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VOLUME 7 NUMBER 9

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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 8 dated August 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. Household Definition
- Voluntary Quit
- 3. Issuance and Accountability
- 4. Small Claims
- Claims Procedures

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.

GILBERT C. ADA Director, DCCA

COMMONWEALTH PORTS AUTHORITY



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

PUBLIC NOTICE

Adoption of Regulations

NOTICE IS HEREBY GIVEN, pursuant to the provisions of 1 CMC §§9102 and 9105, 2 CMC §2122(j), and §4 of the Regulations of the Registrar of Corporations, 5 Commonwealth Register No. 5, p. 2148, that the Commonwealth Ports Authority has adopted and hereby publishes and promulgates an amendment to its Terminal Tariff. The text of the amendment, originally published at 7 Commonwealth Register No. 8, p. 3950, is set forth hereinbelow.

The said amendment takes effect ten days after this publication in the Commonwealth Register.

The undersigned hereby certifies that he is the official who is authorized by law to approve the adoption of the Rules and Regulations of the Commonwealth Ports Authority; that the Rules and Regulations referred to in this Notice were formally adopted by the Commonwealth Ports Authority; and that the original and one copy of the said Rules and Regulations have been filed with the Registrar of Corporations.

DATED, this 94 day of September, 1985:

J.M. GUERTERO, Chairman

COMMONWEALTH REGISTER VOL. 7 NO. 9 SEPTEMBER 16, 1985 PAGE 3971



Juan N. Babauta

VICE-CHAIRMAN

Joaquin M. Aguen

• MEMBERS - SAIPAN

OMEMBERS - ROTA
Oscar Q. Quitugua
M. Lee Taltano

●STUDENT REPRESENTATIVE

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

BOARD OF EDUCATION/REGENTS

DEPARTMENT OF EDUCATION

SAIPAN, CM 96950



PUBLIC NOTICE

DOE: 9311/9827/9823 NMC: 7542/7642

CHAIRMAN

Adopted Rules and Regulations
Department of Education

Sr. Mary Louise Balzerini, MMB
Maximo L Olopal
Elizabeth D. Rechobel
The Board of Education of the Northern Mariana Islands
in accordance with Public Law 3-43 has adopted for the
Department of Education rules and regulations for the
following subject areas:

- 1. Fire Safety
- 2. Bus Maintenance
- 3. Student Transportation
- 4. Flag Ceremonies
- 5. Field Trips
- 6. Use of Facilities and Equipment by Outside Agencies
- 7. Chartering of Non-Public Schools

Copies of the rules and regulations were published on July 15, 1985 in the Commonwealth Register. During the period for public comment, recommended clarifications were received for the chartering of non-public schools policy and minor rewording without substantive changes was incorporated as a result. No other comments were received concerning the other policies and they remain as originally promulgated.

DATE: 9/10/85

Chairman, Board of Education

PUBLIC NOTICE

Notice of Adoption of Amendments to the Commonwealth Board of Nurse Examiners's Rules and Regulations.

The Chairperson of the Commonwealth Board of Nurse Examiners hereby adopts the amendments to the Rules and Regulations which were proposed in the Commonwealth Register, Volume 7 Number 8 dated August 15, 1985.

These adopted amendments pertain to:

- 1. Licensure by Endorsement
- 2. Application Procedure for Licensure by Endorsement
- 3. Application Procedure for Licensure as a Nurse Midwife
- 4. Faculty Requirement for Approved Schools of Nursing

Copies of the amended Rules and Regulations may be obtained from the Commonwealth Board of Nurse Examiners at the Office of the Director of Public Health and Environmental Services at Dr. Torres Hospital, San Vicente, Saipan.

Seri. 12, 198

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Chairperson, Commonwealth Board of Nurse Examiners

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ADOPTED REGULATIONS

Northern Marianas College

Authority

The Board of Regents, in accordance with Public Law 3-43, Section 203 (a)(b), wishes to advise the public that the following policies have been officially adopted for Northern Marianas College.

<u>Subject Matter</u>

The adopted policies include the following subjects:

- Professional Staff Running for Political Office
- 2. Retention and Promotion of Faculty

Public Comment

During the period of time designated for public comment, comments were received from NMC staff concerning the proposed policies which were incorporated as minor changes. No major substantive changes occured from the original promulgation.

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Juan N. Babaut

Chairman

Board of Regents



Office of the Public Auditor Commonwealth of the Northern Mariana Islands

P.O. Box 1399 Saipan, CM 96950

Tel: 7+126481-2

Cable Address: PubAud NMI Saipan

ADOPTED REGULATIONS FOR THE LOBBYING DISCLOSURE ACT

The Public Auditor for the Commonwealth of the Northern Mariana Islands hereby adopts regulations for the Lobbying Disclosure Act under the authority of Section 7 of Public Law 4-25 and Sections 2153(f) and 9104(a) of 1CMC. The text of the regulations are as proposed on July 22, 1985 in Vol. 7, No. 7 at page 3808 of the Commonwealth Register, with the following corrections to Section 4(d):

(d) the name and business address of each person by whom he is employed or with whom he contracts for lobbying purposes, and the terms of his contract if known;

According to law, this regulation shall take effect within (10) days of this public notice of adoption.

Rex I. Palacios

Public Auditor, CNMI

9.16.85

Date



BOARD OF EDUCATION/REGENTS

DEPARTMENT OF EDUCATION

SAIPAN, CM 96950



DOE: 9311/9827/9823 NMC: 7542/7642

PUBLIC NOTICE

CHAIRMAN Juan N. Babauta

VICE-CHAIRMAN Joaquin M. Aguon

MEMBERS - SAIPAN Sr. Mary Louise Balzarini, MMB Maximo L. Olopai Elizabeth D. Rechebel

● MEMBERS - TINIAN Esteven M. King Isaac P. Palecios

MEMBERS - ROTA Oscar Q. Quitugua M. Lee Taitano

STUDENT REPRESENTATIVE Jane M. Tudela

Proposed Rules & Regulations Department of Education

The Board of Education of the Northern Mariana Islands, in accordance with Public Law 3-43, is proposing to adopt a policy.

The proposed policy includes the following subject area:

1. Teacher Certification

Copies of the proposed regulations may be obtained from Juan N. Babauta, Chairman of the Board of Education, at CHPDA, 5th Floor, Nauru Building, Saipan, CM 96950.

The Board of Education is soliciting views, opinions, facts, and data for or against the proposed policy from the general public.

Anyone interested in commenting on the proposed policies may do so by submitting comments in writing to the Chairman of the Board of Education, P.O. Box 570, Saipan, CM 96950 within thirty (30) days from the date this notice is published in the Commonwealth Register.

DATE: 8/20/65

CHAIRMAN, BOARD OF EDUCATION



BOARD OF EDUCATION/REGENTS

DEPARTMENT OF EDUCATION

SAIPAN, CM 96950



DOE: 9311/9827/9823 NMC: 7542/7642

NUTISIA PARA I PUBLIKU

MEMBERS - SAIPAN Sr. Mary Louise Balzarini, MMB

- Maximo L. Olopai Elizabeth D. Rechebei
- MEMBERS TINIAN Esteven M. King Isaac P. Palacios

Joaquin M. Aquon

CHAIRMAN Juan N. Babauta VICE-CHAIRMAN

- A MEMBERS ROTA Oscar Q. Quituqua M. Lea Taitano
- STUDENT REPRESENTATIVE Jane M. Tuđela

I MAPROPOPONI NA RIPARASION POT I REGULASION GI HALOM I DEPATTAMENTON EDUKASION

Sigun gi Lain Pupbliku numiru 3-43, i Board of Education i san kattan siha na Islas Marianas, ha propoponi rumipasa i regulasion.

I manmapropoponi siha na regulasion ni para u farmaripasa ha inklulusu i manatatte siha na arean suhetu:

1. Setifikasion i Ma'estra/Ma'estro

I kopian i manmapropoponi siha na regulasion sina manmachule' ginen as Sinot Juan N. Babauta, Chairman i Board of Education, gi ufisinan i CHPDA, 5th Floor, Nauru Building, Saipan, CM 96950

I Board of Education lokkue' ha solilista opinion, fakto, yan enfotmasion siha para osino kontra i manmapropoponi siha na regulasion ginen i pupbliku hinerat.

Todu ayu siha i manenteresao manmanlaknos rekomendasion pot i mapropoponi na tinilaika gi regulasion siha, sina manmangge' guatu gi Chairman i Board of Education, P.O. Box 570, Saipan, CM 96950, gi halom i trenta (30) dias desde i fecha ni mapupblika este na nutisia gi Commonwealth Register.

SEPTEMBER 16, 1985



BOARD OF EDUCATION/REGENTS

DEPARTMENT OF EDUCATION

SAIPAN, CM 96950



DOE: 9311/9827/9823 NMC: 7542/7642

ARONGORONGOL TOWLAP

•CHAIRMAN Juan N. Babauta

VICE-CHAIRMAN Joaquin M. Aquon

MEMBERS - SAIPAN Sr. Mary Louise Balzarini, MMB Maximo L. Olopsi Elizabeth D. Rechebel

MEMBERS - TINIAN Esteven M. Kine Isaac P. Pelecice

MEMBERS - ROTA Oscar Q. Quitugua M. Lee Taitano

STUDENT REPRESENTATIVE Jane M. Tudela

Allegh Llol Bwulasiyool Meleitey

Board of Education mellol Northern Mariana Islands, sangi arongorong towlap ye 3-43 e kke pomoli ebwe adoptaay allegh.

Pomol allegh kka rebwe adoptaay nge milikka e tattaletiw

1. Certificate-il Mestera/Mesteru

Koopiyaal mwoghutughutul allegh kkaal emwel u bwe bwebwogh me reel Juan N. Babauta, Chairman-nil Board of Education, me CHPDA, 5th Floor me Nauru Building, Saipan, CM 96950.

Board of Education e tottongor ngali ghaami mengemeng reel ngare ow afischi me ow abwura kkapasal allegh ye e toowow reer aramas towlap.

Le e tipeli bwe ebwe isiisilong meta mengemeng reel allegh yeel emwel schagh ebwe feeru ngare e isch ngali Chairman-nil Board of Education, P.O. Box 570, Saipan, CM 96950 11o1 e11igh (30) ral sangi igha re arongaawow arongorongol towlap ye e toowow mellol Commonwealth Register.

MELAM, RAL, RAACH

MAIRMAN-NIL, BOARD OF EDUCATION

- Except as otherwise provided herein, no person shall be initially employed as a classroom teacher unless such person is the holder of or is immediately eligible for the issuance of a Continuing Certificate, as defined herein. Two types of certificates will be issued to teachers: a Continuing Certificate or a Specialized Skills Certificate.
- Every person who is employed or to be employed as a classroom teacher is eligible for and shall be issued a Continuing Certificate if such person possesses a baccalaureate, masters, or doctorate degree, or is the holder of a comparable teaching certificate issued by an authority of any jurisdiction of the United States of America or its territories or possessions.

A classroom teacher who is unable to receive a Continuing Certificate but has demonstrated performance, previous experience or specialized training in the areas of vocational education, arts and crafts, or music is eligible for and shall be issued a Specialized Skills Certificate upon approval by the Board.

Every person who is employed as a classroom teacher prior to the effective date of this paragraph and who, while not the holder of or eligible for the issuance of a Continuing Certificate or Specialized Skills Certificate, has an AA degree, shall be eligible for and be issued a Temporary Certificate. A Temporary Certificate is valid for a period of one year from the date of its issuance, and is renewable for additional successive one school year periods if the Superintendent of Education finds that the holder of such certificate has successfully progressed toward a BA/BS degree according to an individualized plan agreed to and signed by the employee.





P. O. BOX 55 CHRB SAIPAN, CM 96950

PUBLIC NOTICE OF PROPOSED ADOPTION OF REGULATIONS

The Board of Professional Licensing, pursuant to the authority of 4 CMC §3108, and in accordance with the provisions of 1 CMC §9104(a), hereby gives notice to the public of its intention to adopt regulations, to implement Public Law No. 4-53, concerning the licensing of professional engineers, architects, land surveyors, and landscape architects. The proposed regulations are published herewith.

All interested persons will be given a reasonable opportunity to submit data, views, or arguments, in writing, concerning the proposed regulations. Written comments must be submitted to Pedro A. Sasamoto, Chairman, Board of Professional Licensing, at the above address, not later than the close of business thirty (30) calendar days following the date of publication of this Notice.

DATED, this 15th day of August, 1985:

SASAMOTO, Chairman

Board of Professional Licensing



Board of Professional Licensing

P. O. BOX 55 CHRB SAIPAN, CM 96950

NOTISIAN PUBLIKO

I Board of Professional Licensing, sigun gi authoridad i Seksiona 3108, Titulo Numero 4, Kodikon i Commonwealth, yan sigun gi probision siha nui Seksiona 9104(a), Titulo Numero 1, Kodikon i Commonwealth, ha notitisia i publiko pot i intension para umaadapta regulasion i Board of Professional Licensing, para umana-efektibo Lai Publiko Numero 4-53, pot i lisensian professional engineers, architects, agramensot, yan landscape architects. I mapropopone na regulasion mapublika guine.

Todos personas ni man interesao siempre manae opportunidad ni unfanmatugi ya umasubmiti opinion pot este na mapropopone na regulasion gi Chairman, Board of Professional Licensing, gi i address ni matugi sanhilo, gi halom trenta (30) dias despues de mapublika este na Noticia.

FECHA i Agosto dia 15, 1985:

PEDRO A. SASAMOTO, Chairman Board of Professional Licensing

BOARD OF PROFESSIONAL LICENSING

Regulations for

Engineers, Architects, Land Surveyors and Landscape Architects

PART I. GENERAL PROVISIONS

1.1. PURPOSE. These rules and regulations are intended to clarify and implement P.L. 4-53, to the end that the provisions thereunder may be best effectuated and the public interest most effectively served.

1.2. DEFINITIONS.

- (a) <u>Consultation</u>. The term "consultation" means meetings, discussions, written or verbal messages, reports, etc., involving scientific, aesthetic and/or technical information, facts, and/or advice for purposes of planning, designing, deciding, or locating construction or alteration of structures, buildings, works, machines, processes, land areas, or projects.
- (b) Investi•ation. The term "investigation" means careful search, examination, inquiry or study to reveal or determine scientific, aesthetic and/or technical information and/or facts for the planning, design, location, construction or alteration of existing or proposed structures, buildings, works, machines, processes, land areas or projects.

(c) Evaluation. The term "evaluation" means careful search, examination, or inquiry to reveal, determine or estimate the value, worth, merit, effect, efficiency or practicability of planning, design, location, construction or alteration of existing or proposed structures, buildings, works, processes, land areas or projects.

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- (d) Specifications. The term "specifications" means the specifying of material, equipment, projects or methods to be used in the construction or alteration of buildings, structures, works, machines, processes, land areas or projects.
- (e) Plannin. The term "planning" means careful search, examination, inquiry, study and the formulation or execution of a statement, outline, draft, map, drawing, diagram or picture showing arrangement, scheme, schedule, program or procedure for locating, building or altering existing or proposed buildings, structures, works, machines, processes, land areas or projects.
- (f) Desi.n. The term "design" means any sketch, plan, drawing, outline, statement, scheme, model, contrivance or procedure which conveys the plan, location, arrangement, intent, purpose, appearance and nature of construction or alteration of existing or proposed buildings,

structures, works, machines, processes, land areas or projects.

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- (g) <u>Supervision of Design</u>. The term "supervision of design" means that a registered engineer, architect or landscape architect, as the case may be, shall oversee and be responsible for all work performed on plans and specifications.
- Su ervision of Construction. The term "supervision (h) of construction" means making periodic visits to the site by a registered engineer, architect or landscape architect, as the case may require, to observe the progress and quality of the executed work and to determine, in general, if the work is proceeding in accordance with the contract documents. It is not required that exhaustive or continuous on-site inspections be made to check the quality or quantity of work, nor is it intended that the engineer, architect or landscape architect be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work.
- (i) <u>Directly in Chare of the Professional Work</u>. The term "directly in charge of the professional work" means personal preparation and/or direct supervision

of the preparation and personal review of all instruments of professional service and shall include the legal authority to bind the corporation or partnership in all matters relating to the professional work.

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- (j) <u>Misconduct in the Practice</u>. Misconduct in the practice of the profession of engineering, architecture, land surveying or landscape architecture constitutes any or all of the following:
- (1) To act for his or her client, or employer, in professional matters otherwise than as a faithful agent or trustee, or to accept any remuneration other than his or her stated recompense for services rendered.
- (2) To knowingly injure or attempt to injure falsely or maliciously, directly or indirectly, the professional reputation, prospects, or practice of another engineer, architect, land surveyor or landscape architect.
- (3) To offer to undertake a commission for which
 he or she knows another has been employed, nor
 shall he or she undertake such a commission
 until he has notified the other of the fact in

writing and has been advised by the client that employment of the other has been terminated.

- (4) To review the work of another of his or her own profession for the same client, except with the knowledge of such person, or unless the connection of such person with the work has terminated.
- (5) To advertise in self-laudatory language, or in any manner derogatory to the dignity of his or her profession.
- (k) NCEE. The letters "NCEE" mean National Council of Engineering Examiners. This engineering council has a standing committee on land surveying.
- (1) NCARB. The letters "NCARB" mean National Council of Architectural Registration Boards.
- (m) <u>CLARB</u>. The letters "CLARB" mean Council of Landscape Architectural Registration Boards.
- (n) Approved School or College. The term "approved school or college" means institutions offering curricula leading to first degrees in engineering, architecture or landscape architecture accredited by the Engineers' Council for Professional Development, the National Architectural Accrediting Board, Inc., or as approved by the Board.

- (o) Approved Institution of Higher Education. The term "approved institution of higher education" means institutions offering curricula leading to the masters degree in architecture accredited by National Architectural Accrediting Board, Inc., or as approved by the Board.
- (p) En·ineer-in-Training. The term "engineer-in-training" means a person who is a graduate of an approved school or college of engineering or has had not less than nine (9) years of lawful experience in engineering and in either case had also passed the Board's examination Part I Engineering Fundamentals.
- (q) Land Surveyor In Training. The term "Land Surveyor In Training" means a person who has passed the Board's examination on fundamentals of land surveying.
- 1.3. NOTIFICATION AND FILING OF NAMES, ADDRESSES AND CHANGES.
 - (a) General. Any person holding a certificate of registration or temporary permit to practice shall file his or her mailing address and name and address of his employer with the Board and shall immediately notify the Board in writing of any and all changes.

- (b) Cor-orations and partnerships. Pursuant to Section 10 of P.L. 4-52, a corporation or partnership may engage in the practice of professional engineering, architecture, land surveying or landscape architecture in the Commonwealth, provided the person or persons connected with the corporation or partnership directly in charge of the professional work is or are duly registered hereunder. Such persons in direct charge shall be full-time employees, principals, and/or full-time partners of the corporation or partnership, and their names shall be filed with the Board as required in subsection (c) below.
- (c) Form of filing. Such filing shall be in the form of a notarized statement from the corporation or partnership who is filing and shall contain the following:

Corporation or Partnership Filing: A signed statement by an authorized corporate officer or partner that the person whose name is being filed is duly registered and possesses a valid certificate therefor in the Commonwealth in the appropriate profession; that such person is designated as being directly in charge of the professional work, including construction supervision, performed

by the corporation or partnership; that such person is a full-time employee or partner of the corporation or partnership; that such person has been delegated the legal authority to bind the corporation or partnership in all matters relating to the professional work; and that should there be any change in the status of any person on file, whether as to valid certificate of registration, direct charge of the professional work, full-time employment, principalship or partnership, or legal authority to bind the corporation or partnership, the corporation or partnership will so notify the office of the board within fifteen (15) days of such change, and, if necessary, also within said fifteen-day period, file the name of another qualified person.

The following "FORM C-64" shall be used for filing:

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FORM C-64

BOARD OF PROFESSIONAL LICENSING P.O. Box Saipan, CM 96950

Form for Corporations and Partnerships to File with the Board Names of Persons Directly in Charge of Professional Work

I,_		, b	eing an author:	ized		
of		me of corpo	ration/partners	ship		
whose ad	dress is					
said com	pany being engaged in the pra	ctice of pr	ofessional			
	y declare, under penalty of p	perjury, as	ure eying Architecture follows:			
•	possess valid certificates t	herefor in	the			
	Commonwealth in their respec	tive profes	sions:			
Person's	Name Person's Signature	rofession	CertificateNo.	•		
	and the second of the second o					
7						
		:				
	_					
2.	That the above-named persons	are design	ated as			
	being directly in charge of	the profess	ional work,			
	including construction supervision, performed					
	by this Company;					
` 3.	That the above-named persons	s are full-t	ime employees			
	and/or partners of this Comp	pany;				

- 4. That that above-named persons have been delegated the legal authority to bind this Company in all matters relating to the professional work; and
- 5. That should there be any change in the status of the above-named persons, whether as to valid certificate of registration, direct charge of the professional work, including construction supervision, full-time employment or partnership, or legal authority to bind this Company, this Company will so notify the Board by letter within fifteen (15) days of such change, and, if necessary, also within said fifteen-day period, will file in the manner herein prescribed, the name of another qualified person.

Name of Corporation or Partnership

Signature & Title of Authorized
Officer

Date

- 1.4. DISPLAY OF CERTIFICATE OR PERMIT. Every person registered who, as an individual or as a member of a firm or corporation, conducts an office or other place of business for the practice of his profession, shall display his original certificate or permit together with evidence of current validation in a conspicuous manner, in his principal office or place of business.
- 1.5. LOST, DESTROYED OR MUTILATED CERTIFICATE OF REGISTRATION.

 Upon request accompanied by affidavit showing loss,

 destruction or mulitation of certificate, a registrant

 will be furnised a new certificate.
- 1.6. RENEWAL OF CERTIFICATE. Renewal fees paid by mail shall be considered as paid when due if the envelope bears a postmark of April 30 or earlier.
- 1.7. SEAL OR RUBBER STAMP.
 - (a) Authorized Design. The holder of a certificate of registration shall be authorized and required to use a seal or rubber stamp of the following design:

Two circles - a smaller one, 1-1/8" in diameter, with a larger one, 1-1/2" in diameter. The

"Commonwealth of the Northern Mariana

Islands" shall appear in the outer of annular space and the words "Registered Professional Engineer," "Registered Professional Architect," "Registered Professional Land Surveyor," or "Registered Professional Land registered Professional Land Surveyor," or "Registered Professional Land sappear in the center space.

(b) Required Use. All plans specifications, maps, reports, surveys and descriptions prepared by or under the supervision of a registered professional engineer, architect, land surveyor or landscape architect, submitted to public officials for approval shall be stamped with the authorized seal or stamp and authenticated as provided in Section 1.8. below.

1.8. AUTHENTICATION.

(a) <u>Certificate Holder</u>. All plans, specifications, maps, reports, surveys, descriptions and every sheet in a set of design drawings prepared by or under the supervision of a registered professional engineer, architect, land surveyor

or landscape architect shall be stamped with the authorized seal or stamp when filed with public officials, and under such seal or stamp the legal holder thereof shall state the following and sign his or her name: (Rubber signature stamps are not acceptable,)

THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION.

Signature

And in addition to the foregoing requirements, when applications are made for building or construction permits involving the public safety or health, all plans and specifications in connection therewith shall bear the authorized seal or stamp of the duly registered professional engineer, architect or landscape architect charged with supervision of construction pursuant to section 4 and 5 of P.L. 193, and under such seal or stamp the legal holder thereof shall state the following and sign his name: (Rubber signature stamps are not acceptable.)

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CONSTRUCTION OF THIS PROJECT WILL BE UNDER MY SUPERVISION.

Signature

In the event the registered engineer, architect or landscape architect whose seal or stamp and signature appear in connection with the foregoing statement concerning supervision of construction shall be removed, replaced or otherwise unable to discharge his or her duties, such registered engineer, architect or landscape architect shall so notify the office of the board within fifteen (15) days, and such notification shall include the name if known, of the registered engineer, architect or landscape architect charged with continuing the construction supervision. Where an engineer, architect or landscape architect has responsibility for design and construction, the authentication shall be in the following form: (Rubber signature stamps are not acceptable,)

THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION AND CONSTRUCTION OF THIS PROJECT WILL BE UNDER MY SUPERVISION.

Signature

(b) Temperary Permit Holder. The holder of a temporary permit shall be authorized and required to use the seal or stamp authorized by the Board with which he is permanently registered on all plans,

specifications, maps and reports when filed with public officials and under such seal or stamp the legal holder thereof shall state the following and sign his or her name:

(Rubber stamp signatures are not acceptable.)

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Temporary	Permit	No.	* *** ·

THIS WORK WAS PREPARED BY ME OR UNDER MY SUPERVISION.

Signature

And in addition to the foregoing requirements, when applications are made for building or construction permits involving the public safety or health, all plans and specifications in connection therewith shall bear the authorized seal or stamp and be authenticated as prescribed in the foregoing subsection 1.8(a).

PART II. REQUIREMENTS

- 2.1. EXAMINATION. No person shall be eligible for examination unless the following criteria are met.
 - (a) Character and re-utation. The applicant shall be of good character and reputation. Applicants for registration shall submit at least the

following number of character references:
engineer-in-training or land surveyor in training,
three; engineer, landscape architect, architect,
or land surveyor, five, of which four shall be
from persons who are registered to practice
such profession and who have personal knowledge
of the applicant's lawful experience in such
profession. Admittance to the examination
shall not constitute approval by the Board
of the applicant's character and reputation,
which shall be subject to review at any time.

- (b) Engineering fundamentals. An applicant for registration as an engineer in training, who desires examination only in the fundamentals of engineering, shall be a graduate of an approved school or college of engineering; or, has had not less than nine (9) years of lawful experience in engineering.
- (c) En·ineer or landscape architect. An applicant for examination and registration as an engineer or landscape architect, shall be a graduate
 of an approved school or college of his profession and has also had not less than four
 (4) years of lawful experience in such

- profession; or has had not less than twelve
 (12) years of lawful experience in such profession.
- (d) Architect. An applicant for examination and registration, as an architect shall meet one of the following:

- (1) Have a masters degree in architecture from an approved institution and also have one(1) year of lawful experience in architecture; or
- (2) Have a bachelors degree in architecture from an approved school or college and has completed an architectural curriculum of five (5) years, and also had two (2) years of lawful experience in architecture; or
- (3) Be a graduate of a four-year pre-architectural or arts and science curriculum from an approved school or college and also have five (5) years of lawful experience in architecture; or
- (4) Have twelve (12) years of lawful experience in architecture.
- (e) Land Surveyor in Training. An applicant for

examination and registration as a land surveyor in training, shall meet one of the following:

Howard & Tables

- (1) Be a graduate of a four-year geo-science, civil engineering or general engineering curriculum from an approved school or college; or
- (2) Be a graduate of a two-year civil engineering technology (survey option) curriculum from an approved community college and also have four (4) years of full-time lawful experience in land surveying; or
- (3) Have eight (8) years of full-time lawful experience in land surveying.
- (f) Land Surve or. An applicant for examination and registration, as a land surveyor shall meet one of the following:
 - (1) Be a graduate of a four-year geo-science, civil engineering or general engineering curriculum from an approved school or college and also have four (4) years of full-time lawful experience; in land surveying; or

(2) Be a graduate of a two-year civil engineering technology (survey option) curriculum from an approved community college and also have eight (8) years of full-time lawful experience in land surveying; or

- (3) Have twelve (12) years of full-time lawful experience in land surveying.
- (g) <u>Interview</u>. An applicant may be required to appear before the Board for a personal interview.
- 2.2 CERTIFICATE OF REGISTRATION UNDER SECTION 6(1) of P.L. 53, TEMPORARY PERMIT UNDER SECTION 3(3) of P.L. 53. No person shall be eligible for a certificate of registration pursuant to Section 6(1) of P.L. 53, or for a temporary permit under Section 3(3) of P.L. 53, unless such person possesses the same qualifications as are required of other applicants for a certificate of registration and unless such person submits in writing the reasons for desired certificate.

Applicants may be required to appear before the Board for personal interviews.

Applicants for registration pursuant to Section 6(1) who are otherwise qualified shall be required to pass an examination covering P.L. 2-53, and the rules and regulations adopted thereunder.

Applicants for registration pursuant to Section 6(1) or for a temporary permit pursuant to Section 3(3) as a land surveyor shall additionally be required to pass an examination testing such person's knowledge of CNMI land matters.

2.3. ENGINEERING BRANCHES. The Board shall register professional engineers and shall specify the branch or branches in which each registrant has especially qualified on his or her certificate.

2.4 LAWFUL EXPERIENCE.

- (a) The term "lawful experience" means experience in the appropriate profession under the supervision of a registered engineer, architect, land surveyor or landscape architect.
- (b) An applicant's record must confirm lawful experience.

(1) Field and office training under the supervision of registered engineers, architects, landscape architects, or land surveyors who are practicing as principals.

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- (2) Field and office training under the supervision of engineers, architects, landscape architects, or land surveyors who are not required by law to be registered.
- (3) Teaching above the second-year level in an accredited engineering, architectural, landscape architectural, or land surveying school or college. Maximum experience credit for teaching shall be one (1) year. One year of teaching shall be considered to be a total teaching load of twenty (20) semester credit hours or thirty (30) quarter credit hours.

PART III. APPLICATIONS

3.1 FORMS AND INSTRUCTIONS. An application filed with the Board shall be prepared in accordance with

and contain the information called for in the application form provided by the Board with respect to the filing. The following forms are currently in use by the Board.

- (a) Application for engineering fundamentals examination.
- (b) Application for land surveyor in training examination.
- (c) Application for engineer examination and, registration.
- (d) Application for architect examination and registration.
- (e) Application for surveyor examination and registration.
- (f) Application for landscape architect examination and registration.
- (g) Application for examination and registration as structural engineer.
- (h) Application for re-examination.
- (i) Application for reinstatement of expired certificate.

The aforementioned forms may be modified from time to time as required.

- for engineering fundamentals examination shall be filed not later than January 1 before the examination which is regularly conducted by the Board in April, or not later than August 1 before the examination which is regularly conducted by the Board in November. The application must be accompanied by the application fee and the examination fee which shall not be funded.
- An application for professional engineer examination and registration shall be filed not later than January 1 before examination which is regularly conducted by the Board in April, or not later than August 1 before the examination which is regularly conducted by the Board in November. The application must be accompanied by the application fee and the examination fee which shall not be refunded. In the case of an applicant for registration pursuant to Section 6(1) or for a temporary permit pursuant to Section 3(3), the application shall also be accompanied by a statement setting forth the reason or reasons for the applicant's desire for registration.

- An application for professional architect examination and registration shall be filed not later than September 1 before examination which is regularly conducted by the Board once a year in December. The application must be accompanied by the application fee and the examination fee which shall not be refunded. In the case of an applicant for registration pursuant to Section 6(1) or a temporary permit pursuant to Section 3(3), the application shall also be accompanied by a statement setting forth the reason or reasons for the applicant's desire for registration.
- for land surveyor in training examination shall be filed not later than January 1 before examination which is regularly conducted by the Board in April, or not later than August 1 before the examination which is regularly conducted by the Board in November. The application must be accompanied by the application fee and the examination fee which shall not be refunded.
- 3.6 PROFESSIONAL LAND SURVEYOR EXAMINATION AND REGISTRATION.

 An application for professional land surveyor

examination and registration shall be filed not later than January 1 before the examination which is regularly conducted by the Board in April, or not later than August 1 before the examination which is regularly conducted by the Board in November. The application must be accompanied by the application fee and the examination fee which shall not be refunded. In the case of an applicant for registration pursuant to Section 6(1) or a temporary permit pursuant to Section 3(3), the application shall also be accompanied by a statement setting forth the reason or reasons for the applicant's desire for registration.

An application for architect examination and registration shall be filed not later than March 1 before examination which is regularly conducted by the Board once a year in June. The application must be accompanied by the application fee and the examination fee which shall not be refunded.

In the case of an applicant for registration pursuant to Section 6(1) or for a temporary permit pursuant to Section 3(3), the application shall also be accompanied by a statement setting forth the reason

or reasons for the applicant's desire for registration.

3.8 RE-EXAMINATION. An application for re-examination shall be filed not later than the following dates:

January 1 for engineering fundamentals, professional engineering, land surveyor in training, and professional land surveyor examinations, which are conducted in April, or August 1 for such examinations which are conducted in November.

March 1 for landscape architect examinations which are conducted once a year in June.

September 1 for professional architect examinations which are conducted once a year in December.

The application must be accompanied by the examination fee which shall not be refunded. An applicant for re-examination is not required to pay an application fee which was previously paid.

No re-examination shall be given more than thirteen months following the original examination. Any applicant for registration under this Part III who fails an original examination or part thereof, and who does not take and pass a

re-examination within thirteen months from the date of such failure, shall not be eligible for re-examination, but shall be required to file a new application for registration under this Part III.

3.9 CERTIFICATE. An application for certificate of registration shall, upon notification of having qualified for registration, file an application for certificate which shall be accompanied by the registration fee and shall not be refunded.

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- OF P.L. 4-52. An applicant shall make such request in writing, including a statement giving reasons for the desired certificate, file the required applications and establish that he or she has attained a passing score in a written examination equivalent to NCEE, NCARB, or CLARB syllabus as set forth in Part V of these rules, as the case may be. The required fee shall accompany this request and shall not be refunded.
- 3.11 TEMPORARY PERMIT UNDER SECTION 3(3) OF P.L. 4-93.

 In addition to the requirements of Rule 3.10 above and, after receiving notice from the Board that he or she is qualified for a temporary permit under

Section 3(3) of P.L. 4.63, an applicant shall make such request in writing and such written request shall be accompanied by the required fee which shall not be refunded. A temporary permit shall be issued for one job only.

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- of a registration, permit or certificate or for the reinstatement thereof is denied, the Board shall notify the applicant by letter of the Board's action which shall include a concise statement of the reasons therefor and a statement informing the applicant of the denial of his or her application.
- 3.13 PROCEEDINGS UPON DEMAND FOR HEARING. If a demand for a hearing is filed within the time prescribed, the Board shall order a hearing upon notice, which shall be conducted in accord with the provisions of Division 9, Chapter 1, of Title 1 of the Commonwealth Code.

PART IV. VALIDATION REQUIREMENTS

4.1 EDUCATION. The Board will accept a photostatic or certified copy of a diploma or certificate of graduation from an approved school or college.

- 4.2 EXPERIENCE. The Board will accept detailed notarized statements from a duly licensed practitioner of the profession for which registration is sought, and from the applicant for registration, attesting to the required term of lawful experience.
- OF P.L. '-57, OR FOR TEMPORARY PERMIT UNDER SECTION 3(3) OF P.L. '-53. In addition to the requirements set forth in Rule 4.1 or 4.2 above, the Board will accept an official statement forwarded by the authority which issued the applicant's certificate attesting that it is currently valid and was issued following the attainment of a passing score in a written examination in engineering, land surveying, architecture or landscape architecture, as the case may be, and of a nature and scope at least equal to examinations as set forth in Part V of these rules.

PART V. EXAMINATION

5.1 EXAMINATION INFORMATION. The Board utilizes national examinations produced by NCEE, NCARB and CLARB respectively as licensing examinations for engineers and land surveyors, architects, and landscape

architects. The Board reserves the right to modify the national examinations. Licensing examinations for land surveyors on CNMI land matters are produced by the Board. Examinations will only be given within the Commonwealth in accordance with testing procedures established by the respective national organizations and the Board. Information concerning the various subjects covered in the examinations will be available from the Board.

- 5.2 EXAMINATIONS FOR REGISTRATION PURSUANT TO SECTION 6(1). Engineering, architectural, land surveying and landscape architectural candidates for registration pursuant to Section 6(1) of P.L. 4-53 must pass an examination, developed by the Board, covering the registration laws of the Commonwealth and the rules and regulations adopted thereunder.
- 5.3 SOLVING EXAMINATION QUESTIONS. Engineering, land surveying, architectural, and landscape architectural candidates may use slide rules or non-programmable silent, self-powered calculators in solving examination questions. Programmable calculators and computers are prohibited. A programmable calculator is one which utilize magnetic tapes

or has a continous memory.

5.4 PASSING SCORE.

- (a) Engineering and land surveying. A grade of not less than seventy (70) shall be a passing score for any part of the examination for engineering and for land surveying. Notice of results to candidates will be numerical scores for each part of the examinations.
- (b) Architecture and landscape architecture. A
 grade of not less than seventy-five (75) shall
 be a passing score for any part of the examination
 for architecture and landscape architecture.

 Notice of results to candidates will be
 numerical scores for each part of the
 examinations.
- 5.5 REVIEW OF PAST EXAMINATIONS. Review by candidates of their past examinations is not permitted.
- 5.6 RE-EXAMINATION.
 - (a) Retaking .arts failed. Applicants for examination and registration may retake parts failed at a regularly-scheduled examination if they file an

application for re-examination as required under Rule 3.8 above.

PART VI CERTIFICATES

- of the requirements for registration, the Board shall issue a certificate of registration to the applicant, identifying the applicant as an engineer in training, a professional engineer, a land surveyor in training, a registered land surveyor, a registered landscape architect, or an architect, as the case may be. The certificate shall be in the form required by law, and otherwise as approved by the Board.
- 6.2 ENGINEERING SPECIALTIES. The Certificate of
 Registration of a professional engineer shall
 designate the professional field in which such
 person has qualified for registration, to wit:
 agricultural, chemical, civil, electrical, industrial,
 mechanical, or structural engineering.

PART VII FEES

	ARCHITECT	ENCINEER	LAND SURVEYOR	STRUCTURAL
APPLICATION:				
e. Initial	\$ 40	\$40	\$320	\$40
b. Comity (out of State)	\$40	\$:40	\$.40	\$40
c. Reconsideration	\$40	\$40	\$.40	\$:40
d. C O A (Corporation)	\$40	\$40	\$.40	\$40
EXAMINATION & RE-EXAMINATION:				
a. Fundamentals/EIT		\$35		
b. Fundamentals/LS			\$ 35	
c Principles/PPE		\$50		
d. Principles/PLS/GLM			\$50	
e. CNMI Land Matters Only			\$25	
f. NCARD A.R.E.				
Division A	\$36			
Division B	\$36			
Division C	\$60			
Division D	\$18			
Division E	\$14			
Division F	\$09			
Division G	\$18			
Division H	\$23			
Division I	\$26			
o. Structural	•			\$ 50
REC STRATION (includes certific	ate & registra	tion card):		
a. Initial, 12 months or				
These from renewal	\$25	\$25	- \$25	\$25
b. initial, 12 months or	* . •	3.7		
more from renewal	\$45	\$45	\$45	\$45
c. Comity (out of State)	\$45	\$45	\$45	\$45
d. C U A (Corporation)	\$100	\$160	\$100	j100
TEMPORARY PERMIT FEE	\$200	\$200	\$200	\$200
RENEWAL (Biennial):				
a. Registration Cards	\$40	\$40	\$40	\$40
b. Expired or Reinstatement				•
of Registration for each	ר י י י	499		
biennial year	\$40	\$40	\$40	\$40
Plus delinquent fee each	•			
month thereafter	\$2	\$2	\$2	\$2
c. C O A (Corporation)				
AND THE PROPERTY OF THE PROPER	\$100	\$100	\$100	\$100
REPLACEMENT/DUPLICATION	\$100	\$700	\$100	3100

PROPOSED RULES AND REGULATIONS

OFFICE OF COASTAL RESOURCES MANAGEMENT

THE COASTAL RESOURCES MANAGEMENT OFFICE OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS IS PROPOSING TO PROMULGATE NEW REVISED RULES AND REGULATIONS FOR THE PROTECTION AND PRESERVATION OF OUR VALUABLE COASTAL RESOURCES. REGULATIONS WILL BE USED UNDER THE AUTHORITY OF CNMI PUBLIC LAW NO. 3-47.

The purpose of these regulations is to establish permitting standards and requirements necessary for the control of activities within defined coastal areas such as wetlands, mangroves, and other designated areas of particular concern, as determined by the Coastal Resources Management Office and Program Agency Officials. It is proposed that on the date these regulations become effective the regulations published in the Commonwealth Register 7, number 7 at 3883 be repealed. The revisions are indicated by underlining new languages and bracketing deleted languages.

The proposed regulations include the following subject areas:

- 1. CRM permit requirements
- 2. Exceptions to CRM permit requirements
- 3. CRM permit process
- Standards for CRM permit issuance
- 5. CRM permit conditions
- CRM permit amendment 6.
- 7. Enforcement of CRM permit
- Enforcement of CRM standards and policies 8.
- 9. Public information and education
- 10. CRM Coastal Advisory Council
- 11. CRM Public Records
- 12. CRM Access to records
- 13. Performance Bond requirements

Copies of the proposed regulations may be obtained from the Coastal Resources Management Office, 6th Floor Nauru Building.

Anyone interested in commenting on the proposed CRM Rules and Regulations may do so by submitting comments in writing to, CRM Administrator, Coastal Resources Management Office, 6th Floor Nauru Building, Saipan, CM 96950, within thirty (30) days from the date this notice is published in the Commonwealth Register.

Acting Administrator, CRMO

MAPROPONI NA AREKLAMENTO YAN REGULASION I UFISINAN I COASTAL RESOURCES MANAGEMENT

I OFISINAN I COASTAL RESOURCE MANAGEMENT GI COMMONWEALTH I SANGKATTAN SIHA NA ISLAN MARIANAS MANPROPONI POT PARA U NA MATUNGO I NUEBO NA AREKLAMENTO YAN REGULASION POT PARA PROTEKSION YAN MA ADAHEN I PRESIOSON I URIYAN TANO TA. ESTE NA REGULASION PARA U MAUSA GI PAPA I ATURIDAT I CNMI LAIN PUBLIKU NUMIRU 3-47.

I entension este siha na regulasion pot para u ma establesi i areklo ni nesisario para uma manea aktibidat siha gi halom lugat siha ni ma detidmina ni offisinan Coastal Resources Management na ha nesisita ma manea yan ma adahi aktibidat siha. Tatkomu i finasisonyan, kanada yan otro siha ni madisikna na mantinitika i maproponi na regulasion ha inglususu i mansigiente siha na patte:

- 1. Ginagagao na petmison i CRM
- 2. Fuera na ginagao petmison i CRM
- 3. Macho guen i petmison i CRM
- 4. Presente na mudelu pot para malaknos i petmison CRM
- 5. Konsision i petmison CRM
- 6. Ma amendan i petmison CRM
- 7. Ma apreban i petmison CRM
- 8. Ma apreban i presente na mudelu yan areklon i CRM
- 9. Enfotmasion yan edukasion i pupbleku
- 10. Akonsihon i CRM coastal
- 11. Dokumenton pupbleku pot CRM
- 12. Ma usan yan direchon i dokumenton i CRM
- 13. Penelun salapi para uma komplidu i checho gi mauleg na manera

Lokkue, maproponi na uma punu i haani anai umu-effectibu ayu na regulasion siha i ma publika gi halom i Commonwealth Register Volume 7, Numero 7, pahina 3883. I man ma rebisa na linguahi man ma raya gi sanpapa. Pago i man ma nafan suha man ma polu gi halom <u>braket</u>.

Sina machule i kopia ni maproponi na regulasion ginen i ufisinan i Coastal Resource Management gi mina sais bibendan i Nauru Building.

Hayi enterisao na u fanna i ayudu pot i maproponi na areklamento yan regulasion i CRM u tugi'i i administradot gi Coastal Resources Management gi mina sais bibenda gi Nauru Building gi entalo i trenta (30) dias desde ki mapubleka-na gi Commonwealth Register.

TAMI GROVE

Acting Administrator, CRMO

12, 1985 DATÉ

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, $\S 8(d)$ and 9(c), and 1 CMC $\S 9115$, the following Rules and Regulations are hereby established. They shall apply to all areas designated by CNMI P.L. 347, $\S 7$, 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.

A. <u>"APC"</u> means an Area of Particular Concern consisting of a delineated geographic area[s] <u>included</u> within [the] coastal <u>resources</u> [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. "A uaculture or Mariculture Facility" 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. "Beach" 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. <u>"Coastal Land"</u> means all lands and the resources thereon, [and] therein, and thereunder located within the <u>territorial</u> jurisdiction of the CRM Program, as secified by section 7 of PL 3-47.
- E. <u>"Coastal Resources"</u> means all coastal lands and waters and the resources therein located within the territorial jurisdiction of the CRM Program, as specified by section 7 of PL 3-47.
- 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. "CRM Apreals Board" 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.
- "De radation" means a diminution or reduction of strength, efficacy, value or magnitude.
- "Develorment" 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 a construction or related ecology thereto, or the access thereto, 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 any 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 interpretation of evidence.
- "La•oon 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.

- V. "Littoral Drift" means the movement of sedimentary material within the near-shore zone under the influence of tides, waves and currents.
- W. "Major Sitine" 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. The phrase includes, but is not limited to, the following:
 - (i). Energy related facilities, waste-water treatment facilities pipelines, transportation facilities, surface water control project, jarbor structures.
 - (ii). Sanitary land fills, disposal of dredged materials, mining activities, quarries, basalt extraction, incinerator projects;
 - (iii). <u>Dredging and filling in marine or fresh waters</u>, oints 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 ristine areas, or uninhabited islands, searsely populated islands, maneroves, reefs, wetlands, beaches and lakes, areas of scientific interest, recreational areas, limestone, volcanic and cocos orest, and endangered or threatened species or marine mamma habitats;
 - (v). Major recreational developments and major urban or overnment developments;
 - (vi). Construction and major repair of highways and infrastructure develorment;
 - (vii). A uaculture or mariculture facilities, and silva-culture or timberine 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. towardown.
 - (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 round water. Any such project, or proposed project, shall be primarily overned by the CNMI Underground Injection Control Regulations and sup-lemented 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.

- X. "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.
- Y. "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.
- Z. "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.
- AA. "Person" means the Government of the United States of America or any agency or *epartment 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.
- BB. <u>"Port and Industrial APC"</u> 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 territorial jurisdiction as specified by section 7 of PL 3-47.
- DD. <u>"Resources"</u> means natural advantages and products including, but not limited to, marine biota, vegetation, minerals and scenic, aesthetic, cultural and historic resources subject to the territorial 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 foregoing is true and correct declaration was executed on	of perjury that the
at	, CNMI.
(Signa tu	ıre)

- "Water-de endent 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 ocation 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 Manerove 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" means those federally owned land's excluded from the territorial jurisdiction of the CRM program as specified by section / of PL 3-47. [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.
- "Imeact" is any modification in an element of the environment, including modification as to quality, quantity, aesthetics, or human or natural use thereof.
- MM. "Infrastructure" means those structures, support systems 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.
- "Infrastructure Corridors" means a strip or strips of land, not including highways, forming passageways which carry infrastructure.
- "Coastal Resources Management Program Boundaries" means the edge of the area subject to CRM program territorial jurisdiction, as specified in section 7 of PL 3-47. [the coastal waters (including the lands therein and thereunder) 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. The 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 subject to the territorial urisdiction [located within the] boundaries of the Coastal Resources Management Program as secified in section 7 of PL 3-47.
- "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.
- "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 <u>alleges</u> [could show] that the general public interest would be adversely affected by the proposed CRM Permit project.
 - "Underground In ection" means a "well injection". TT.
- "Well In ection" means the subsurfaced emplacement of "fluids" through a bored, dril ed, or driven "well", or through a dug well, where the depth of the dug well is greater than the largest surface dimension.
- VV. "Fluid" means any material or substance which flows or moves, whether in a semisolid, liquid, sludge, gas, or any other form or state.
- WW. "Well" means a bored, drilled or driven shaft, or a dug hole, whose depth is greater than the largest surface dimension.

XX. "Minor developments" means

- (a) Normal maintenance and repair activities for existing structures or developments which cause only minimal adverse environmental impact;
- (b) Normal maintenance and repair of: existing ri•hts of way; underground utility lines, including water, sewer, power and telephone; minor oppurtenant 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 fundraisin, carnival or ultural activities;
- (d) Construction of picnic shelters pala palas), picnic tables and or barbeque pits;
 - (e) Construction of non-concrete volle ball 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;

- Public landscaping and beautification rojects;
- Memorial and monument projects covering ten (10 square meters or (h) less;
 - (i) Security fencing which does not impede public access;
- (j) Pacement of swimming, navigation or temporary or small boat mooring bouy;
 - Sinele family residential expansion including sewer connections; (k)
- (1) Archeological/scientific research, evaluated on a case-b/-case basis, and found by CRMO to cause no adverse environmental imeacts;
 - (m) A•ricultural 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.
 - "Agrieved terson" means any applicant or intervenor whose position as advanced in the CRM Permit process is substantially adverse to the decision rendered.
- Section 6. CRM PERMIT REQUIREMENT.
- When CRM Action Re uired. 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, or which has a direct and significant imeact on an APC the party responsible for initiating the proposed project shall obtain a CRM Permit.
- Multi•le 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.
- Excluded Federal Lands. Notwithstanding the language of Section 6, a CRM Permit shall not be required for proposed projects on federally excluded lands [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

subject to CRM program as specified in section 7 of PL 3-47, 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 ii)(a-1-a-5) [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 the notice at the CRM Office in Saipan, and shall conform to the requirements of intervenor as provided in $\S 8(G)$. 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(ii)(b) [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.
 - C. Exceitions from Coastal Permit Recuirements.
- (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 single family dwellings, duplexes, out-buildings and small 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.
 - D. <u>Permits for Minor Developments Under Expedited Procedures</u>.
- (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.]
- (vi). 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 *ermit 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 Administration. To rojects proposed for location on Saipan, the permit application will be reviewed and processed by CRMO.

[(iv). Minor develorments 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 *ermits.

- (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) Ap eal.

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. <u>CRM Permit Process</u>

All persons proposing to conduct any activities affecting or which may affect the coastal resources of the Commonwealth <u>must shall</u>] 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, except as provided in Section 7(D).

- 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). Coies. The applicant shall file an original CRM Permit application with exhibits and attachments, and five (5) copies thereof.
 - (ii). Filine 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 submit evidence establishing [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.
 - No fee for government projects.
 - (b) \$10.00 fee for minor permits and variances.
 - (c) For all others, the fee shall be as follows:

Project costs shall be based upon appraisal of construction plans.

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.

- Performance Bond Re uirements. A performance bond or equivalen may be required by the CRM Program if failure to comply with terms of the application or permit will result in environmental damage. The entire bond or equivalant or any portion thereof shall be for feited for failure to substantially comply with any applicable regulation except as permitted by a variance or other legal exception. The entire bond or any portion thereof shall be for feited in the amount required to complete the site preparation and infrastructure features, restore the natural appearance and biological character of the project site or otherwise mitigate adverse environmental impact.
- [(vi).](vii) <u>Information</u>. CRM Permit applications shall [require] include 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);
 - (d) 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).](viii). 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 $8(\mathsf{F})$.
- C. Review of Ap•lication. 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 except a permit or a minor develowment. 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] Except for a permit for a minor development, 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, or the public 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.

- CRM Permit Hearing. When a hearing on a permit application is required or requested pursuant to this section [Section 8(B)], 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.
 - The CRM Administrator shall (i). When Permit Hearing Appropriate. 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
 - a [(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
 - b [(c)] If the CRM agency officials require a hearing on a proposed project; or
 - (c) A member of the public requests a hearing within 14 days of sublication of the notice required in section 8 B.
 - (ii). Review Period. The sixty (60) day period of review •r, in the case of a minor permit, the ten day eriod of review, shall [be] begin on the day the application is cer ified to be complete by the CRM Office.
 - (iii). Presidin. 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 Public hearings pursuant to permit applications shall be Commonwealth. 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.

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- (vi). <u>Parties.</u> 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. 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.
- Filin. 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.
 - Petitions, pleadings, (ii). Title and Number. briefs, and other documents shal show the title and number of the proceeding and the name and address of the party or its attorney.
 - (iii). Si•natures. 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). Cooles. Unless otherwise required, there shall be filed with the CRM Office an original and five (5) copies of each document.

F. Intervenor.

(i). Petition for Intervenor. 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) Government. All departments, agencies or 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) Injury to the Public. Any person who can show that the general pub ic would be adversely affected by the proposed CRM Permit project shall be admitted as parties upon timely filing of a petition for intervenor.
- (iii). Discretionar, Denial of Intervenor. 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 Admin istrator 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.
- (viii). <u>Service of Papers. All parties shall serve all other parties with papers required to be filed under these regulations, and an intevenor shall be served with all papers required to be filed under these regulations from the date the petition at intervention is granted.</u>
- G. <u>Decision on CRM Permit.</u> 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). <u>Voluntary Disqualification</u>. 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 independent judgement. Should a CRM Agency Official determine, after 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). Dis ualification by Challenge. If a CRM Agengy Official refuses to disqualify himself under Section 8 (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 Re•uired. 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). <u>Deadlock Resolution by Governor</u>. 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.

- 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.
- (c) Decision. After receipt of the deadlocked CRM Permit application and accompanying documents, briefs and statements referred to above, the Governor shall have thirty (30) days to render his decision. 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 Findin s 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). Issuance of CRM Permit. 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

5 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. Apieal of CRM Permit Decision. Any person aggrieved by a decision of the CRM Agency Officials or in the case of a minor development, the CRM Aministrator's decision 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. The CRM Administrator shall then schedule an appellate hearing before the CRM Appeals Board.
 - [(i) .Any Person Agerieved. "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.]
 - i [(ii).] Disqualification; Voluntary or by Challenee. 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).
 - <u>ii</u> [(iii).] <u>Quorum, Vote.</u> 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.
 - iii [(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).
 - iv [(v).] <u>Papers Considered by CRM Appeals Board.</u> 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.
- \underline{v} [(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.
- vi [(vii).] Scope of Apreal. 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 clearly erroneous in light of CRM rules and regulations and 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.
- vii [(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.
- <u>viii</u> [(ix).] <u>Automatic Affirmance</u>. 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,] of the hearing, 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).

- Any aggrieved person may seek judicial Commonwealth Trial Court. review of a final CRM Program action, ruling, or order, in accordance with 1CMC9112(b). All earties are encouraged to first exhaust [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). Scole 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:
 - Contrary to constitutional right, power, privilege or immunity:
 - (c) excess of statutory jurisdiction, authority or limitations, or short of statutory rights;
 - 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.

- 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 which have a direct and significant impact on an Area at Particular Concern APC or which are designated as a Major Siting, the CRM Agency Official he CRM Administrator shall require the applicant to demonstrate by a fair preponderance of evidence that the project will not have a sienificant adverse impact on the coastal environment or its resources. The CRM Program Agency Officia's Administrator shall also base their decisions on technical findings and the policy set out in Section 3 of P.L. 3-47. Adverse impacts may include but are not limited to [and shall apply the following general standards.]
 - (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** <u>Disru</u>tion of the ecolocial balances in coastal or marine waters upon which natural biolo ical 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.]
- B. <u>General Criteria for all CRM Permits</u>. The <u>CRM Agency Officials and</u> the <u>CRM Administrator shall consider the following when evaluating all CRM remit application:</u>
 - (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). Comeatibility. 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). Comiliance 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). Ri•ht 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). Effect on Existine Public Services. 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.] Secific Criteria [Standards]; Areas of Particular Concern. 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). La oon and Reef APC; Management Standards.
 - (a) Any project proposed for location within the Lagoon and Reef APC 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 fisherv resources, shall be managed so as to maintain optimum sustainable yields;
 - (3) Significant adverse impacts to reefs and corals shall be prevented;
 - 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 cultural and objects of historic and 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) Hi hest.

- (a) Projects promoting conservation of open space, high water quality, historic and cultural resources;
- (b) Projects promoting or enhancing public recreation and access;
- (c) Water-dependent projects which are compatible with adjacent uses;
- (d) Sport and small-scale taking of edible marine 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;
- (b) Aquaculture projects which do not adversely affect the productivity of coastal waters or natural beach processes;
- (c) Piers and docks which are constructed with floating materials or which, by design, do not impede or alter natural shoreline processes and littoral drift.

(3) Lowest.

- (a) Point source discharge of drainage water which will not result in significant permanent degradation in the water quality of the lagoon;
- (b) 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) Unacce table.

- (a) Discharge of untreated sewage, petroleum products or other hazardous materials;
- (b) 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</u>; Managaha. 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) Unacce table.
 - (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) La oon and Reef APC; Anjota Island. Use Priority Categories for Anjota Island (Rota shall be as follows:
 - (1) Hishest.
 - (a) Maintenance of that part of the island outside the port and industrial APC as a wildlife sanctuary and for passive recreation.

- (2) Unacce table.
 - (a) 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 pristine 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) Unacce table.
 - (a) Destruction of reefs and corals not associated with permitted projects; and
 - (b) Taking corals for other than scientific 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 drainage 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;
- (5) Wetland resources shall be utilized for appropriate agriculture, recreation, education, public open space and other compatible uses which would not degrade productivity.

(iv). <u>We</u>tland and Man•rove 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) Hi hest.

- (a) Preservation and enhancement of wetland and mangrove areas;
- (b) 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 avoid significant adverse impacts to natural hydrological processes and values as wildlife habitat;
- (c) Non-commercial recreation including light duty, elevated, non-permanent structures such as footbridges, observation decks and similar 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) Unacce table.
 - (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 associated vegetation not with allowable which would result in activities. extensive sedimentation of wetland, mangrove areas coastal waters.
- (v). Shoreline APC; Mana@ement 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;
 - The effects of shoreline development on natural beach (2) processes shall be minimized;
 - The taking of sand, gravel or other aggregates and minerals from the beach and near shore areas shall not be allowed:
 - 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 Corporation Marianas Public Land (MPLC), and where no purchases, creation of easements. practicable alternative 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.
 - Whether the proposed project is to facilitate recreational. enhance coastal subsistence. or cultural opportunities. (i 🚗 , docking. fishing. swimming, picnicking, navigation devices).

- Whether the existing land use, including the existence (3) 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.
- single-family Whether the proposed project is a 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 sel1 to the government.
- 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.
- project would more (7) Whether the proposed 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) Hi hest.

- (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;
- development which (b) Compatible water-dependent cannot be reasonably accomodated 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) Unacce table.

- (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 the protection 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) Hi•hest.

- (a) Water-dependent port and industrial activities and uses located on the APC shoreline.
- (b) Industrial uses that are not water-dependent but 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 the 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;
- (b) 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;
- (b) Indefinite storage of goods, not awaiting water-borne transport, in a shorefront location;
- (c) Uses or activities which are acceptable in other APCs and which do not enhance or are not reasonably necessary to support permissible uses, activities and priorities in the Port and Industrial APC.

(4) Unacce table.

(a) Non-port and industrial related activities 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
- Uses (b) activities which would have and an impact on other adverse APCs. the American Memorial Park, Aniota Preserve. historic properties other significant and coastal resources.

Section 10. [9(C)] 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).] B 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.
- [(iii).] C 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 require [requiring] special management because the areas are:
 - [(a)](i) 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)](ii) 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)](iii) Areas of substantial recreational value or potential;
- [(d)](iv) Areas where developments and facilities are dependent either upon the utilization of, or access to coastal waters or of geographic significance for industrial commercial development or for dredge spoil disposal;
- [(e)](v) Areas of urban concentration where shoreline utilization and water uses are highly competitive;
- [(f)](vi) Areas which, if development were permitted, might be subject to significant hazard due to storms, slides, floods, erosions, settlement or salt water intrusion:
- [(q)](vii) 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)](viii) Areas needed for the preservation or restoration of coastal resources due to the value of resources for conservation, recreational, ecological, or aesthetic purposes.
- [(iv)] D 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.

Section 11 Standards for Determination of a Major Siting

- [9(D)] A Determination of Major Siting. 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;
- All major siting shall be in conformity with the policy enumerated in Section 3 of P.L. 3-47.
- B [E]. Secific Standards; Major Sitings. The CRM Agency Officials and the CRM Administrator shall evaluate a proposed project found to [which may] constitute a major siting based on the specific <u>criteria</u> standards] listed below, as well as the general <u>criteria</u> [standards] for all CRM Permits listed in Section 9(A) and B) 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 Presaration. 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 Im•act on Fish and <u>Wildlife</u>. 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 12.[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. Purpose and Sco.e. 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] requirement consistent with the standards and policies reffered to above may be the basis of a CRM Permit condition.
- C. Mandatory Conditions. All CRM Permits shall contain at least the following conditions.
 - (i). Insection. 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). Timin: 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). Duty to Inform. The CRM Permit holder, whether it be the applicant or 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). Com·liance with Other Law. The CRM Permit is valid only if the permitted project is otherwise lawful and in compliance with other necessary governmental permits.

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 14.[12] ENFORCEMENT OF CRM PERMITS.

- A. Puriose. 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 agency action [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.) Permit Violation. The CRM Permit applicant or its successor in interest, or a rea 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 Imeact. The permitted project has a newly discovered adverse environmental impact.
- C. Warnin•. 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 notice of intent [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. Permit Enforcement Notice. If, after [within] thirty (30) days of the date [determining a violation under Section 12(B), the CRM Administrator [has] issued a notice of intent [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, or in the case of an ongoing violation, 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. Enforcement Notice shall provide for Permit Enforcement hearings, if requested, and inform the CRM Permit holder of his responsibilities and rights under this Section. The notice shall inform the permit holder that unless he requests a permit enforcement hearing within 30 days, the proposed sanction will be imposed.
- (ii). Service. 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. Proof of service shall be made by affadavit.
- (iii). Resonse to Notice. If the CRM Permit holder believes [disagrees with] the statement of facts or conduct constituting violation in the Permit Enforcement Notice is inaccurate, 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. response shall include a written statement indicating the CRM Permit holder's arguments.
- E [(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 pending proceedings for revocation or other notwithstanding, any notice requirement under D of 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 Hearin. 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.
- [F.] 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). Sustension. 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 15.[13] ENFORCEMENT OF CRM STANDARDS AND POLICIES.

- A. Puriose. The provisions of this Section are intended to establish procedures where y 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 conditions. 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 agency action reviewable by the Commonwealth Trial Court.
- B. Investication. The CRM Administrator shall have the authority to investicate 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 esignee may enter, at any reasonable time, the site of a project for which there has been granted a CRM Permit.
- (c) <u>Search Warrant</u>. The CRM Administrator may, if necessary, apply to the Commonwealth Trial Court for a search warrant allowing entry onto a project site on land or water 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. <u>Prohibited Activites</u>. 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.

- 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.
- Enforcement. 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) Comileted 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 findings of violation or size of the fine is available if the CRM Administrator is so requested, in writing, within seven (7) days of service of the Enforcement Notice.
- Continuin. Violation. If acts constituting a violation are of an ongoing nature or likely to be repeated, 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 findin of violation or size of the fine is available if the CRM Administrator is so requeste, in writing, within seven (7) days of service of the Enforcement Notice.
- (ii). Resoonse 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 may [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) <u>Collection of Civil Fines</u>. 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 16. [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). <u>Vernacular</u>. When requested and reasonably necessary, the CRM Office shall provide translation of official business into the appropriate vernacular.
- (ii). <u>Media</u>. 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). <u>Public Hearines</u>. 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 Ma.s. The CRM Office shall maintain a current series of island maps clearly showing the Areas of Particular Concern.

Section 17 [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. Ado t 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.]
- B. 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 for implementing the CRM Program.
- C. <u>Conduct Meetines</u>. 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 18 [16.] CRM PUBLIC RECORDS.

- A. <u>Retention</u>. 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). CRM Hearing Records. Stenographic or tape recordings of all CRM Permit or Enforcement Hearings 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. <u>Public Access to CRM Records</u>. 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 except as otherwise <u>provided by law</u>. [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). Co:ies 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). Denial of Instection. 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 19 [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, except as provided by law.

A. <u>CNMI Government Records</u>. 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 may [shall] request from interested parties only such records and documents deemed necessary for the CRM permit process.

Section 20 [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 21 [19.] FEDERAL CONSISTENCY.

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 the maximum extent practicable, consistent with the CRM Program. The 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. В.

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
- Air and water quality standards and regulations of the CNMI, (iv). 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.
- С. 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 the CRM Program. Requests for an extension of time may be made for a 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.

D. Federal Licenses and Permits.

- (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 [other] 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.

Federal Assistance. Ε.

- (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 coastal lands [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 22. [21] REPEALER.

The Emergency Rules and Regulations aublished in the Commonwealth Register Vol. Number 7 at 3883 are hereby repealed in their entirety upon the effective date of these Rules and Regulations.

Section 23. [22] 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 24. [23] SAVINGS.

The repeal of the CRM Rules and Regulations which notice of adoption was published in Commonwealth Register 7. Number 7 at 3883, does not release or extinguish any penalty, forfeiture, or liability incurred or right occurring or occured under such law. The regulation shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of the right, penalty, or forfeiture.

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