the NMTIT interest rate is 11.25%. The fair market value discounting the sales price back to January 1, 1985 is \$189,110.10.]

(c) A pro rata allocation of the difference between the adjusted cost basis and the sales price with respect to the periods it was held, before and after January 1, 1985.

[Example. Taxpayer F sold his depreciable property on December 31, 1985, for \$6,000.00. This property was obtained for \$8,000.00 and put to service, producing income, on June 1, 1983. The life span is four years without any residual value. The fair market value or the modified adjusted basis is \$6,800.00 on January 1, 1985,

1983 1984 1985 1986 PRICE]

\$8,000

<\$1,000> 7,000

> <\$2,000> 5,000

> > <\$2,000> 3,000

> > > \$6,000

Selling price \$6,000.00 Adjusted basis <3,000.00> Difference 3,000.00 Divide by total months in service 30 Allocable share per month 100.00 Multiply by total months before January 1, 1985 x 18 Allocable share before January 1, 1985 1,800.00 Add: Adjusted basis 3,000.00 Fair market value on January 1, 1985 \$4,800.00]

(d) A replacement cost may be used for:

- (1) Inventory items, goods and commodities for sale;
- (2) Depreciable assets including removable items of building but not structural components of the building.
- (e) The book value of the asset on December 31, 1984.
- (B) Assets acquired on or after January 1, 1985 shall be treated in accordance with NMTIT for whatever purpose.

Section 4.1703.6. Reconstruction of Income.

(A) When the Tax Commissioner (DOF) endeavors to reconstruct the income of a taxpayer, the Commissioner (DOF)

shall establish the information such as assets acquired or expenses incurred during the taxable year in question which constitute the initial burden of the government. The taxpayer has the ultimate burden to prove otherwise, by presenting evidence(s) of income and evidence substantiating the expense(s) which may be contrary to the Commissioner's findings.

Section 4.1704.1. Deductions and Credits

- (A) No deductions, nor credits, incurred prior to January 1, 1985, as a result of income and expense on sources within the Commonwealth, shall be allowed against income earned or accrued on or after January 1, 1985, except for;
- (a) taxpayers having to continue filing and paying tax through 1985, under the repealed 4 CMC Chapter 7 on income deriving from sources without the Commonwealth,
- (b) taxpayers arriving into the Commonwealth during 1985 and thereafter, from Guam and the United States, and
- (c) the principle of \$4.1703.1(A)(d) on interest, as deduction the year paid.
- (B) Taxpayers having deductions incurred, cash or accrual, prior to January 1, 1985, against income earned or accrued on or after January 1, 1985, not within the provisions of S(A)(a), (b) and (c) of this section shall be determined and allowed on the basis of the facts and circumstances not contrary to the provisions of 4 CMC 1704.
- (C) Special Rule on Retirees. In the ordinary set up, a retiree is allowed to exclude from his gross income his total contribution to his retirement plan and because of the fresh start concept retirees are allowed to exclude from his gross income the total contribution made to the plan as if retirement commences on taxable year 1985.

Section 4.1704.2. Change of Rates.

- (A) The effect of 4 CMC \$1704(b)(2) shall not bind taxpayers who are;
- (a) continuing filing and paying tax through 1985 under the repealed 4 CMC Chapter 7 on income deriving from sources without the Commonwealth, or
- (b) arriving into the Commonwealth during 1985 from Guam and the United States.

Section 4.1704.3 Clarifying Provision.

(A) Taxpayer whose home office, or parent company is located outside of the Commonwealth and has been reporting worldwide losses in the home office's, or parent company's tax jurisdiction, United States tax jurisdiction including Guam, shall not for whatever purposes carry forward such reported losses beginning January 1, 1985. Any losses incurred in the Commonwealth prior to January 1, 1985, which has remaining losses carry forward unreported by the home office or parent company shall not carry forward such losses against income earned or accrued on and after January 1, 1985.

Taxpayer G is a subchapter S Corporation whose home office or parent company is located in Guam. G has been in business in the Commonwealth since 1980, and since then has been reporting net operating losses in the Commonwealth, and since then has been writing off such losses in the tax jurisdiction of Guam. On December 1984, G's parent company has a balance of \$100,000.00 carry forward losses for the years beginning 1985 of which \$25,000.00 is attributed to the Commonwealth net operating losses. G cannot take the \$25,000.00 net operating losses earned or accrued in the income against Commonwealth on or after January 1, 1985, nor any losses which have been written off in Guam.]

Section 4.1705.1. Accelerated Cost Recovery System (ACRS).

- (A) The ACRS is mandatory for all qualified fresh start assets whose fair market value is obtained in accordance with:
 - (a) Section 4.1703.5(A)(a), Independent Appraisal;
 - (b) Section 4.1703.(A)(d), Replacement Cost.
- (B) Taxpayers who elect to continue on depreciation method in use immediately prior to January 1, 1985, may do so, but subject to the fair market value of \$4.1703.5(A)(e), book value.
- (C) For purposes of determining allowances amortization and for similar purposes, the fair market value obtained pursuant to §§4.1703.5(A)(a) and (d), must allocate the FMV proportionately, to the remaining:
 - (a) life of the assets, cost, or expenditure;
- (b) life of the uncompleted contract, taking into consideration the available options, exercisable by the taxpayer, (lessee, obligee, contractee).

- Section 4.1705.2. MMTIT \$38\$ Credit and NMTIT \$179\$ Deduction.
- (A) There shall be no credit allowed under \$38(b)(1) for all qualified fresh start assets, used property existing immediately prior to January 1, 1985.
- (B) There shall be no deductions allowed under NMTIT \$179 (26 IRC \$179) for all qualified fresh start assets, used property existing immediately prior to January 1, 1985.

Section 4.1706.1. Disincentives to Off-island Investments.

- (A) Taxpayers who have investments or wish to invest in whatever business venture or undertaking outside of the Commonwealth are taxed accordingly under 4 CMC Chapter 3. The tax is imposed, subject to the limitations, upon the allowable deductions on the following NMTIT sections (IRC sections):
- (a) Section 169, Amortization of Pollution Control Facilities;
 - (b) Section 179, Election to Expense Depreciables;
- (c) Section 181, Farmers' Fertilizer Expenditures; (Clarifying Provision. Public law 4-24 inadvertently cites "\$181 Farmers' Fertilizer Expenditure." The appropriate citation or section is "\$180, Farmers' Fertilizer Expenditure." The deduction therefore is \$180.)
 - (d) Section 182, Farmers' Clearing Expenditures;
- (e) Section 184, Amortization of Railroad Rolling Stock;
- (f) Section 185, Amortization of Railroad Grading
 and Tunnel Bores;
- (g) Section 188, Child Care Facilities Amortization;
- (h) Section 189, Amortization of Real Property Construction Period Interest and Taxes;
- (i) Section 190, Expensing of Removing of Barriers to Handicapped and Elderly;
 - (j) Section 193, Tertiary Injectants;
 - (k) Section 194, Reforestation Expenditures;
 - (1) Section 195, Start-up Expenditures;

- $\,$ (m) Section 243, Dividends $\,$ Received from Domestic Corporations;
- (n) Section 244, Dividends Received on Public Utility Preferred Stock;
- (o) Section 245, Dividends from Foreign Corporations;
 - (p) Section 248, Organizational Expenditures;
- (q) Section 263(c), Expensing of Intangible Drilling Costs, to the extent in excess of Depreciation and Amortization;
- (r) Sections 613 and 613(A), Percentage Depletion, to the extent in excess of cost depletion;
- (s) Section 616(a), Expenses of Mining Development Costs, to the extent in excess of the amount deductible under \$616(b) as deferred expense;
- (t) Section 617, Mining Exploration Costs, to the extent in excess of the amount allowable as a deduction had the cost been capitalized and deducted ratably over 10 years; and
- (u) Section 631, Special Rules for Timber, Coal and Iron Ore.

Taxpayers affected by this section shall add the deductions listed above to the Quarterly Business Gross Revenue Tax Return under 4 CMC Chapter 3 and the provisions of 4 CMC §1805. The deductions are still available under the NMTIT.

- (B) Taxpayers who wish to invest in whatever business venture, or undertaking, which will qualify for the following credits:
 - (a) Section 21, Household and Dependent Care;
 - (b) Section 38, Investment Tax Credit;
- (c) Section 39, Gas and Special Fuels; (Clarifying Provision. The 1983 IRC edition by Prentice Hall is used as the basis in all IRC citations under PL 4-24; however, when using the 1984 IRC edition, the changes in section numbers are incorporated herein and may be cited as the current citation. This principle applies to similar changes under the NMTIT and the citation under PL 4-24.)
 - (d) Section 40, Work Incentive Programs;

- (e) Section 44C, Residential Energy Credit, but terminates on December 31, 1985;
 - (f) Section 44D, Nonconventional Source Fuel;
 - (g) Section 44E, Alcohol Used as Fuel;
 - (h) Section 44F, Increasing Research Activities;
- (i) Section 44G, Employee Stocks Ownership Plan; and
- (j) Section 44H, Clinical Testing, Rare Disease Drugs;
- will be taxed, subject to the limitation, the full amount of the credit allowed.
- (C) Limitations. The tax on (A) and (B) on this section may be waived if the taxpayer;
- (a) can prove that the off-island investments are originally acquired or made from trade or business assets derived from trade or business activities within Commonwealth,
- (b) can prove that the off-island investment is substantially benefiting business activities, or investment, for the productions of income in the Commonwealth, or
- (c) is not reporting business losses from investment outside the Commonwealth as a result of taking all and allowable deductions and credits listed on §§(A) and (B) of this section respectively.

Section 4.1707.1. Floor Exclusion.

- (A) The floor exclusion from gross income is the lesser of;
- (a) individual taxpayers' gross income from sources within the Commonwealth, or
- (b) the amount of \$8,000.00 or \$16,000.00 in the case of a married couple filing a joint return. The \$16,000.00 may be in the combination such that one spouse is making \$10,000.00 and the other is making \$5,000.00, so long as combined income will not exceed the \$16,000.00. A married couple filing a separate return will each qualify to take the lessor of §(A)(a) or (b) of this section.
- (B) Individuals may file Form W-4 prior commencement of work or January 1, 1985, for existing

employment, to be able to qualify for the floor exclusion, or the exemption from withholding tax and income tax under NMTIT.

- (C) The floor exclusion terminates on the earlier of;
 - (a) December 31, 1985, or
- (b) when a taxpayer exceeds the floor exclusion of \$8,000.00 for individuals or \$16,000.00 in a case of a married couple filing a joint return on their 1985 taxable year gross income. When such is the case, the full amount is subject to tax.

Section 4.1708.1. Tax Relief.

- (A) Every person subject to the NMTIT is allowed a 95% rebate with respect to taxes paid on income deriving from within the Commonwealth in excess of \$4.1709.1(A) The rebate is obtained by filing a form to be Credit. prescribed by the Commissioner (DOF), which will be filed at the end of the taxable year, but not later than April 15. In any cases, and in no circumstances whatsoever, will the 95% rebate be advanced or taken in advance during the taxable year. The rebate procedure is illustrated on §4.1709.1.(A).
- (B) In the event of any shortfall of the rebate requirement, the Chief of Revenue and Taxation shall immediately report in writing the conditions of the shortfall Commissioner (DOF). The Commissioner (DOF) upon approval, shall cause to have the proper amount of shortfall be paid from the General Fund.
- (C) In the event of any potential surplus from the special Rebate Trust Account, the Chief of Revenue and Taxation shall immediately report to the Commissioner (DOF) for disposition.
- (D) The rebate, upon review and approval for payment, may be made within forty-five (45) days after the due date.
- (a) Rebate request filed on time, on the due date of the return, and subject to audit, will not be rebated until the return is cleared from audit at such time the rebate will be processed for payment.

Section 4.1709.1. Relief from Double Taxation.

(A) The non-refundable credit when applicable under this section relieves the taxpayer from paying two income taxes on the same income. The taxpayer shall not deduct the credit as business deduction when determining tax liability under The taxpayer is supposed to pay the greater, or NMTIT. whichever is higher of;

- (a) (i) 4 CMC Chapter 2 or 3,
 - (ii) 4 CMC \$2202(f),
 - (iii) Public Law 4-14, whichever is applicable;

or

(b) 4 CMC Chapter 7 (NMTIT).

Paying the higher of (a), whichever is applicable, or (b) above satisfies the other which is equivalent to taking the non-refundable credit under this section.

[Example 1. Taxpayer H is expected to have gross income of \$20,000 with a total of 4 personal exemptions or allowances, filing a joint return and is on a biweekly payroll schedule. H will be making about \$769.23 biweekly (\$20,000/26 pay periods). H's comparative withholding tax is:

	Chapter 2	Chapter 7	
	(Wages & Salaries)	(NMTIT)	
Biweekly Income	\$769.23	\$769.23	
Withholding Tax	38.46	71.00	

H's withholding tax on a biweekly basis is \$71.00. employer would have to deduct the \$71.00 from H's payroll check. At the close of the taxable year, H prepares his 1040CM and determines the following:

	Chapter 2	Chapter 7
Gross Income	\$20,000.00	\$20,000.00
Less: Personal		
Exemptions		<4,000.00>
Taxable Income	\$20,000.00	\$16,000.00
Calculated Tax	\$1,000.00	\$1,746.00
Tax Actually Paid (W-2	?)	1,846.00
Less: Refund		<100.00>
Balance After Refund		1,746.00
Less: Non-refundable	Credit	<1,000.00>
Amount Subject to Reba	ite	\$746.00
Less: 5% (\$746x5%)		<37.30>
Amount of Rebate		\$708.70]
		* · · · · · · · · · · · · · · · · · · ·

[Example 2. The same with example 1 (Taxpayer J) but with a total of 14 allowances or personal exemptions:

	Chapter 2	Chapter 7
Biweekly	\$769.23	\$769.23
Withholding Tax	38.46	11.31

J's withholding tax on a biweekly basis is \$38.46 which is the tax under Chapter 2 and not under Chapter 7 (NMTIT) because the tax is greater under Chapter 2. Therefore, the non-refundable credit does not apply:

	Chapter 2	Chapter 7
Gross Income	\$20,000.00	\$20,000.00
Less: Personal		
Exemptions	-0-	14,000.00
Taxable Income	\$20,000.00	\$6,000.00
Calculated Tax	\$1,000.00	\$294.00
Tax Actually Paid (W-2)	1,000.00	

The credit does not apply because Chapter 2 is satisfied or the excess credit under NMTIT is cancelled out.

[Example 3. Taxpayer K is expected to make \$6,000.00 for the year as his gross income so he files "exempt" with his Form W-4. He is married with a dependent, will be filing a joint return, the spouse does not work. biweekly tax is:

	Chapter 2	Chapter 7
Biweekly Income	\$615.38	\$615.38
Withholding Tax	30.77	-0-

On July 1, 1985, K's expected income is increased by \$3,200.00 per annum during the year. K should immediately file a Form W-4 claiming the maximum allowances for which he is entitled. The employer should immediately determine the higher of the two withholding taxes:

	Chapter 2	Chapter 7
Biweekly Income	\$738.47	\$738.47
Withholding Tax	36.92	71.00

As K prepares his joint return, the following will be applicable:

	Chapter 2	Chapter 7
Gross Income: 1st Half (16,000/2) 2nd Half (19,200/2) Gross Income	\$8,000.00 9,600.00 \$17,600.00	\$8,000.00 9,600.00 \$17,600.00
Less: Personal Exemptio Taxable Income Calculated Tax	n -0- \$17,600.00 880.00	< 3,000.00> \$14,600.00 1,521.00

Income Tax Liability:

Chapter 2 Paid \$440.00

Chapter 7 Paid 923.00 \$1,363.00 Total Tax Paid

Income Tax Liability <\$1,521.00> <\$158.00> Deficiency

Less: Non-refundable Credit	<\$880.00>
Amount Subject to Rebate	\$641.00
Less: 5% (\$641x5%)	<32.05>
Balance	\$608.95
Less: Tax Deficiency	<158.00>
Amount of Rebate	\$450.95

Example number 3, with regards to the \$158.00 deficiency and the rebate procedure, terminates on 1985, or calendar year 1985; otherwise December 31. taxpayer K would have to pay estimated tax appropriate quarter unless the deficiency is less than 20% of the total tax liability. The rebate procedure on example 3 is allowed because of the floor exclusion. floor exclusion terminates on December 31, 1985).]

- (B) In all cases, no non-refundable credit under this section shall be allowed for taxes paid or accrued under 4 CMC Chapters 2 and 3, 4 CMC \$2202(f), and Public Law 4-14, prior to January 1, 1985.
- (C) Fiscal year taxpayers may elect to be calendar year taxpayers for purposes of NMTIT to coincide with the taxes imposed under 4 CMC Chapters 2 and 3 in comparing and for the purpose of paying the greater of the two. However, if the taxpayer elects to continue with the fiscal year accounting, the taxpayer shall determine the tax liability.
- (a) by comparing §(A)(a) whichever is applicable or §(b) of this section and paying the greater of the two on a quarterly basis on the due dates provided under \$(b) below.
- (b) Not withstanding the provisions of NMTIT §§6154 and 6153, the following is a change of due dates for payments of estimated tax:

	<u>Individuals</u>	Other Than Individuals
First Quarter	April 30	April 30
Second Quarter	July 31	July 31
Third Quarter	October 31	October 31
Fourth Quarter	January 31	January 31

Section 4.1710.1. Tax on Overpayments.

- (A) Except for;
 - (i) withholding tax,
 - (ii) estimated tax, and
 - (iii) all other taxes at source

actually paid, for other overpayment arising from any excessive credits as a result of all available and allowable credits taken under the NMTIT (IRC), a separate, additional tax for such taxable year equal to the amount of such overpayment shall be imposed. These credits may be taken to the extent "washes" out the tax liability. Such amount of tax overpayment terminates on the year incurred and not to be carried back nor forward. These credits include but are not limited to;

- (a) Section 22, Credit for the Elderly,
- (b) Section 901, Foreign Tax Credit,
- (c) Section 38(b)(1), Investment Credit, (§46(a)),
- (d) Section 41, Partial Credit for Political Contributions, (§24),
- (e) Section 44A, Credit for Child and Dependent Care Expenses; (§21),
 - (f) Section 38(b)(2), Jobs Credit; (\$52(a)),
 - (g) Section 44C, Residential Energy Credit; (§23),
 - (h) Section 43, Earned Income Credits; (§32),
- (i) Section 40, Credit for Federal Tax on Special Fuels and Oils,
- (j) Section 852(b)B(4), Regulated Investment Company Credit, and
- (k) all other credits which reduce tax liabilities dollar for dollar, except for \$\$(A)(i), (ii), and (iii) of this section.

Section 4.1711.1. Foreign Sales Corporation.

(A) Foreign sales corporations are exempt from taxation on foreign trade income. The NMTIT will control on the taxability of the income of foreign sales corporations.

(A) Payment Deposit Form 500 shall be used for 4 CMC Chapter 2 (wages and salaries tax), and 4 CMC Chapter 7 (NMTIT). For combined withholding taxes under \$3,000.00, a monthly deposit shall be made on the 15th day after the first (1st) and second (2nd) month of each quarter. The final payment for the quarter will be made on the last day of the third month. If the cumulative amount of withholding is equal to or exceeds \$3,000.00, in any given pay period, a deposit shall be made within 3 working days after the payday for which the withholding limit is met. This deposit will be made to the Division of Revenue and Taxation or its satellite office located at the Civic Center, Susupe, Tinian and Rota District Offices.

[Example 1. Taxpayer L has ten (10) employees which average in withholding taxes about \$125.00 per month. L would have to prepare a Form 500 and make a deposit of the \$125.00 on or before:

- (i) the 15th day after the first month of the quarter; and
 - (ii) the 15th day after the second month of the quarter; and
 - (iii) the last day of the month following the end of the quarter. Payment may be included with the Employer's Quarterly Withholding Tax Return with a copy of each deposit (Form 500) for the two prior months.]
 - [Example 2. Taxpayer M has 75 employees which average \$1,750.00 of withholding taxes, inclusive of Chapters 2 and 7, every pay period on a biweekly payroll period. M would have to prepare a Form 500 as follows:
 - (i) Biweekly pay period normally has two (2) paydays per month which is twice the amount \$1,750.00; the total withholding tax for the month is \$3,500.00. M would need to prepare a Form 500 and make a deposit within three (3) working days after the second payday.
 - (ii) For the month having three (3) paydays, the second payday will fall within the middle of the month at which time three (3) working days immediately after the payday, M would have to prepare and make a deposit on Form 500.]

Section 4.1818.2. Tax Treaties.

(A) The Covenant section 102 with respect to the United States treaties, tax treaties, with other foreign

countries for purpose of NMTIT is incorporated herewith and applicable in the Commonwealth. The application limited to the extent of \$4.1702.1 of this regulation.

Section 4.1818.3. Special Rules for Citizens and Other Citizens.

(A) Trust Territory Citizens.

- (a) All persons born in the Commonwealth who are citizens of the Trust Territory of the Pacific Islands on the day preceding the effective date of the Covenant, and who on that date are domiciled in the Commonwealth.
- (b) All persons who are citizens of the Territory of the Pacific Islands on the day preceding the effective date of the Covenant;
- (1) who have been domiciled continuously in the Commonwealth for at least five (5) years immediately prior to the effective date of the Covenant, and
- (2) who, unless under the age of registered to vote with the Commonwealth Board of Election in the Commonwealth prior to January 1, 1975.

(B) All Other Citizens.

- (a) All persons domiciled in the Commonwealth on the day preceding the effective date of the Covenant and have been domiciled five (5) years continuously in the Commonwealth beginning prior to January 1, 1974.
- (C) All persons qualifying under (A) and (B) of this section may be treated for tax purposes as a resident of the Commonwealth, unless a minor, under 18, if:
- (1) six months after reaching the age of 18 years, or
- (2) six months after the effective date of the Covenant,

makes a declaration under oath before any Commonwealth Court, or any court of record in the Commonwealth, to become a resident or national of the Commonwealth of the Northern Mariana Islands.

Section 4.1818.4. Resident Defined.

(A) Given the facts and circumstances, NMTIT Regs \$\$1.871-2 through 1.871-5 rules.

- (B) For purposes of filing a return to the:
 - (a) Commonwealth.
 - (b) Guam, or
 - (c) United States,

filing to the Commonwealth satisfies Guam, and the United States, or in any way applicable satisfies the other. The general rule is where you are a resident of on December 31, as provided by NMTIT 935.

Section 4.1818.5. United States Agencies and Commonwealth Agencies.

- (A) Wherever the NMTIT mentions an agency administration of the United States for whatever purpose, it shall be construed to be applicable in the Commonwealth equal to its comparable agency or administration in the Commonwealth such as;
- (a) United States Social Security Administration is the Northern Mariana Islands Social Security System,
- United States Office of Personnel Management (b) Retirement System is the Northern Mariana Island Retirement Fund, or any government retirement program, and
 - (c) other identical agencies or administrations,

the payments or benefits deriving therefrom shall be treated accordingly such as (i) social security benefits, and (ii) retirement benefits.

Section 4.1818.6. Common-law Relationship.

of the NMTIT, common-law For purposes relationship is not recognized.

Section 4.1818.7. Forms and Returns.

(A) The Commissioner (DOF) shall prescribe necessary forms and returns for the implementation of the NMTIT. The forms and returns prepared by the Internal Revenue Service may be adopted and modified to suit the application thereof.

Section 4.1818.8. Effective Date. this regulation shall be January 1, 1985. The effective date of

Governor

Director of Finance