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WORKER'S COMPENSATION COMMISSION



NORTHERN MARIANA ISLANDS RETIREMENT FUND

P.O. BOX 1247 **SAIPAN, MP 96950** FAX: (670) 234-9624 PHONE: (670) 234-7228





Notice of Proposed Rules and Regulations

The ENMI Workers' Compensation Commission/Board of Trustees of the NMI Retirement Fund hereby notifies the general public of its adoption of the Proposed Rules and Regulations for the CNMI Worker's Compensation program. These rules and regulations are being promulgated pursyant to the authority provided under 4 CMC 9351(a)(1), and the Administrative Procedure Act, 1 CMC 9101, et. seq.

These regulations will generally govern the implementation of the Workers' Compensation Law (Public Law 6-33) in the Commonwealth. Copies of the proposed regulations are available at the CNMI Workers' Compensation Commission/NMI Retirement Fund offices on Saipan, Tinian and Rota.

The Commission urges the general public to submit written comments and recommendations regarding the proposed regulations within 30 days after the first publication in the Commonwealth Register. Send comments to:

> **CNMI Worker's Compensation Commission NMI** Retirement Fund P. O. Box 1247 Saipan, MP 96950

day of December, 1989.

Michael-A. White Chairman

Tomas B. Aldan Administrator

NO. 01

WORKER'S COMPENSATION COMMISSION



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©NOTICIA POT I MA PROPOPONE NA REGULASION SON YAN AREKLAMENTO

I CNMI Workers' Compensation Commission/NMI Retirement Fund man nana'e noticia para a henerat publiko pot i ma adoptana i Proposed Rules and Regulations para areklamenton i CNMI Workers' Compensation na programa. Esti siha na areklamento yan regulasion ma propone sigun gi atoridat gi papa' i lai 4 CMC 9351(a)(1), yan i Administrative Procedure Act, 1 CMC 9101, et. seq.

Esti na areklamento para u inadministra i lai i Workers' Compensation (Public Law 6-33), guine gi Commonwealth. Copian esti na regulasion sina ma chule gi ofisinan i CNMI Workers' Compensation Commission/NMI Retirement Fund giya Saipan, Tinian yan Luta.

I Commission ha sosoyo' todo i man interesao na taotao para ufan man satmiti rekomendasion pot esit na asunto gi halom trenta (30) dias despues de mapublikana gi *Commonwealth Register*. Satmiti i rekomendasion guato gi:

CNMI Workers' Compensation Commission NMI Retirement Fund P. O. Box 1247 Saipan, MP 96950

Mafecha esit gi dia _____, Deciembre, 1989.

Michael A. White Chairman

Fomas B. Aldan Administrator

CNMI Workers' Compensation Commission NMI Retirement Fund

Proposed Rules and Regulations

Commonwealth of the Northern Mariana Islands

December, 1989

NO. 01 JANUARY 15, 1990

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WORKERS' COMPENSATION COMMISSION

PROPOSED RULES AND REGULATIONS

The Board of Trustees, NMI Retirement Fund/CNMI Workers' Compensation Commission (WCC) hereby proposes to promulgate and adopt these regulations to govern the CNMI Workers' Compensation Program pursuant to Public Law 6-33, and the Administrative Procedure Act, 1 CMC 9101, et. seq.

PART 1. AUTHORITY

1.101 Authority to prescribe rules and regulations.

Under and by virtue of the provisions of Section 9351(a)(1) of Public Law 6-33 (4 CMC 9351(a)(1), the WCC hereby promulgates these regulations.

PART 2. DEFINITIONS

2.101 As used in these regulations, except where the context clearly indicates otherwise:

- (a) "Act" means the CNMI Workers' Compensation Law, Public Law 6-33.
- (b) "Adoption" means a process in which an employee becomes the legal parent of a child through a court decree. This term as used in the statute does not mean a local custmoary adoption as commonly known in the traditional Chamorro or Carolinian culture.
- (c) "Administrator" means the administrator of the Workers' Compensation Commission/NMI Retirement Fund or his designee.
- (d) "Carrier" means all insurance companies licensed by the Department of Commerce and Labor to transact general casualty insurance in the Commonwealth; except where the Commission disbars the business because of poor performance or non-compliance of Public Law 6-33, or these regulations.
- (e) "Child" means the natural or adopted child of an employee and includes a locally adopted child if the child was living with the employee at least 1 year prior to the injury.
- (f) "CWC or WCC" means the CNMI Workers' Compensation Commission.
- (g) "Day" means calendar days. In any case where a deadline would not be on a working day, the time is extended to the next working day.
- (h) "Grandchild" means the child of an employee's child.
- (i) "Spouse" means the person who is legally married to an injured or deceased employee. This term does not include a common-law spouse.

PART 3. SPECIAL COVERAGE

3.101 Coverage of Non-resident worker employees.

Non-resident worker employees shall be covered on a 24 hour basis whenever employed outside their country of origin, except as provided in 4 CMC 9303(d), or as deemed unreasonable by the Administrator.

3.102 Coverage of Volunteers for the Commonwealth Government.

- (a) A person who is injured in performing service for the Commonwealth Government as a volunteer firefighter or reserve police officer, as provided by 4 CMC 9303(e), shall be paid by the Commonwealth Government compensation equivalent to that of the lowest paid full time firefighter or police officer employed by the Commonwealth Government on the date of the injury.
- (b) If a person who is injured while performing voluntary work for the Government was paid his/her reasonable medical or hospital expenses from the the Government subsequently receives reimbursement from a third person, the person shall repay the reimbursement to the Government, up to the total amount paid by the Government.

3.103 Coverage of Employees on Travel Status.

Any employee who travels within or without the Commonwealth on behalf of his/her employer shall be entitled to compensation as provided by law in the same manner as an employee who is injured on the job in the Commonwealth. The employee's coverage while on travel status is 24 hours each day. The Administrator shall determine any issue arising concerning the travel status of an employee, until he/she returns to his/her official duty station.

3.104 Immediate Coverage.

Every employee hired by an employer during the period of coverage, or who was not originally included in the contract for insurance, is included in the coverage for workers' compensation secured by the employer.

PART 4. RECORDS

4.101 Employer's Record.

Every employer shall maintain <u>complete and accurate</u> records of injury sustained by employees while in his employ. The records shall also contain information of disease, other impairments or disabilities, or death relating to said injury. Such records shall be available for inspection by the WCC. Records required by this section shall be retained by the employer for three years following the date of injury; this applies to records for lost time and not lost time injuries.

4.102 Records of the WCC.

All reports, records or other documents filed with the WCC with respect to claims are the records of the WCC. The Administrator shall be the official custodian of all records maintained by the WCC.

4.103 Inspection of records of the WCC.

Any party in interest may be permitted to examine the record of the case in which he is interested. The Administrator shall permit or deny inspection as he deems appropriate. The original record in any such case shall not be removed from the office of the Administrator. The Administrator may, in his discretion, deny inspection of any record or part thereof if in his opinion such inspection may result in damage, harm, or harassment to the beneficiary or to any other person. For special provisions concerning release of information regarding injured employees undergoing vocational rehabilitation, see section 26,108.

4.104 Copying of records of the WCC.

Any party in interest may request copies of records he has been permitted to inspect. Such requests shall be addressed to the Administrator who may charge a reasonable copying fee.

PART 5. FORMS, REPRESENTATION, FEES FOR SERVICE

5.101 Forms.

The Administrator may from time to time prescribe, and require the use of, forms for reporting of any information required to be reported by the Act and/or these regulations.

5.102 Representation.

Claimants, employers and insurance carriers may be represented in any proceeding under the Act by a licensed attorney.

5.103 Fees for services.

(a) Any person seeking a fee for services performed on behalf of a claimant with respect to claims filed under the Act shall make application therefor to the WCC or court, as the case may be, before whom the services were performed. The application shall be filed and served upon the other parties within the time limits specified by the WCC or court. The application shall be supported by a complete statement of the extent and character of the necessary work done, described with particularity as to the professional status (e.g., attorney, paralegal, law clerk or other persons assisting the attorney) of each person performing such work, the normal billing rate for each such person, and the hours devoted by each such person to each category of work. Any fee approved shall be reasonably commensurate with the necessary work done and shall take into account the quality of the representation, the complexity of the legal issues

involved, and the amount of benefits awarded, and, when the fee is to be assessed against the claimant, it shall also take into account the financial circumstances of the claimant. No contract charging a flat fee shall be valid.

(b) Where fees are included in a settlement agreement submitted under 12.101, et. seq., approval of that agreement shall be deemed approval of attorney fees for purposes of this subsection for work performed.

5.104 Payment of claimant's witness fees and mileage in disputed claims.

In cases where an attorney's fee is awarded against an employer or carrier, there may be further assessed against such employer or carrier as costs, fees and mileage for necessary witnesses attending the hearing at the request of the claimant. Both the necessity for the witness and the reasonableness of the fees of expert witnesses must be approved by the WCC or the court, as the case may be. The amounts awarded against an employer or carrier as attorney's fees, costs, fees and mileage for witnesses shall not in any respect affect or diminish the compensation payable under the Act.

5.105 Request for information and assistance for claimants.

The Administrator or his designee shall, upon request, provide persons covered by the Act with information and assistance relating to the Act's coverage and compensation and the procedures for obtaining such compensation including assistance in processing a claim.

PART 6. SPECIAL DISABILITY FUND

6.101 Establishment of special disability fund.

The legislature, by section 9353 of the Act (4 CMC 9353), established in the CNMI Government Treasury a Special Disability Fund, to be administered by the WCC. The Treasurer of the Commonwealth is the custodian of the Fund, and all monies and securities of such Fund shall not be property of the Commonwealth. The Treasurer shall make disbursements from such Fund only upon the order of the WCC.

6.102 Purpose of the Special Disability Fund.

The Special Disability Fund was established to give effect to a legislative policy determination that, under certain circumstances, the employer of a particular employee should not be required to bear the entire burden of paying for the compensation benefits due that employee under the Act. Section 6.103 of these regulations describes the special circumstances under which the particular employer is relieved of some of his burden. Section 6.104 describes the sources of this special fund.

6.103 Use of the Special Disability Fund.

(a) <u>Under Section 9308(f)(1) of the Act (4 CMC 9308(f)(1))</u>. In any case in which an employee having an existing permanent partial disability suffers an injury, the employer shall provide compensation for such disability as is found to be attributable to that injury

based upon the average weekly wages of the employee at the time of the injury. If, following an injury falling within the provisions of section 9308(c)(1)-(22), the employee with the preexisting permanent partial disability becomes permanently and totally disabled after the second injury, but such total disability is found not to be due solely to his second injury, the employer or carrier shall be liable for compensation only as provided by the provisions of section 9308(c)(1)-(22) of the Act, 4 CMC 9308(c)(1)-(22).

- (b) In cases wherein the employee is permanently and partially disabled following a second injury, and wherein such disability is not attributable solely to that second injury, and wherein such disability is materially and substantially greater than that which would have resulted from the second injury alone, and wherein such disability following the second injury is not compensable under section 9308(c)(1)-(22) of the Act, then the employer or carrier shall be liable for such compensation as may be appropriate under section 9308(b) or (e) of the Act.
- (c) The term "compensation" herein means money benefits only, and does not include medical benefits. The procedure for determining the extent of the employer's or carrier's liability under this section shall be as provided for in the adjudication of the claims as provided in Part 18 of these regulations. Thereafter, upon cessation of payments which the employer is required to make under this section, if any additional compensation is payable in the case, the Administrator or his designee shall forward such case to the WCC for consideration of an award to the person or persons entitled thereto out of the Special Disability Fund. Any such award from the special fund shall be by order of the WCC.

6.104 Sources of the Special Disability Fund.

- (a) All amounts collected as fines and penalties under the several provisions of the Act shall be deposited into the Special Disability Fund pursuant to 4 CMC 9353(c)(3).
- (b) Whenever an employee dies under circumstances creating a liability on an employer to pay death benefits to the employee's beneficiaries, and whenever there are no such beneficiaries entitled to such payments, the employer shall pay \$10,000 into the Special Disability Fund pursuant to 4 CMC 9353(c)(1). In such cases, the compensation order entered in the case shall specifically find that there is such liability and that there are no beneficiaries entitled to death benefits, and shall order payment by the employer into the fund.
- (c) The Administrator shall annually collect an amount from insurance carriers as provided by 4 CMC 9353(c)(2), and the money shall be deposited into the Fund.

PART 7. INJURY INCREASING DISABILITY

7.101 Procedures for determining applicability of 4 CMC 9308(f)).

(a) Application: filing, service, contents.

- (1) An employer or insurance carrier which seeks to invoke the provisions of Section 9308(f) of the Act must request limitation of its liability and file, in duplicate, with the Administrator a fully documented application. A fully documented application shall contain the information:
 - (i) A specific description of the pre-existing condition relied upon as constituting an existing permanent partial disability;
 - (ii) The reasons for believing that the claimant's permanent disability after the injury would be less were it not for the pre-existing permanent partial disability or that the death would not have ensued but for that disability. These reasons must be supported by medical evidence as specified in paragraph (a)(1)(iv) of this section;
 - (iii) The basis for the assertion that the pre-existing condition relied upon was manifest in the employer; and
 - (iv) Documentary medical evidence relied upon in support of the request for section 9308(f) relief. This medical evidence shall include, but not limited to. a current medical report establishing the extent of all impairments and the date of maximum medical improvement. If the claimant has already reached maximum medical improvement, a report prepared at that time will satisfy the requirement for a current medical report. If the current disability is total, the medical report must explain why the disability is not due solely to the second injury and why the resulting disability is materially and substantially greater than that which would have resulted from the subsequent injury alone. If the injury is the loss of hearing, the pre-existing hearing loss must be documented by an audiogram which complies with the requirements of 24.101. If the claim is for survivor's benefits, the medical report must establish that the death was not due solely to the second injury. Any other evidence considered necessary for consideration of the request for Section 9308(f) relief must be submitted when requested by the Administrator.
- (2) If a claim is being paid by the Special Disability Fund and the claimant dies, an employer need not reapply for Section 9308(f) relief. However, survivor benefits will not be paid until it has been established that the death was due to the accepted injury and the eligible survivors have been identified. The Administrator will issue a compensation order after a claim has been filed and entitlement of the survivors has been verified. Since the employer remains a party in interest to the claim, a compensation order will not be issued without the agreement of the employer.
- (b) Application: Time for filing.
 - (1) A request for section 9308(f) relief should be made as soon as the permanency of the claimant's condition becomes known or is an issue in

dispute. This could be when benefits are first paid for permanent disability, or at an informal conference held to discuss the permanency of the claimant's condition. Where the claim is for death benefits, the request should be made as soon as possible after the date of death. Along with the request for section 9308(f) relief, the applicant must also submit all the supporting documentation required by this section, described in paragraph (a), of this section. Where possible, this documentation should accompany the request, but may be submitted separately, in which case the Administrator shall, at the time of the request, fix a date for submission of the fully documented application. The date shall be fixed as follows:

- (i) Where notice is given to all parties that permanency shall be an issue at an informal conference, the fully documented application must be submitted at or before the conference. For these purposes, notice shall mean when the issues of permanency is noted on the Notice of Informal Conference. All parties are required to list issues reasonably anticipated to be discussed at the conference when the initial request for a conference is made and to notify all parties of additional issues which arise during the period before the conference is actually held.
- (ii) Where the issue of permanency is first raised at the informal conference and could not have reasonably been anticipated by the parties prior to the conference, the Administrator shall adjourn the conference and establish a date by which the fully documented application must be submitted and so notify the employer/carrier. The date shall be set by the Administrator after reviewing the circumstances of the case.
- (2) At the request of the employer or insurance carrier, and for good cause, the Administrator at his/her discretion, may grant an extension of the date for submission of the fully documented application. In fixing the date of submission of the application under circumstances other than described above in considering any request for an extension of the date for submitting the application. The Administrator shall consider all the circumstances of the case, including but not limited to:
 - (i) whether the claimant will encounter hardship by delaying referral of the case for hearing;
 - (ii) the complexity of the issues and the availability of medical and other evidence to the employer;
 - (iii) the length of time the employer was or should have been aware that permanency is an issue; and,
 - (iv) the reasons listed in support of the request.

If the employer/carrier requested a specific date, the reasons for selection of that date will also be considered. Neither the date selected for submission of the fully documented application nor any extension of the fully documented application nor any extension therefrom can go beyond a reasonable date set by the Administrator for formal hearing.

- (3) Where the claimant's condition has not reached maximum medical improvement and no claim for permanency is raised by the date the case is set for hearing, an application need not be submitted to the Administrator to preserve the employer's right to later seek relief under 9308(f) of the Act. In all other cases, failure to submit a fully documented application by the date set for hearing by the Administrator shall be an absolute defense to the liability of the special fund. This defense may be raised by the Administrator. In all cases, where permanency has been raised, the failure of an employer to submit a timely and fully documented application for Section 9308(f) relief shall not prevent the Administrator, at his/her discretion, from considering the claim for compensation and settingt the case for formal hearing. The failure of an employer to present a timely and fully documented application for section 9308(f) relief may be excused only where the employer could not have reasonably anticipated the liability of the special fund prior to the consideration of the claim by the Administrator. Relief under section 9308(f) is not available to an employer who fails to comply with section 9341(a) of the Act, (4 CMC 9341(a)).
- (c) Application: Approval, disapproval.

If all evidence required by paragraph (a) was submitted with the application for section 9308(f) relief and the facts warrant relief under this section, the Administrator shall award such relief after concurrence by the WCC. If the Administrator or the WCC finds that the facts do not warrant relief under section 9308(f), the Administrator shall advise the employer of the grounds for the denial. The application for section 9308(f) relief may then be appealed for a formal hearing. When a case is set for hearing, the Administrator shall include in the hearing file a copy of the application for section 9308(f) relief submitted by the employer, the Administrator's denial of the application at the informal conference level.

PART 8. CLAIMS PROCEDURES

8.101 Reports from employer of employee's injury or death.

(a) Within 10 days from the date of injury or death of an employee, or 10 days from the date an employer has knowledge of an employee's injury or death, including any disease or death proximately caused by the employment, the employer shall furnish a report thereof to the Administrator or his designee, and shall thereafter furnish such additional or supplemental reports as the Administrator may request. Notice shall be made on Form CWC Form 202, or such other form as the Administrator or his designee may prescribe. [See 4 CMC 9339].

(b) No report shall be filed unless the injury causes the employee to lose one or more shifts from work. However, the employer shall keep a record containing the information specified in 4 CMC 9339(a). Compliance with the current OSHA injury record-keeping requirements at 29 CFR Part 1904 will satisfy the record-keeping requirements of this section for no lost time injuries.

PART 9. NOTICE

9.101 Notice of employee's injury or death; designation of responsible official.

- (a) In order to claim compensation under the Act, an employee or claimant must first give notice of the fact of an injury or death to the employer and also may give notice to the Administrator or his designee. Notice to the employer must be given to that individual whom the employer has designated to receive such notices. If no individual has been so designated, notice may be given to:
 - (1) first line supervisors (including foreman or timekeeper), local plant manager, or personnel office official;
 - (2) to any partner if the employer is a partnership; or
 - (3) if the employer is a corporation, to any authorized agent, to an officer or to the person in charge of the business at the place where the injury occurred. In the case of a retired employee, the employee/claimant may submit the notice to any of the above persons, whether or not the employer has designated an official to receive such notice.
- (b) In order to facilitate the filing of notices, each employer shall designate at least one individual responsible for receiving notices of injury or death; this requirement applies to all employers with more than 20 employees. The designation shall be by position and the employer shall provide the name and/or position, exact location and telephone number of the individual to all employees by the appropriate method described below.
 - (1) Type of individual. Designees must be a first line supervisor (including a foreman, hatchboss, or timekeeper), local plant manager, personnel office official, company nurse or other individual traditionally entrusted with this duty, who is located full-time on the premises of the covered facility. The employer must designate at least one individual at each place of employment or one individual for each work crew where there is no fixed place of employment (in that case, the designation should always be the same position for all work crews).
 - (2) How designated. The name and/or title, the location and telephone number of the individual who is selected by the employer to receive all notices shall be given to the Administrator or his designee; posting on the worksite in a conspicuous place shall fulfill this requirement. A redesignation shall be affected by a change in posting.

- (3) *Publication*. Every employer shall post the name and/or telephone number of the designated official. The posting shall be part of the general posting requirement, done on a form prescribed by the WCC, and placed in a conspicuous place at each worksite.
- (4) Effect of failure to designate. Where an employer fails to properly designate and to properly publish the name and/or position of the individual authorized to receive notices of injury or death, such failure shall constitute satisfactory reasons for excusing the employee/claimant's failure to give notice as authorized by 4 CMC 9321(d). The employer has the burden of proof to establish compliance with this section.

9.102 Notice; when given; when given for certain occupational diseases.

- (a) For other than occupational diseases described in (b), the employee must give notice within thirty (30) days of the date of injury or death. For this purpose the date of injury or death is;
 - (1) The day on which a traumatic injury occurs;
 - (2) The date on which the employee or claimant is, or by the exercise of reasonable diligence or by reason of medical advice, should have been aware of a relationship between the injury or death and the employment; or
 - (3) In the case of claims for loss of hearing, the date the employee receives an audiogram, with the accompanying report which indicates the employee has suffered a loss of hearing that is related to his or her employment.
- (b) In the case of an occupational disease which does not immediately result in disability or death, notice must be given within one year after the employee or claimant becomes aware, or in the exercise of reasonable diligence or by reason of medical advice, should have been aware of a relationship between the employment, the disease and the death or disability. For purposes of these occupational diseases, therefore, the notice period does not begin to run until the employee is disabled, or in the case of a retired employee, until a permanent impairment exists.

9.103 Notice; by whom given.

Notice shall be given by the injured employee or someone on his behalf, or in the case of death, by the deceased employee's beneficiary or someone on his behalf.

9.104 Notice; form and contents.

Notice shall be in writing on Form CWC-201 or such other form as may be prescribed by the Administrator or his designee. Such form shall be made available to the employee or beneficiary by the employer. The notice shall be signed by the person authorized to give such notice. [4 CMC 9321(b).]

9.105 Notice; how given.

Notice shall be effected by delivering it by hand or by mail at the address posted by the employer to the individual designated to receive such notices. Notice when given to the Administrator or his designee may be by hand or by mail on CWC Form-201.

9.106 Effect of failure to give notice.

Failure to give timely notice to the employer's designated official shall not bar any claim for compensation if:

- (a) The employer, carrier, or designated official had actual knowledge of the injury or death; or
- (b) The Administrator or his designee determines the employer or carrier has not been prejudiced; or
- (c) The Administrator or his designee excuses failure to file notice. For purposes of this subsection, actual knowledge shall be deemed to exist if the employee's immediate supervisor was aware of the injury and/or in the case of a hearing loss, where the employer has furnished to the employee an audiogram and report which indicates a loss of hearing.
- (d) Failure to give notice shall be excused by the Administrator, if:
 - (1) Notice, while not given to the designated official, was given to an official of the employer or carrier, and no prejudice resulted; or
 - (2) For some other satisfactory reason, notice could not be given. Failure to properly designate and post the individual so designated shall be a satisfactory reason. In any event, such defense to a claim must be raised by the employer/carrier at the first hearing on the claim. [See 4 CMC 9321(d).]

PART 10. CLAIMS

10.101 Claims for compensation; time limitations.

- (a) Claims for compensation for disability or death shall be in writing on Form CWC-203, and filed with the Administrator or his designee. Claims may be filed anytime after the disability or death of an employee. Except as provided below, the right to compensation is barred unless a claimed is filed within one (1) year of the date of injury or death; or (where payment is made without an award) within one (1) year of the date of which the last payment of compensation was made.
- (b) In the case of a hearing loss claim, the time for filing a claim does not begin to run until the employee receives an audiogram with the accompanying report which indicates the employee has sustained a hearing loss that is related to his or her employment. (See 25.101) [See also 4 CMC 9322.]

10.102 Claims: exceptions to time limitations.

- (a) Mentally incompetent, minor. Where a person entitled to compensation under the Act is mentally incompetent or aminor, the time limitation provision of 10.101 shall not apply to a mentally incompetent jperson so long as such person has no guardian or other authorized representative, but 10.101 be applicable from the date of appointment of such guardian or other representative. In the case of minor who has no guardian before he or she becomes of age, time begins to run from the date he or she becomes of age.
- (b) <u>Lawsuit</u>. Where a person brings a suit at law or in admiralty to recover damages in respect of an injury or death, the time limitation in 9.101 shall not begin to run until the date of termination of such suit.
- (c) Occupational Disease. Where the claim is one based on disability or death due to an occupational disease which does not immediately result in death or disability, it must be filed within one year after the employee or claimant becomes aware, or in the exercise of reasonable diligence or by reason of medical advice, should have been aware of the relationship between the employment, the disease and the death or disability, or within one year of the date of last payment of compensation, whichever is later. For purposes of occupational disease, filing a claim does not begin until the employee is disabled, or in the case of a retired employee, until a permanent impairment exists.

10.103 Claims; time limitations; time to object.

Notwithstanding the requirements of 10.101, failure to file a claim within the period prescribed in such section shall not be a bar to such right unless objection to such failure is made at the first hearing of such claim in which all parties in interest are given reasonable notice and opportunity to be heard. [See 4 CMC 9322(b).]

10.104 Claims: notification of employer of filing of employee.

Within 10 days after the filing of a claim for compensation for injury or death under the Act, the Administrator shall give written notice thereof to the employer or carrier, served personally or by certified mail.

10.105 Withdrawal of a claim.

- (a) Before adjudication of claim. A claimant (or an individual who is authorized to execute a claim on his behalf) may withdraw his previously filed claim; provided that:
 - (1) He files with the Administrator or with whom the claim is filed a written request stating the reasons for withdrawal;
 - (2) The claimant is alive at the time his request for withdrawal is filed:

- (3) The Administrator approves the request for withdrawal as being for a proper purpose and in the claimant's best interest; and
- (4) The request for withdrawal is filed on or before the date the WCC makes a determination on the claim.
- (b) After adjudication of claim. A claim for benefits may be withdrawn by a written request filed after the date the WCC makes a determination on the claim: Provided, that:
 - (1) The conditions enumerated in paragraphs (a)(1) through (3) of this section are met; and
 - (2) There is repayment of the amount of benefits previously paid because of the claim that is being withdrawn or it can be established to the satisfaction of the WCC that repayment of any such amount is assured.
- (c) Effect of withdrawal of claim. Where a request for withdrawal of a claim is filed and such request for withdrawal is approved, such withdrawal shall be without prejudice to the filing of another claim, subject to the time limitation provisions of 4 CMC 9322.

PART 11. NONCONTROVERTED CLAIMS

11.101 Noncontroverted claims; payment of compensation without an award.

Unless the employer controverts its liability to pay compensation under this Act, the employer or insurance carrier shall pay bi-weekly or such other period as the Administrator may prescribe, promptly and directly to the person entitled thereto benefits prescribed by the Act. For this purpose, where the employer furnishes to an employee a copy of an audiogram with a report thereon, which indicates the employee has sustained a hearing loss causally related to factors of that employment, the employer or insurance carrier shall pay appropriate compensation or at that time controvert the liability to pay compensation under this Act.

11.102. Payments without an award; when; how paid.

The first installment of compensation shall become due by the 15th day after the employer has been notified through the designated official or by any other means described in 9.101 et. seq., or has actual knowledge of the injury or death. All compensation due thereafter must be paid in semimonthly installments, unless the Administrator determines otherwise. [See 4 CMC 9323.]

11.103 Penalty for failure to pay without an award.

If any installment of compensation payable without an award is not paid within 15 days after it becomes due, there shall be added to such unpaid installment an amount equal to

10 percentum thereof which shall be paid at the same time as, but in addition to, such installment, unless excused by 4 CMC 9323(e).

11.104 Report by employer of final payment of compensation.

- (a) Within 15 days after the final payment of compensation has been made by the employer the employer or the insurance carrier, the employer or carrier shall notify the Administrator on a form prescribed by the WCC, stating that such final payment has been made, the total amount of compensation paid, the name and address of the person(s) to whom payments were made, the date of the injury or death, the name of the injured or deceased employee, and the inclusive dates during which compensation was paid.
- (b) A "final payment of compensation" for the purpose of applying the penalty provision of 11.105 shall be deemed any one of the following:
 - (1) The last payment of compensation made in accordance with a compensation order awarding disability or death benefits, issued by the WCC;
 - (2) The payment of an agreed settlement approved under 4 CMC 9308(h);
 - (3) The last payment made pursuant to an agreement reached by the parties through informal proceedings;
 - (4) Any other payments under the Act.

11.105 Penalty for failure to report termination of payments.

Any employer failing to notify the Administrator of termination of payments in accordance with 11.104 shall be assessed a civil penalty in the amount of \$100.

PART 12. AGREED SETTLEMENTS

12.101 Definitions and supplementary information.

- (a) A settlement agreement between parties represented by counsel is deemed approved when not disapproved within 30 days after it is filed with the CWC.
- (b) An agreement among the parties to settle a claim is limited to the rights of the parties and to claims then in existence: settlement of disability compensation or medical benefits shall not be a settlement of survivor benefits nor shall the settlement affect, in any way, the right of survivors to file a claim for survivor's benefits.

12.102 Information necessary for a complete settlement application.

(a) The settlement application shall be a self-sufficient document which can be evaluated without further reference to the administrative file. The application shall be in the form of a stipulation signed by all parties and shall contain a brief summary of the facts of the case to include: a description of the incident, a description of the nature of

the injury to include the degree of impairment and/or disability, a description of settlement, and a summary of compensation paid and the compensation rate or, where benefits have not been paid, the claimant's average weekly wage.

- (b) The settlement application shall contain the following:
 - (1) A full description of the terms of the settlement which clearly indicates, where appropriate, the amounts to be paid for compensation, medical benefits, survivor benefits, and attorney's fees which shall be itemized as required by 5.103.
 - (2) The reason for the settlement, and the issues which are in dispute, if any.
 - (3) The claimant's date of birth and in death claims, the names and birth dates of all dependents.
 - (4) Information on whether or not the claimant is working or is capable of working. This should include, but not be limited to, a description of the claimant's educational background and work history, as well as other factors which could impact, either favorably or unfavorably, on future employability.
 - (5) A current medical report which fully describes any injury related impairment as well as any unrelated conditions. This report shall indicate whether maximum medical improvement has been reached and whether further disability or medical treatment is anticipated. If the claimant has already reached maximum medical improvement, a medical report prepared at the time the employee's condition stabilized will satisfy the requirement for a current medical report. A medical report need not be submitted with agreements to settle survivor benefits unless the circumtances warrant it.
 - (6) A statement explaining how the settlement amount is considered adequate.
 - (7) If the settlement application covers medical benefits an itemization of the amount paid for medical expenses by year for the three years prior to the date of the application. An estimate of the claimant's need for future medical treatment as well as an estimate of the cost of such medical treatment shall also be submitted which indicates the inflation factor and/.or the discount rate used, if any. The adjudicator may waive these requirements for good cause.
 - (8) Information on any collateral source available for the payment of medical expenses.

12.103. Settlement application; how submitted, how approved, disapproved, criteria.

(a) When the parties to a claim for compensation, including survivor benefits and medical benefits, agree to a plete application to the Administrator. The application shall contain all the information outlined in 12.102 and shall be sent by certified mail, return receipt requested or submitted in person, or by any other delivery service with proof of

delivery to the Administrator. Failure to submit a complete application shall toll the thirty day period mentioned in section 12.101 of these regulations until a complete application is received.

- (b) The Admistrator shall consider the settlement application within thirty days and either approve or disapprove the application. The liability of an employer/insurance carrier is not discharged until the settlement is specifically approved by a compensation order issued by the Administrator. However, if the parties are represented by counsel the settlement shall be deemed approved unless specifically disapproved within thirty days after receipt of a complete application. This thirty day period does not begin until all the information described in 12.102 has been submitted. The Administrator shall examine the settlement application within thirty days and shall immediately serve by certified mail on all parties notice of any deficiency. This notice shall also indicate that the thirty day period will not commence until the deficiency is corrected.
- (c) If the Administrator disapproves a settlement application, the Administrator shall serve on all parties a written statement or order containing the reasons disapproval. This statement shall be served by certified mail within thirty days of receipt of a complete application (as described in 12.102) if the parties are represented by counsel.
- (d) The parties may submit a settlement application solely for medical benefits, or for compensation and medical benefits combined.
- (e) If either portion of a combined compensation and medical benefits settlement application is disapproved, the entire application is disapproved unless the parties indicate on the face of the application that they agree to settle either portion independently.
- (f) When presented with a settlement, the Administrator shall review the application and determine whether considering all of the circumtances, including, where appropriate, the probability of success if the case weere formally litigated, the amount is adequate. The criteria for determining the adequacy of the settlement shall include but not limited to:
 - (1) The claimant's age, education and work history;
 - (2) The degree of the claimant's disability or impairment;
 - (3) The availability of the type of work the claimant can do;
 - (4) The cost and necessity of future medical treatment (where the settlement includes medical benefits).
- (g) In cases being paid pursuant to a final compensation order, where not substantive issues are in dispute, a settlement amount hwich does not equal the present value of ffuture compensation payments commuted, computed at the discount rate specified below, shall be considered inadequate, unless the parties to the settlement show that the amount is adequate. The probability of the death of the beneficiary before the

expiration of the period during which he or she is entitled to compensation shall be determined according to the most current United States Life Table, as developed by the United States Department of Health and Human Services, which shall be updated from time to time. The discount rate shall be equal to the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of 52 weeks U. S. Treasury Bills settle immediately prior to the date of the submission of the settlement application.

PART 13. CONTROVERTED CLAIMS

13.101 Employer's controversion of the right to compensation.

Where the employer controverts the right to compensation after notice or knowledge of the injury or death, or after receipt of a written claim, he shall give notice thereof, stating the reasons for controverting the right to compensation, using the form prescribed by the WCC. Such notice, or answer to the claim, shall be filed with the Administrator within 14 days from the date the employer receives notice or has knowledge of the injury or death. The original notice shall be sent to the Administrator, and a copy thereof shall be given or mailed to the claimant.

13.102 Action By Administrator upon receipt of notice of controversion.

Upon receiving the employer's notice of controversion, the Administrator shall forthwith commence proceedings for the adjudication of the claim in accordance with the procedures set forth in the Act and regulations.

PART 14. CONTESTED CLAIMS

14.101 Claimant's contest of actions taken by employer or carrier with respect to the claim.

Where the claimant contests an action by the employer carrier reducing, suspending, or terminating benefits, including medical care, he should immediately notify the WCC, in person or in writing, and set forth the facts pertinent to his complaint.

14.102 Action by Administrator upon receipt of notice of contest.

Upon receipt of the claimant's notice of contest, the Administrator shall forthwith commence proceedings for adjudication of the claim in accordance with the Act and these regulations.

PART 15. DISCRIMINATION

15.101 Against employees who bring proceedings, prohibition and penalty.

(a) No employer or its duly authorized agent may discharge or in any manner discriminate against an employee as to his/her employment because that employee:

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- (1) has claimed or attempted to claim compensation under this Act;
- (2) has testified or is about to testify in a proceeding under this Act; except that to discharge or refuse to employ a person who has been adjudicated to have filed a fraudulent claim for compensation or otherwise made a false statement or misrepresentation under 4 CMC 9340, is not a violation of this section. Any employer who violates this section shall be liable to a penalty of not less than \$1,000 or more than \$5,000 to be paid (by the employer alone, and not by a carrier) to the Administrator for deposit in the Special Disability Fund described in 6.101 and in 4 CMC 9353; and shall restore that employee to his or her employment along with all wages lost due to the discrimination unless that employee has ceased to be qualified to perform the duties of the employment.
- (b) When the Administrator receives a complaint from an employee alleging discrimination, he/she shall notify the employer, and within five working days, initiate specific inquiry to determine all the facts and circumstances pertaining thereto. This may be accomplished by interviewing the employee, employer representatives and other parties who may have information about the matter. Interviews may be conducted by written correspondence, telephone or personal interview.
- (c) If circumstances warrant, the Administrator may also conduct an informal conference on the issue as described in 18.103 18.105.
- (d) Any employee discriminated against is entitled to be restored to his employment and to be compensated by the employer for any loss of wages arising out of such discrimination; provided, that the employee is qualified to perform the duties of the employment. If it is determined that the employee has been discriminated against, the Administrator shall also determine whether the employee is qualified to perform the duties of the employment. The Administrator may use medical evidence submitted by the parties or he may arrange to have the employee examined by a physician selected by the Administrator. The cost of the medical examination arranged by the Administrator may be charged to the employer.

15.102 Informal recommendation by the Administrator.

(a) If the Administrator determines that the employee has been discharged or suffered discrimination but is able to resume his or her duties, the Administrator will recommend that the employer reinstate the employee and/or make such restitution as is indicated by the circumstances of the case, including compensation for any wage loss suffered as the result of the discharge or discrimination. The Administrator may also assess the employer an appropriate penalty, as determined under authority vested in the Administrator by the Act. If the Administrator determines that no violation occurred he shall notify the parties of his findings and the reasons for recommending that the complaint be denied. If the employer and employee accept the Administrator's

recommendation, it will be incorporated in an order and mailed to each party within 10 days.

(b) If the parties do not agree to the recommendation, the Administrator shall, within 10 days after receipt of the rejection, prepare a memorandum summarizing the disagreement, mail a copy to all interested parties, and shall within 14 days thereafter refer the case to the WCC for hearing.

15.103 Adjudication by WCC.

The WCC is responsible for final determinations of all disputed issues connected with the discrimination complaint, including the amount of penalty to be assessed, and shall proceed with a hearing as described in these regulations.

15.104 Employer's refusal to pay penalty.

In the event the employer refuses to pay the penalty or lost wages assessed, the Administrator shall refer it to the Legal Counsel with the request that appropriate legal action be taken to recover the penalty or lost wages.

PART 16. THIRD PARTY LIABILITY

16.101 Third party action.

- (a) Every person claiming benefits under the Act (or their representative) shall promptly notify the employer and the Administrator when:
 - (1) A claim is made that someone other than the employer or person or persons in its employ, is liable in damages to the claimant because of the injury or death and identify such party by name and address.
 - (2) Legal action is instituted by the claimant or the representative against some person or party other than the employer or a person or persons in his employ, on the ground that such other person is liable in damages to the claimant on account of the compensable injury and/or death; specify the amount of damages claimed and identify the person or party by name and address.
 - (3) Any settlement, compromise or any adjudication of such claim has been effected and report the terms, conditions and amounts of such resolution of claim.
- (b) Where the claim or legal action instituted against a third party results in a settlement agreement which is for an amount less than the compensation to which a person would be entitled under the Act, the person (or person's representative) must obtain the prior written approval of the settlement from the employer and the employer's carrier before the settlement is executed. Failure to do so relieves the employer and/or the carrier of liability for compensation described in 4 CMC 9342, and for medical benefits otherwise

due under 4 CMC 9307, regardless of whether the employer or the carrier has made payments or acknowledged entitlment to benefits under the Act. The approval shall be on a form provided by the WCC and filed, within 30 days after the settlement is entered into, with the Administrator.

PART 17. REPORT OF EARNINGS

17.101 Report of earnings.

- (a) Any employer, carrier or the Administrator (for those cases being paid from the Special Disability Fund) may require an employee to whom it is paying compensation to submit a report of earnings from employment or self-employment. This report may not be required any more frequently than semi-annually. The report shall be made on a form prescribed by the Administrator and shall include all earnings from employment and self-employment and the periods for which the earnings apply. The employee must return the complete report on earnings even where he or she has no earnings to report.
- (b) For these purposes the term "earnings" is defined as all monies received from any employment and includes but is not limited to wages, salaries, tips, sales commissions, fees for services provided, piecework and all revenue received from self-employment even if the business or enterprise operated at a loss or if the profits were reinvested.

17.102 Report of earnings; forfeiture of compensation.

- (a) Any employee who fails to submit a report on earnings from employment or self-employment as may be required under 17.101, or, who knowingly and willfully omits or understates any part of such earnings, shall upon determination by the Administrator forfeit all right to compensation with respect to any period during which the employee was required to file such report. The employee must return the completed report on earnings (even where he/she reports no earnings) within 30 days of the date of receipt; this period may be extended for good cause by the Administrator in determining whether a violation of this requirement has occurred.
- (b) Any employer or carrier who believes that a violation of paragraph (a) of this section has occurred may file a charge with the Administrator. The allegation shall be accompanied by evidence which includes a copy of the report, with proof of service requesting the information from the employee and clearly stating the dates for which the employee was required to report income. Where the employer or carrier is alleging an omission or understatement of earnings, it shall, in addition, present evidence of earnings by the employee during that period, including copies of checks, affidavits from employers who paid the employee earnings, receipts of income from self-employment or any other evidence showing earnings not reported or underreported for the period in question. Where the Administrator finds the evidence sufficient to support the charge he or she shall convene an informal conference and shall issue a compensation order affirming or denying the charge and setting forth the amount of compensation for the specified period. If there is a conflict over any issue relating to this matter, any party may request a formal hearing before the WCC.

(c) Compensation forfeited under paragraph (b) of this section, if already paid, shall be recovered by a deduction from the compensation payable to the employee, if any, on such schedule as the Administrator may determine. The Administrator's discretion in such cases extends only to rescheduling repayment by crediting future compensation and not to whether and in what amounts compensation is forfeited. For this purpose, the Administrator shall consider the employee's essential expenses for living, income from whatever source, and assets, including cash, savings and checking accounts, stocks, bonds, and other securities.

PART 18. ADJUDICATION PROCEDURES

18.101 Scope of this part.

The regulations in this part govern the adjudication of claims in which the employer has filed a notice to controvert the right to compensation under 13.101, or the employee has filed a notice of contest under 14.101. In the vast majority of cases, the problem giving rise to the controversy results from misunderstandings, clerical or mechanical errors, or mistakes of fact of law. Such problems seldom require resolution through formal hearings, with the attendant production of expert witness. Accordingly, by 18.102, et. seq., the Administrator is empowered to amicably and promptly resolve such problems by informal procedures. Where there is a genuine dispute of fact or law which cannot be so disposed of informally, resort must be had to the formal hearing procedures as set forth beginning at 19.101. Supplementary compensation orders, modifications, and interlocutory matters are governed by regulations beginning with 19.101.

18.102 Handling of claims matters by Administrator; informal conferences.

The Administrator is empowered to resolve disputes with respect to claims in a manner designed to protect the rights of the parties and also to resolve such disputes at the earliest practicable date. This will generally be accomplished by informal discussions by telephone or by conferences at the Administrator's office. Some cases will be handled by written correspondence. The regulations governing informal conferences at the Administrator's office with all parties present are set forth below. When handling claims by telephone, or at the office with only one of the parties, the Administrator and his staff shall make certain that a full written record be made of the matters discussed and that such record be placed in the administrative file. When claims are handled by correspondence, copies of all communications shall constitute the administrative file. [See 4 CMC 9332.]

18.103 Informal conferences; call by and held before whom.

Informal conferences shall be called by the Administrator or his designee assigned or reassigned the case and held before that same person, unless such person is absent or unavailable. When so assigned, the designee shall perform the duties set forth below assigned to the Administrator, except that a compensation order following an agreement shall be issued only by the Administrator.

18.104 Informal conference; how called; when called.

Informal conferences may be called upon not less than 10 days' notice to the parties, unless the parties agree to meet at an earlier date. The notice may be given by telephone, but shall be confirmed by use of a written notice on a form prescribed by the WCC. The notice shall indicate the date, time and place of the conference, and shall also specify the matters to be discussed. For good cause shown, conferences may be rescheduled. A copy of such notice shall be placed in administrative file.

18.105 Informal conferences; how conducted; where held.

- (a) No tape recording need be made at informal conferences and no witnesses shall be called. The Administrator shall guide the discussion toward the achievement of the purpose of such conference, recommending courses of action where there are disputed issues, and giving the parties the benefit of his experience and specialized knowledge in the field of workers' compensation.
- (b) Conferences generally shall be held at the Administrator's office. However, such conferences may be held at any place which, in the opinion of the Administrator, will be of greater convenience to the parties or their representatives.

18.106 Conclusion of conference; agreement on all matters with respect to the claim.

- (a) Following an informal conference at which agreement is reached on all issues, the Administrator shall (within 10 days after conclusion of the conference), embody the agreement in a memorandum or within 30 days issue a formal compensation order, to be filed and mailed in accordance with 19.119. If either party requests that a formal compensation order be issued, the Administrator shall, within 30 days of such request, prepare, file, and serve such order in accordance with 19.119. Where the problem was of such nature that it was resolved by telephone conversation or discussion, or exchange of written correspondence, the parties shall be notified by the same means that agreement was reached and the Administrator shall prepare a memorandum or order setting forth the terms agreed upon. In either instance, when the employer or carrier has agreed to pay, reinstate or increase monetary compensation benefits, or to restore or appropriately change medical care benefits, such action shall be commenced immediately upon becoming aware of the agreement, and without awaiting receipt of the memorandum or the formal compensation order.
- (b) Where there are several conferences or discussions, the provisions of paragraph (a) of this section do not apply until the last conference. The Administrator shall, however, prepare and place in his administrative file a short, succinct memorandum of each preceding conference or discussion.

18.107 Conclusion of conference; no agreement on all matters with respect to the claim.

When it becomes apparent during the course of the informal conference that agreement on all issues cannot be reached, the Administrator shall bring the conference to a close, shall evaluate all evidence available to him or her, and after such evaluation shall prepare a memorandum of conference setting forth all outstanding issues, such facts or allegations as appear material and his or her recommendations and rationale for resolution of such issues. Copies of this memorandum shall then be sent by certified mail to each of the parties or their representatives, who shall then have 14 days within which to signify in writing to the Administrator whether they agree or disagree with his or her recommendations. If they agree, the Administrator shall proceed as in 18.106(a). If they disagree, then the Administrator may schedule such further conference or conferences as, in his opinion, may bring about agreement; if he or she is satisfied that any further conference would be unproductive, or if any party has requested a hearing, the Administrator shall prepare the case for hearing. (See 18.108, 19.101-121).

18.108 Preparation of the case for hearing.

A case is prepared for hearing in the following manner:

- (a) The Administrator may elect to furnish each of the parties or their representatives with a copy of a pre-hearing statement form.
- (b) Each party shall, within 21 days after receipt of such form, complete it and return it to the Administrator and serve copies on all other parties. Extensions of time for good cause may be granted by the Administrator.
- (c) Upon receipt of the completed forms, the Administrator, after checking them for completeness and after any further conferences that, in his/her opinion, are warranted, shall compile them together with all available evidence which the parties intend to submit at the hearing (exclusive of X-rays, slides and other materials not suitable for mailing which may be offered into evidence at the time of hearing); the materials compiled shall include any recommendations expressed or memoranda prepared by the Administrator pursuant to 18.107.
- (d) If the completed pre-hearing statement forms raise new or additional issues not previously considered by the Administrator or indicate that the material evidence will be submitted that could reasonably have been made available to the Administrator before he or she prepared the last memorandum of conference, the Administrator may consider such issues or evaluate such evidence or both and issue an additional memorandum of conference in conformance with 18.107.
- (e) If a party fails to complete or return his/her pre-hearing statement form within the time allowed, the Administrator may, at his discretion, compile the case without that party's form. However, such compilation shall include a statement from the Administrator setting forth the circumstances causing the failure to include the form, and

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such party's failure to submit a pre-hearing statement form may, subject to rebuttal at the formal hearing, be considered by the Administrator, to the extent intrasigence is relevant, in subsequent rulings on motions which may be made in the course of the formal hearing.

18.109 The record; what constitutes; inclusion of administrative file.

For the purpose of any further proceedings under the Act, the formal record of proceedings shall consist of the hearing record made before the Administrator. When compiling the case for hearing pursuant to 18.108, the Administrator shall include the administrative file, communications with the parties, and memoranda. The work product and the attorney-client communications shall be and must remain confidential.

18.110 Obtaining documents from file for reintroduction at formal hearings.

Whenever any party considers any other documents in the administrative file essential to any further proceedings under the Act, it is the responsibility of such party to obtain such other document from the Administrator and reintroduce it for the record at the hearing. The type of document that may be obtained shall be limited to those including documents or forms with respect to notices, claims, controversions, contests, progress reports, medical services or supplies, etc. The work products of the Administrator or his staff shall not be subject to retrieval. Documents privileged by law under the attorney-client privilege between the WCC and its attorney shall not be subject to retireval. The procedure for obtaining documents shall be for the requesting party to inform the Administrator in writing of the documents he wishes to obtain, specifying them with particularity. Upon receipt the Administrator shall deny the request in writing or grant it by causing copies of the requested documents to be made and then:

- (a) Place the copies in the hearing file together with the letter of request; and
- (b) Promptly forward the originals to the requesting party. The handling of multiple requests for the same documents shall be within the discretion of the Administrator and with the cooperation of the requesting parties.

PART 19. FORMAL HEARINGS

19.101 Formal hearings; how initiated.

Formal hearings are initiated before the Administrator who shall serve the pre-hearing statement forms, the available evidence which the parties intend to submit at the formal hearing, and the letter setting a hearing as provided in 18.107 and 18.108. [See 4 CMC 9330.]

19.102 Formal hearings; how conducted.

Formal hearings shall be conducted before the Administrator in accordance with 4 CMC 9332 and the Administrative Procedure Act, 1 CMC 9101, et. seq. All hearings shall be tape recorded.

19.103 Formal hearings; parties.

- (a) The necessary parties for a formal hearing are the claimant and the employer or insurance carrier, and the Administrator.
- (b) The WCC legal counsel or his designee may appear and participate in any formal hearing held pursuant to these regulations.

19.104 Formal hearings; representatives of parties.

The claimant and the employer or carrier may be represented by attorneys of their choice.

19.105 Formal hearings; notice.

On a form prescribed for this purpose, the Administrator shall notify the parties (See 19.103) of the place and time of the formal hearing not less than 14 days in advance thereof.

19.106 Formal hearings; new issues.

- (a) If, during the course of the formal hearing, the evidence presented warrants consideration of an issue or issues not previously considered, the Administrator may expand the hearing to include the new issue. If in the opinion of the Administrator the new issue requires additional time for preparation, the parties shall be given a reasonable time within which to prepare for it. If the new issue arises from evidence that has not been considered by the Administrator, and such evidence is likely to resolve the case without the need for a formal hearing, the Administrator may remand the case for an informal hearing before his or her designee for his or her evaluation and recommendation pursuant to 18.107.
- (b) At any time prior to the filing of the compensation order in the case, the Administrator may in his discretion, upon the application of a party or upon his own motion, give notice that he will consider any new issue. The parties shall be given not less than 10 days' notice of the hearing on such new issue. The parties may stipulate that the issue may be heard at an earlier time and shall proceed to a hearing, unless they agree to such a change without notice.

19.107 Formal hearings; change of time or place for hearings; postponements.

- (a) Except for good cause shown, hearings shall be held at a convenient location on the island of the claimant's residence, if in the CNMI.
- (b) Once a formal hearing has been set, continuances shall not be granted except in cases of extreme hardship or where attendance of a party or his/her representative is mandated at a previously scheduled judicial proceeding, or by consent of the parties. Unless the ground for the request arises thereafter, requests for continuances must be received by the Administrator at least 10 days before the scheduled hearing date, must

be served upon the other parties, and must specify the extreme hardship or previously scheduled judicial proceeding claimed.

(c) The Administrator may change the time and place of the hearing, or temporarily adjourn a hearing on his own motion or for good cause shown by a party. The parties shall be given not less than 10 days' notice of the new time and place of the hearing, unless they agree to such change without notice.

19.108 Formal hearings; general procedures.

All hearings shall be attended by the parties or their representatives and such other persons as the Administrator deems necessary and proper. The Administrator shall inquire fully into the matters at issue and shall receive in evidence the testimony of witnesses and any documents which are relevant and material to such matters. If the Administrator believes that there is relevant and material evidence available which has not been presented at the hearing, he may adjourn the hearing or, at any time, prior to the filing of the compensation order, reopen the hearing for the receipt of such evidence. The order in which evidence and allegations shall be presented and the procedures at the hearings generally, except as these regulations otherwise expressly provide, shall be in the discretion of the Administrator and of such nature as to afford the parties a reasonable opportunity for a fair and impartial hearing.

19.109 Formal hearings; evidence.

In making an investigation or inquiry or conducting a hearing, the Administrator shall not be bound by technical or formal rules of procedure, except as required by the CNMI Administrative Procedure Act, 1 CMC 9101, et. seq., and these regulations; but may make such investigation or inquiry or conduct such hearing in such manner and procedure as he deems to best ascertain the rights of the parties involved.

10.110 Formal hearings; witnesses.

- (a) Witnesses at the hearing shall testify under oath or affirmation administered by the Administrator or other hearing officer. The Administrator may examine the witness and shall allow the parties or their representatives to do so.
- (b) No person shall be required to attend as a witness in any proceeding before the Administrator at a place off the island of his residence, unless his lawful airfare and fees for one day's attendance shall be paid or tendered to him in advance of the hearing date. [See 4 CMC 9334.]

19.111 Formal hearings; depositions; interrogatories.

The testimony of a witness, including any party represented by counsel, may be taken by deposition or interrogatory according to the Commonwealth Rules of Civil Procedure as supplemented by the Commonwealth Rules of Practice. However, such depositions or interrogatories must be completed within reasonable times to be fixed by the Administrator. [See 4 CMC Sections 9333 and 9336.]

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19.112 Formal hearings; witness fees.

Witnesses summoned in a formal hearing before the Administrator or whose depositions are taken shall receive the same fees and mileage as witnesses in the CNMI Superior Court.

19.113 Formal hearings; oral argument and written allegations.

Any party upon request shall be allowed a reasonable time for presentation of oral argument and shall be permitted to file a brief closing upon averment on the record that the case presents a special novel or difficult legal or factual issue (or issues) that cannot be adequately addressed in oral summation. When permitted, any such brief shall be limited to the issue (or issues) specified by the Administrator or by the party in his/her averment and shall be due from any party desiring to address such issue (or issues) within 15 days of the conclusion of the proceeding at which evidence is submitted to the Administrator. Extension of the time for filing such briefs shall be granted only if the Administrator is persuaded that the brief will be helpful to him and that the extension granted will not delay decision of the case.

19.114 Formal hearings; record of hearing.

All formal hearings shall be open to the public and shall be tape recorded. All evidence upon which the Administrator relies for his final decision shall be contained in the transcript of testimony either directly or by appropriate reference to the hearing record or file. All medical reports, exhibits, and any other pertinent document or record, in whole or in material part, shall be incorporated into the record either by reference or as an appendix.

19.115 Formal hearings; consolidated issues; consolidated cases.

- (a) When one or more additional issues are raised by the Administrator pursuant to 19.106, such issues may, in the discretion of the Administrator, be consolidated for hearing and decision with other issues pending before him.
- (b) When two or more cases are transferred for formal hearings and have common questions of law or which arose out of a common accident, the Administrator may consolidate such cases for hearing.

19.116 Formal hearings; waiver of right to appear.

If all parties waive their right to appear before the Administrator, or to present evidence or argument personally or by counsel, it shall not be necessary for the Administrator to give notice of and conduct an oral hearing. A waiver of the right to appear and present evidence and allegations as to facts and law shall be made in writing and filed with the WCC or the Administrator. Where such a waiver has been filed by all parties, and they do not appear before the Administrator personally or by representative, the Administrator shall make a record of the relevant written evidence in the hearing file/or submitted by the parties, together with any pleadings they may submit with respect to the issues in the

case. Such documents shall be considered as all of the evidence in the case and the decision shall be based on them.

19.117 Formal hearings; termination.

- (a) Formal hearings are normally terminated upon the conclusion of the proceeding at which evidence is submitted to the Administrator.
- (b) In exceptional cases the Administrator may, in his discretion, extend the time for official termination of the hearing.

19.118 Formal hearings; preparation of final decision and order; content.

Within 20 days after the official termination of the hearing as defined by 19.117, the Administrator shall have prepared a final decision and order, in the form of a compensation order, with respect to the claim, making an award to the claimant or rejecting the claim. The compensation order shall contain appropriate findings of facts and conclusions of law with respect thereto, and shall be concluded with one or more paragraphs containing the order of the Administrator, his signature, and the date of issuance.

19.119 Formal hearings; disposition of orders and transcripts.

The Administrator shall, within 20 days after the official termination of the hearing, provide a copy to the WCC of his signed compensation order. The Administrator, being the official custodian of all records with respect to claims, shall formally date and file the compensation order (original) in his office. The Administrator shall, on the same day as the filing was accomplished, send by certified mail a copy of the compensation order to the parties and to representatives of the parties, if any. Appended to each such copy shall be a paragraph entitled "Proof of Service" containing the certification of the Administrator that the copies were mailed on the date stated, to each of the parties and their representatives, as shown in such paragraph.

19.120 Finality of compensation orders.

Compensation orders shall become effective when filed by the Administrator, and unless proceedings for suspension or setting aside of such orders are instituted as provided by 4 CMC 9330(b), it shall become final at the expiration of the 15th day after such filing, as provided by 4 CMC 9330(b). If any compensation payable under the terms of such order is not paid with 10 days after it becomes due, section 9323(f) of the Act requires that there be added to such unpaid compensation an amount equal to 20 percent thereof which shall be paid at the same time as, but in addition to, such compensation, unless review of the compensation order is had as provided in section 9330(c) and an order staying payment has been issued by the reviewing court.

19.121 Withdrawal of controversion of issues set for formal hearing; effect.

Whenever a party withdraws his controversion of the issues set for a formal hearing, the Administrator shall halt the proceedings upon receipt from said party of a signed statement to that effect and forthwith to dispose of the case as provided for in section 18.106.

PART 20. INTERLOCUTORY MATTERS, SUPPLEMENTAL ORDERS, MODIFICATIONS

20.101 Interlocutory Matters.

Compensation orders shall not be made or filed with respect to interlocutory matters of a procedural nature arising during the pendency of a compensation case.

20.102 Supplementary compensation orders.

- (a) In any case in which the employer or insurance carrier is in default in the payment of compensation due under any award of compensation, for a period of 30 days after the compensation is due and payable, the person to whom such compensation is payable may, within 1 year after such default, apply in writing to the Administrator for a supplementary compensation order declaring the amount of the default. Upon receipt of such application, the Administrator shall institute proceedings with respect to such application as if such application were an original claim for compensation, and the matter shall be disposed of as provided for in section 18.106, or if agreement on the issue is not reached, then as in section 18.107, et. seq.
- (b) If, after disposition of the application as provided for in paragraph (a) of this section, a supplementary compensation order is entered declaring the amount of the default, which amount may be the whole of the award notwithstanding that only one or more installments is in default, a copy of such supplementary order shall be forthwith sent by certified mail to each of the parties and their representatives. Thereafter, the applicant may obtain and file with the clerk of the Superior Court a certified copy of said order and may seek enforcement thereof as provided for by section 9327 of the Act, 4 CMC 9327.

20.103 Modification of awards.

(a) Upon his/her own initiative, or upon application of any party in interest (including an employer or carrier which has been granted relief under section 9308(f) of the Act), the Administrator may review any compensation case by an informal conference or by a formal hearing, and file a new compensation order terminating, continuing, reinstating, increasing or decreasing such compensation, or awarding compensation. Such new order shall not affect any compensation previously paid, except that an award increasing the compensation rate may be made retroactive from the date of injury, and if any part of the compensation due or to become due is unpaid, an award decreasing the compensation rate may be made effective from the date of the injury, and any payment made prior thereto in excess of such decreased rate shall be deducted from any unpaid compensation, in such manner and by such method as may be determined

by the Administrator or Commission. Settlements cannot be modified, unless exceptional circumstances are shown.

(b) If any investigation discloses a change in conditions and the employer or insurance carrier intends to pursue modification of the award of compensation, the Administrator and claimant shall be notified through an informal conference. At the conclusion of the informal conference the Administrator shall issue a recommendation either for or against the modification. The Commission shall then make a final determination.

20.104 Appeals; where.

Appeals may be taken to the Commission as provided by 4 CMC 9330. An appeal from a final order of the Administrator shall be made within 15 days from the date of its filing.

PART 21. MEDICAL CARE AND SUPERVISION

21.101 Medical care defined.

- (a) Medical care shall include medical, surgical, and other attendance or treatment, nursing and hospital services, laboratory, X-ray and other technical services, medicines, crutches, or other apparatus and prosthetic devices, and any other medical service or supply, including the reasonable and necessary cost of travel incident thereto, which is recognized as appropriate by the medical profession for the care and treatment of the injury or disease.
- (b) An employee may rely on treatment by prayer or spiritual means alone, in accordance with the tenets and practice of a recognized church or religious denomination, by an accredited practitioner of such recognized church or religious denomination, and nursing services rendered in accordance with such tenets and practice without loss of diminution of compensation or benefits under the Act. For purposes of these regulations, a "church or religious denomination" shall be any religious organization: (1) That is recognized by the Social Security Administration for purposes of reimbursements for treatment under Medicare and Medicaid or (2) that is recognized by the Internal Revenue Service for purposes of tax exempt status.

21.102 Employer's duty to furnish; duration.

It is the duty of the employer to furnish appropriate medical care (as defined in 21.101(a)) for the employee's injury, and for such period as the nature of the injury or the process of recovery may require.

21.103 Employee's right to choose physician; limitations.

The employee shall have the right to choose his/her attending physician from among those authorized by the Commission to furnish such care and treatment. In determining the choice of a physician, consideration must be given to availability, the employee's condition and method and means of transportation. Generally it is not reasonable to travel outside the CNMI, but other pertinent factors must also be taken into consideration.

21.104 Physician defined.

The term "physician" includes doctors of medicine (MD), surgeons, podiatrist, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of the their practice as defined by Commonwealth law. The term includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation show by X-ray or clinical findings. Physicians defined in this part may interpret their own X-rays. All physicians in these categories are authorized by the Administrator to render medical care under the Act. Naturopathy, faith healers, and other practitioners of the healing arts which are not listed herein are not included with the term "physician" as used in this part.

21.105 Selection of physician; emergencies.

Whenever the nature of the injury is such that immediate medical care is required and the injured employee is unable to select a physician, the employer shall select a physician. Thereafter the employee may change physicians when he is able to make a selection. Such changes shall be made upon obtaining written authorization from the employer or, if consent is withheld, from the Administrator, upon showing of good cause.

21.106 Change of physicians; non-emergencies.

- (a) Whenever the employee has made his initial, free choice of an attending physician, he may not thereafter change physicians without the prior written consent of the employer (or carrier) or the Administrator. Such consent shall be given in cases where an employee's initial choice was not a a specialist whose services are necessary for, and appropriate to, the proper care and treatment of the compensable injury or disease. In all other cases, consent may be given upon a showing of good cause for change.
- (b) The Administrator may order a change of physicians or hospitals when such a change is found to be necessary or desirable or where the fees charged exceed those prevailing within the community for the same or similar services or exceed the provider's customary charges.

21.107 Supervision of medical care.

The Administrator shall actively supervise the medical care of an injured employee covered by the Act. Such supervision shall include:

- (a) The requirement that periodic reports on the medical care being rendered be filed in the office of the Administrator, the frequency thereof being determined by order of the Administrator or by the sound judgment of the attending physician as the nature of the injury may dictate;
- (b) The determination of the necessity, character and sufficiency of any medical care furnished or to be furnished the employee, including whether the changes made by any medical care provider exceed those permitted under the Act;

- (c) The determination of whether a change of physicians, hospitals or other persons or locales providing treatment should be made or is necessary;
- (d) The further evaluation of medical questions arising in any case under the Act, with respect to the nature and extent of the covered injury, and the medical care required therefor.

21.108 Evaluation of medical questions; impartial specialists.

In any case in which medical questions arise with respect to the appropriate diagnosis, and extent and effect of appropriate treatment, and the duration of any such care or treatment, for an injury covered by the Act, the Administrator shall have the power to evaluate such questions by appointing one or more especially qualified physicians to examine the employee, or in the case of death, to make such inquiry as may be appropriate to the facts and circumstances of the case. The physician or physicians, including appropriate consultants, should report their findings with respect to the questions raised as expeditiously as possible. Upon receipt of such report, action appropriate therewith shall be taken.

21.109 Evaluation of medical questions; results disputed.

Any party who is dissatisfied with such report may request a review or reexamination of the employee by one or more different physicians employed by or selected by the Administrator and such review or reexamination shall be granted unless it is found that it is clearly unwarranted. The dissatisfied party may be required to pay the cost of the examination. Such review shall be completed within 2 weeks from the date ordered unless it is impossible to complete the review and render a report thereon within such time period. Upon receipt of the report of this additional review and reexamination, such action as may be appropriate shall forthwith be taken.

21.110 Duties of employees with respect to special examinations.

- (a) For any special examination required of an employee by sections 21.108 and 21.109, the employee shall submit to such examination at such place as is designated in the order to report, but the place so selected shall be reasonably convenient for the employee.
- (b) Where an employee fails to submit to an examination required by sections 21.108 and 21.109, the Administrator or Commission may order that no compensation otherwise payable shall be paid for any period during which the employee refuse to submit to such examination unless circumstances justified the refusal.
- (c) Where an employee unreasonably refuses to submit to medical or surgical treatment, or to an examination by a physician selected by the employer, the Administrator or Commission may by order suspend the payment of further compensation during such time as the refusal continues. Provided, that refusal to submit to medical treatment because of adherence to the tenets of a recognized church

or religious denomination as described in section 21.101(b) shall not cause the suspension of compensation. [Section 9307(a)(4).]

21.111 Special examinations; nature of impartiality of specialists.

- (a) The special examinations required by section 21.108 shall be accomplished in a manner designed to preclude prejudgment by the impartial examiner. No physician previously connected with the case shall be present, nor may any other physician selected by the employer, carrier, or employee be present. The impartial examiner may be made aware, by any party, or the Administrator, or WCC of the opinions, reports, or conclusions of any prior examining physician with respect to the nature and extent of the impairment, its cause, or its effect upon the wage-earning capacity of the injured employee, if the Administrator determines that, for good cause, such opinions, reports, or conclusions shall be made available. Upon request, any party shall be given a copy of all materials made available to the impartial examiner.
- (b) The impartiality of the specialists shall not be considered to have been compromised if the Administrator deems it advisable to and does, apprise the specialist by memorandum of those undisputed facts pertaining to the nature of the employee's employment, of the nature of the injury, of the post-injury employment activity, if any, and of any other facts which are not disputed and are deemed pertinent to the type of injury and/or the type of examination being conducted.
- (c) No physician selected to perform impartial examinations shall be, or shall have been for a period of 2 years prior to the examination, an employee of an insurance carrier or employer, or who has accepted or participated in any fee from an insurance carrier or employer, unless the parties in interest agree thereto.

21.112 Special examinations; costs chargeable to employer or carrier.

- (a) The Administrator shall have the power, in the exercise of his discretion, to charge the cost of the examination or review to the employer, to the insurance carrier, or in appropriate circumstances, to the special fund established by section 9353 of the Act, 4 CMC 9353.
- (b) The Administrator may also order the employer or the insurance carrier to provide the employee with the services of an attendant where the Administrator considers such services necessary, because the employee is totally blind, has lost the use of both hands, or both feet or is paralyzed and unable to walk, or because of other disability making the employee so helpless as to require constant attendance, in the discretion of the Administrator. Fees payable for such services shall be in accord with the provisions of section 21.113.

21.113 Fees for medical services; prevailing community charges.

All fees charged by medical care providers for persons covered by this Act shall be limited to such charges for the same or similar care (including supplies) as prevails in the community in which the medical care provider is located and shall not exceed the

customary charges of the medical care provider for the same or similar services. The opinion of the Administrator that a charge by a medical care provider disputed under the provisions of section 21.114 exceeds the charge which said medical care provider is located shall constitute sufficient evidence to warrant further proceedings pursuant to section 21.114 and permit the Administrator to direct the claimant to select another medical provider for care to the claimant.

21.114 Fees for medical services; unresolved disputes on prevailing charges.

- (a) The Administrator may, upon written complaint of an interested party, or upon the Administrator's own initiative, investigate any medical care provider or any fee for medical treatment, services, or supplies that appears to exceed similar treatment, services or supplies or the provider's customary charges. Such investigation may initially be conducted informally through contract of the medical care provider by the Administrator. If this informal investigation is unsuccessful further proceedings may be undertaken. These proceedings may include, but not limited to: an informal conference involving all interested parties; agency interrogatories to the pertinent medical care provider; and issuance of subpoenas duces tecum for documents having a bearing on the dispute.
- (b) The failure of any medical care provider to present any evidence required by the Administrator pursuant to this section without good cause shall not prevent the Administrator from making findings of fact.
- (c) After any proceeding under this section the Administrator shall make specific findings on whether the fee exceeded the prevailing community charges or the provider's customary charges and provide notice of these findings to the affected parties.
- (d) The Administrator may suspend any such proceedings if after receipt of the written complaint the affected parties agree to withdraw the controversy from agency consideration on the basis that such controversy has been resolved by the affected parties. Such suspension, however, shall be at the discretion of the Administrator.

21.115 Fees for medical services; unresolved disputes on charges; procedure.

After issuance of specific findings of fact and proposed action by the Administrator as provided in section 21.114 any affected provider employer or other interested party has the right to seek a hearing pursuant to the Administrative Procedure Act. Upon written request for such a hearing, the matter shall be referred to the WCC for formal hearing in accordance with the procedures in this part. If no such request for a hearing is filed with the Administrator within thirty (30) days, the findings issued pursuant to section 21.114 shall be final.

21.116 Fees for medical services; disputes; hearings; necessary parties.

At formal hearings held pursuant to section 21.115, the necessary parties shall be the person whose fee or cost charge is in question and the Administrator or his

representatives. The employer or carrier may also be represented, and other parties, or associations having an interest in the proceedings, may be heard, in the discretion of the WCC.

21.117 Fees for medical services; disputes, effect of adverse decision.

If the final decision and order upholds the finding of the Administrator that the fee or charge in dispute was not in accordance with prevailing community charges or the provider's customary charges, the person claiming such fee or cost charge shall be given thirty (30) days after filing of such decision and order to make the necessary adjustment. If such person still refuses to make the required readjustment, such person shall not be authorized to conduct any further treatments or examinations (if a physician) or to provide any other services or supplies (if by other than a physician). Any fee or cost charge subsequently incurred for services performed or supplies furnished shall not be reimbursable medical expense under this part. This prohibition shall apply notwithstanding the fact that the services performed or supplies furnished were in all other respects necessary and appropriate within the provision of these regulations. However, the Administrator may direct reimbursement of medical claims for services rendered if such services were rendered in an emergency [see section 23.105(b)]. At the termination of the proceedings provided for in this section the Administrator shall determine whether further proceedings under section 23.102 should be initiated.

PART 22. MEDICAL PROCEDURES

22.101 Procedure for requesting medical care; employee's duty to notify employer.

- (a) As soon as practicable, but within 30 days after occurrence of any injury covered by the Act, or within 30 days after an employee becomes aware, or in the exercise of reasonable diligence should be aware, of the relationship between an injury or disease and his employment, the injured employee or someone on his behalf shall give written notice thereof of the Administrator and to the employer. If a form has been prescribed for such purpose it shall be used, if available and practicable under the circumstances. Notices filed under this part, if on the form prescribed by the Administrator for such purpose, satisfy the written notice requirements of this part.
- (b) In the case of an occupational disease which does not immediately result in a disability or death, such notice shall be given within one year after the employee becomes aware, or in the exercise of reasonable diligence or by reason of medical advice should have been aware, of the relationship between the employment, the disease, and the death or disability. Notice shall be given: (1) To the Administrator, and (2) to the employer.

22.102 Action by employer upon acquiring knowledge or being given notice of injury.

Whenever an employer acquires knowledge of an employee's injury, through receipt of a written notice or otherwise, said employer shall forthwith authorize, in writing, appropriated

medical care. If a form is prescribed for this purpose it shall be used whenever practicable. Authorization shall also be given in cases where an employee's initial choice was not of a specialist whose services are necessary for and appropriate to the proper care and treatment of the compensable injury or disease. In all other cases, consent may be given upon a showing of good cause for change.

22.103 Issuance of authorization; binding effect upon insurance carrier.

The issuance of an authorization for treatment by the employer shall bind his insurance carrier to furnish and pay for such care and services.

22.104 Effect of failure to obtain initial authorization.

An employee shall not be entitled to recover for medical services and supplies unless:

- (a) The employer shall have refused or neglected a request to furnish such services and the employee has complied with sections 9307(b) and (c) of the Act, and these regulations; or
- (b) The nature of the injury required such treatment and services and the employer or his superintendent or foreman having knowledge of such injury shall have neglected to provide or authorize same.

22.105 Effect of failure to report on medical care after initial authorization.

- (a) Notwithstanding that medical care is properly obtained in accordance with these regulations, a finding by the Administrator that a medical care provider has failed to comply with the reporting requirements of the Act shall operate as a mandatory revocation of authorization of such medical care provider. The effect of a final finding to this effect operates to release the employer/carrier from liability of the expenses of such care. In addition to this, when such a finding is made by the Administrator, the claimant receiving treatment will be directed by the Administrator to seek authorization for medical care from another source.
- (b) For good cause shown, the Administrator may excuse the failure to comply with the reporting requirements of the Act and may make an award for the reasonable value of such medical care.

PART 23. DEBARMENT OF PHYSICIANS, OTHER PROVIDERS AND ATTORNEYS

23.101 Grounds for debarment

A physician or health care provider shall be debarred if it is found, after appropriate investigation as described in section 21.114 and proceedings under sections 23.102 and 23.103, that such physician or health care provider has:

- (a) Knowingly and willfully made, or caused to be made, any false statement or misrepresentation of a material fact for use in a claim for compensation or claim for reimbursement of medical expenses under this Act;
- (b) Knowingly and willfully submitted, or caused to be submitted, a bill or request for payment under this Act containing a charge which the Administrator finds to be substantially in excess of the charge for the service, appliance, or supply prevailing within the community or in excess of the provider's customary charges, unless the Administrator finds there is good cause for the bill or request containing the charge;
- (c) Knowingly and willfully furnished a service, appliance, or supply which is determined by the Administrator to be substantially in excess of the need of the recipient thereof or to be of a quality which substantially fails to meet professionally recognized standards;
- (d) Been convicted under any criminal statute, without regard to pending appeal thereof, for fraudulent activities in connection with federal or state program for which payments are made to physicians or providers of similar services, appliances, or supplies; or has otherwise been excluded from participation in such program.
- (e) The fact that a physician or health care provider has been convicted of a crime previously described in (d), or excluded or suspended, or has resigned in lieu of exclusion or suspension, from participation in any program as described in (d), shall be a prima facie finding of fact for purposes of a debarment order.

23.102 Debarment process.

- (a) <u>Pertaining to health care providers</u>. Upon receipt of information indicating that a physician or health care provider has engaged in activities enumerated in subparagraphs (a) through (c) of section 23.101, the Administrator may evaluate the information (as described in section 23.101) to ascertain whether proceedings should be initiated against the physician or health care provider to remove authorization to render medical care or service under the Act.
- (b) <u>Pertaining to health care providers and attorneys.</u> If after appropriate investigation the Administrator determines that proceedings should be initiated, written notice thereof sent certified mail, return receipt requested, shall be provided to the physician, health care provider or attorney containing the following:
 - (1) A concise statement of the grounds upon which debarment will be based;
 - (2) A summary of the information upon which the Administrator has relied in reaching an initial decision that debarment proceedings should be initiated;
 - (3) An invitation to the physician, health care provider or attorney to: (i) Resign voluntarily from participation in the program without admitting or denying the allegations presented in the written notice; or (ii) request a

decision on debarment to be based upon the existing agency record and any other information the physician, health care provider or attorney may wish to provide;

- (4) A notice of the physician's, health care provider's or attorney's right, in the event of an adverse ruling by the Administrator, to request a formal hearing before the WCC;
- (5) A notice that if a physician, health care provider or attorney fail to provide a written answer to the written notice described in this section within thirty (30) days of receipt, the Administrator may deem the allegations made therein to be true and may order exclusion of the physician, health care provider or attorney without conducting any further proceedings; and
- (6) The name and address of the Administrator who shall be responsible for receiving the answer from the physician, health care provider or attorney.
- (c) Should the physician, health care provider or attorney fail to file a written answer to the notice described in this section within thirty (30) days of receipt thereof, the Administrator may deem the allegations made therein to be true and may order debarment of the physician, health care provider or attorney.
- (d) The physician, health care provider or attorney may inspect or request copies of information in the agency records at any time prior to the Administrator's decision.
- (e) The Administrator shall issue a decision in writing, and shall send a copy of the decision to the physician, health care provider or attorney by certified mail, return receipt requested. The decision shall advise the physician, health care provider or attorney of the right to request, within thirty (30) days of the date of an adverse decision, a formal hearing before the WCC under the procedures set forth herein. The filing of such a request for hearing within the time specified shall operate to stay the effectiveness of the decision to debar.

23.103 Requests for hearing.

- (a) A request for hearing shall be sent to the Administrator and contain a concise notice of the issues on which the physician, health care provider or attorney desires to give evidence at the hearing with identification of witnesses and documents to be submitted at the hearing.
- (b) If a request for hearing is timely received by the Administrator, the matter shall be referred to the Commission who shall assign it for hearing with the assigned hearing officer issuing a notice of hearing for the conduct of the hearing. A copy of the hearing notice shall be served on the physician, health care provider or attorney by certified mail, return receipt requested.
- (c) If a request for hearing contains identification of witnesses or documents not previously considered by the Administrator, the Administrator may make application to

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the assigned hearing officer for an offer of proof from the physician, health care provider or attorney for the purpose of discovery prior to hearing. If the offer of proof indicates injection of new issues or new material evidence not previously considered by the Administrator, the Administrator may request a remand order for purposes of reconsideration of the decision made pursuant to section 23.105 of these regulations.

- (d) The parties may make application for the issuance of subpoenas upon a showing of good cause therefore to the hearing officer.
- (e) The hearing officer shall issue a recommended decision after the termination of the hearing. The recommended decision shall contain appropriate findings, conclusions and a recommended order and be forwarded, together with the record of the hearing, to the Commission for a final decision. The recommended decision shall be served upon all parties to the proceeding.
- (f) Based upon a review of the record and the recommended decision of the hearing officer, the Commission shall issue a final decision.

23.104 Judicial review.

- (a) Any physician, health care provider or attorney, after any final decision of the Commission made after a hearing to which such person was a party, irrespective of the amount of controversy, may obtain a review of such decision by a civil action commenced within thirty (30) days after the mailing to him or her of notice of such decision, but the pendency of such review shall not operate as a stay upon the effect of such decision. Such action shall be brought in the CNMI Superior Court.
- (b) As part of the Commission's answer, it shall file a certified copy of the transcript of the record of the hearing, including all evidence submitted in connection therewith.
- (c) The findings of fact of the Commission, if based on substantial evidence in the record as a whole, shall be conclusive, as provided by the CNMI Administrative Procedure Act.

23.105 Effects of debarment.

- (a) The Administrator shall give notice of the debarment of a physician, hospital, or provider of medical support services or supplies to:
 - (1) All Worker's Compensation offices;
 - (2) The Commonwealth Health Center;
 - (3) The CNMI authority responsible for licensing or certifying the debarred party;
 - (4) The employers and authorized insurers on the Act; and
 - (5) The general public by posting a notice in the office.

If a attorney is debarred, the Administrator shall give notice to those groups listed in paragraphs (a)(1), (3), (4), and (5) of this section.

(b) Notwithstanding any debarment under this subpart, the Administrator shall not refuse a claimant reimbursement for any otherwise reimbursable medical expense if the treatment, service or supply was rendered by debarred provider in an emergency situation. However, such claimant will be directed by the Administrator to select a duly qualified provider upon the earliest opportunity.

23.106 Reinstatement.

- (a) If a physician or health care provider, or an attorney has been debarred pursuant to section 23.101(d), the person debarred will be automatically reinstated upon notice to the Administrator that the conviction or exclusion has been reversed or withdrawn. However, such reinstatement will not preclude the Administrator from instituting debarment proceedings based upon the subject matter involved.
- (b) A physician, or a health care provider, or an attorney otherwise debarred by the Administrator may apply for reinstatement to participate in the program by application to the Administrator after three years from the date of entry of the order of exclusion. Such application for reinstatement shall be addressed to the Administrator, and shall contain a statement of the basis of the application along with any supporting documentation.
- (c) The Administrator may further investigate the merits of the reinstatement application by requiring special reporting procedures from the applicant for a probationary period not to exceed six months to be monitored by the Administrator.
- (d) At the end of aforesaid probationary period, the Administrator may order full reinstatement of the physician, health care provider or an attorney if such reinstatement is clearly consistent with the program goal to protect itself against fraud and abuse and, further, if the physician, health care provider or attorney has given reasonable assurances that the basis for the debarment will not be repeated.

PART 24. HEARING LOSS CLAIMS

24.101 Claims for loss of hearing.

- (a) Claims for hearing loss shall be adjudicated with respect to the determination of the degree of hearing impairment in accordance with these regulations.
- (b) An audiogram shall be presumptive evidence of the amount of hearing loss on the date administered if the following requirements are met:
 - (1) The audiogram was administered by a licensed or certified audiologist, by a physician certified by the American Board of Otolaryngology, or by a technician, under an audiologist's or by physician's supervision, certified by

the Council of Accreditation on Occupational Hearing Conservation, or by any other person considered qualified by a hearing conservation program. Thus, either a professional or trained technician may conduct audiomatic testing. However, to be acceptable under this subsection, a licensed or certified audiologist or otolaryngologist, as defined, must ultimately interpret and certify the results of the audiogram. The accompanying report must set forth the testing standards used and describe the method of evaluating the hearing loss as well as providing an evaluation of the reliability of the test results.

- (2) The employee was provided the audiogram and a report thereon at the time it was administered or within thirty (30) days thereafter.
- (3) No one produces a contrary audiogram of equal probative value (meaning one performed using the standards described herein) made at the same time. "Same time" means within thirty (30) days thereof where noise exposure continues or within six (6) months where exposure to excessive noise levels does not continue.
- (c) In determining the amount of pre-employment hearing loss, an audiogram must be submitted which was performed prior to employment or within thirty (30) days of the date of the first employment-related noise exposure.
- (d) In determining the loss of hearing under the Act, the evaluators shall use the criteria for measuring and calculating hearing impairment as published and modified from time-to-time by the American Medical Association in the *Guides to the Evaluation of Permanent Impairment*, using the most currently revised edition of this publication. In addition, the audiometer used for testing the individual's threshold of hearing must be calibrated according to current American National Standard Specifications for Audiometers. Audiometer testing procedures required by hearing conservation programs pursuant to the Occupational Safety and Health Act (OSHA) of 1970 should be followed (as described at 29 CFR, Section 1910.95 and appendices). [4 CMC 9308(a)(1)]

PART 25. VOCATIONAL REHABILITATION

25.101 Vocational rehabilitation; objective.

The objective of vocational rehabilitation is the return of permanently disabled persons to gainful employment commensurate with their physical or mental impairments, or both, through a program of reevaluation or redirection of their abilities, or retraining in another occupation, or selective job placement assistance. [4 CMC 9307(a).]

25.102 Vocational rehabilitation, action by Administrator.

All injury cases which are likely to result in, or have resulted in, permanent disability, and which are of a character likely to require review by a vocational rehabilitation adviser engaged by the Administrator shall promptly be referred to such adviser. If a form has

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been prescribed for such purpose, it shall be used. Medical data and other pertinent information shall accompany the referral.

25.103 Vocational rehabilitation; action by adviser.

The vocational rehabilitation adviser, upon receipt of the referral, shall promptly consider the feasibility of a vocational referral or request for cooperative services from available resources or facilities, to include counseling, vocational survey, selective job placement assistance, and retraining. Public or private agencies may be used in arranging necessary vocational rehabilitation services.

25.104 Vocational rehabilitation; referrals to Commonwealth Labor Division.

Vocational rehabilitation advisers will arrange referral procedures with the CNMI Division of Labor for the purpose of securing employment counseling, job classification, and selective placement assistance. Referrals shall be made to Division of Labor or employment agencies based upon the following:

- (a) Vocational rehabilitation advisers will screen cases so as to refer only those disabled employees who are considered to have employment potential;
- (b) Only employees will be referred who have permanent, compensable disabilities resulting in a significant vocational handicap and loss of wage earning capacity:
- (c) Disabled employees, whose initial referral to former private employers did not result in a job reassignment or employment counseling and/or selective placement unless retraining services consideration is requested;
- (d) The vocational rehabilitation advisers shall arrange for employees' referrals if it is ascertained that they may benefit from registering with the Division of Labor;
- (e) Referrals will be made to Division of Labor by letter, including all necessary information and a request for a report on the services provided the employee when he registers;
- (f) The injured employee shall be advised of available job counseling services and informed that he is being referred for employment and selective placement;
- (g) A follow-up shall be made within 60 days on all referrals.

25.105 Vocational rehabilitation; referrals to other public and private agencies.

Referrals to such other public and private agencies providing assistance to disabled persons such as public welfare agencies, social services units of the Veterans Administration, the Social Security Administration, and other such agencies, shall be made by the vocational rehabilitation adviser, where appropriate, on an individual basis when requested by disabled employees.

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25.106 Vocational rehabilitation; training.

Vocational rehabilitation shall be planned in anticipation of a short, realistic, attainable vocational objective terminating in remunerable employment, and in restoring wage earning capacity or increasing it materially. The following procedures shall apply in arranging or providing training:

- (a) The vocational rehabilitation adviser shall arrange for and develop all vocational training programs.
- (b) Training programs shall be developed to meet the varying needs of eligible beneficiaries, and may include courses at colleges, technical schools, training at rehabilitation centers, on-the-job training, or tutorial courses. The courses shall be pertinent to the occupation for which the employee is being trained.
- (c) Training may be terminated if the injured employee fails to cooperate with the WCC or with the agency supervising the course of training. The employee shall be counseled before training is terminated.
- (d) Reports shall be required at periodic intervals on all persons in approved training programs.

25.107 Vocational rehabilitation; maintenance allowance.

- (a) An injured employee who, as a result of injury, is or may be expected to be totally or partially incapacitated for a remunerative occupation and who, under the direction of the Administrator or his designee is being rendered fit to engage in a remunerative occupation, shall be paid additional compensation necessary for this maintenance, not exceeding \$25 a week. If so permitted by law, the expense shall be paid out of the Special Disability Fund established in 4 CMC 9353. The maximum maintenance allowance shall not be provided on an automatic basis, but shall be based on the recommendation of a Commonwealth agency that a claimant is unable to meet additional costs by reason of being in training.
- (b) When required by reason of personal illness or hardship, limited periods of absence from training may be allowed without terminating the maintenance allowance. A maintenance allowance shall be terminated when it is shown to the satisfaction of the Administrator that a trainee is not complying reasonably with the terms of the training plan or is failing to attend the training program without good cause so as to materially interfere with the accomplishment of the training objective.

25.107 Vocational rehabilitation; confidentiality of information.

The following safeguards will be observed to protect the confidential character of information released regarding an individual undergoing rehabilitation;

(a) Information will be released to other agencies from which an injured employee has requested services only if such agencies have established regulations assuring that

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such information will be considered confidential and will be used only for the purpose for which it is provided:

- (b) Interested persons and agencies have been advised that any information concerning rehabilitation program employees is to be held confidential;
- (c) A rehabilitation employee's written consent is secured for release of information regarding disability to a person, agency, or establishment seeking the information for purposes other than the approved rehabilitation planning with such employee.

PART 26. OCCUPATIONAL DISEASE WITH NO IMMEDIATE EFFECT

26.101 Definitions.

- (a) <u>Time of injury.</u> For purposes of this part and with respect to an occupational disease which does not immediately result in death or disability, the time of injury shall be deemed to be the date on which the employee or claimant becomes aware, or in the exercise of reasonable diligence or by reason of medical advice should have been aware, of the relationship between the employment, the disease, and the death or disability.
- (b) *Disability*. With regard to an occupational disease for which the time of injury, as defined in 26.101(a), occurs after the employee was retired, disability shall mean permanent impairment as determined according to the **Guides to the Evaluation of** Permanent Impairment which is prepared and modified from time to time by the American Medical Association, using the most current revised edition of this publication. If this guide does not evaluate the impairment, other professionally recognized standards may be utilized. The disability described in this paragraph shall be limited to the permanent partial disability.
- (c) Retirement. For purposes of this part, retirement shall mean that the claimant, or decedent in cases involving survivor's benefits, has voluntarily withdrawn from the work force and that there is no realistic expectation that such person will return to the work force.

PART 27. PENALTIES

27.101 Civil penalty; Failure to secure the payment of compensation.

Any employer who fails to secure the payment of compensation required by the Act shall be assessed by the Administrator a civil fine of not more than \$25 for each day such failure continues within the first year of the effective date of the Act; and, on the second year and thereafter, a penalty not to exceed \$100 for each day such failure continues. For good cause shown, the Administrator may waive the civil penalty. [4 CMC 9347(a).]

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27.102 Criminal Penalty: Failure to secure the payment of compensation.

In addition to the civil penalty, any employer who fails to secure the payment of compensation for its employees as required by the Act, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or be imprisoned not more than one year, or both. [4 CMC 9347(b).]

27.103 Penalty for failure to file notices.

- (a) Upon making the first payment of compensation, an employer shall, within 15 days following the date of first payment, a notice of first payment to the Administrator. Failure to file such notice, the Administrator shall assess such employer a civil penalty of \$100.
- (b) Upon suspension, termination or making the final payment of compensation, an employer shall, within 15 days of the suspension, termination or final payment, a notice of final payment to the Administrator. Failure to file such notice, the Administrator shall assess such employer a civil fine of \$100. [4 CMC 9323(g).]

27.104 Penalty for false statement, misrepresentation.

- (a) Any claimant or representative of a claimant who knowingly and willfully makes a false statement or representation for the purpose of obtaining a benefit or payment under the Act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed \$1,000, by imprisonment not to exceed one year, or by both. [4 CMC 9340.]
- (b) Any person including, but not limited to, an employer, its duly authorized agent or an employee of an insurance carrier, who knowingly and willingly makes a false statement or representation for the purpose of reducing, denying or terminating benefits to an injured employee, or his dependents pursuant to 4 CMC 3909, if the injury results in death, shall be punished by a fine not to exceed \$1,000, by imprisonment not to exceed one year, or by both. [4 CMC 9347(b).]

PART 28. CERTIFICATES OF COMPLIANCE

28.101 Filing of Certificates of Compliance.

Every employer who has secured the payment of compensation must submit a certificate (Form WC-1) to the Administrator showing that such employer has secured the payment of compensation. Only one such certificate need be filed by each employer, and will be valid only during the period for which such employer has secured such payment.

28.102 Issuance of Certificate of Coverage.

Every employer who has secured the payment of compensation, and upon submission of a Certificate of Compliance to the Administrator, may request a Certificate of Coverage from the Administrator showing that such employer has secured the payment of compensation. Only one such certificate need be issued to each employer, and will be valid only during the period for which such employer has secured such payment.

28.103 Subsequent filing of certificate of compliance.

An employer who has secured a renewal of insurance issued under the Act without a break in continuity thereof must submit a new Certificate of Compliance pursuant to the Act and Section 28.101 of these regulations.

PART 29. AMENDMENTS

These regulations may be amended by the WCC from time to time as it deems necessary. Any amendment to these regulations shall be pursuant to the Administrative Procedure Act, 1 CMC 9101, et. seq.

PART 30. SEVERABILITY

If any part, or provision, or the application of any such part or provision, or order to any person or circumstances shall be held invalid by a court of competent jurisdiction, the remainder of the parts, or provisions, or the applications or orders to any person or circumstances other than those to which it is held invalid, shall not be affected thereby.

PART 31. EFFECTIVE DATE

These regulations shall be effective in accordance with the Administrive Procedure Act, 1 CMC 9101, et. seg.

DULY ADOPTED BY THE CNMI WO	PRKERS' COMPENSATION COMMISSION
ON:	-
	Jones & Weller
Michael A. White Chairman	Tomas B. Aldan Administrator

VOLUME 12

PUBLIC NOTICE

PROPOSED AMENDMENT TO THE ELECTRIC SERVICE REGULATIONS OF THE COMMONWEALTH UTILITIES CORPORATION

The Commonwealth Utilities Corporation, pursuant to 1 CMC 9104(a), hereby gives notice to the public of its intention to adopt proposed amendments to the Electric Service Regulations relating to the following matters:

- Cost of Service Connection 1.
- 2. New Definition: Pro-rata Marginal Cost
- Increase in Demand of Electrical Service 3.
- 4. Temporary Service
- Right-of-Way Easement 5.
- 6. Application Full Service Security Deposit
- 7. Line Extension
- 8. Date of Reading Meters
- Non-Payment of Bills 9.

The public may submit written comments and/or recommendations regarding the proposed regulations during the thirty (30) day period following this date of publication in the Commonwealth Register. Such comments and/or recommendations should be sent to the Executive Director of the CUC as follows:

> Executive Director Commonwealth Utilities Corporation Lower Base Saipan, MP. 96950

Dated this 30 day of Dec., 1989

C.E. (Bud) White

Board Chairman, CUC,

Pedro Sasamoto

NUTISIAN PUPBLIKU

I MANMAPROPOPONI SIHA NA AMENDASION GI REGULASION I COMMONWEALTH UTILITIES CORPORATION PUT SETBESION ILEKTRISIDA

I Commonwealth Utilities Corporation, sigon gi 1 CMC 9104(a), ginen este ha nutitisia i pupbliku put i entension-na umadapta i manmapropoponi siha na amendasion gi regulasion i setbesion elektrisida put i mansigiente siha na manera:

- 1. Gaston i setbesio put nina halom kandet
- 2. Nuebo na definasion: Hafa taimanu makatkula-na i gasto
- 3. Inaomenta gi dinimandan setbesion elektrisida
- 4. Temporario na setbesio
- 5. Direcho para u faloffan Easement
- 6. Dinipusitan salappe' put i aplikasion kabales na setbesio
- 7. Inekstenden lain kandet
- 8. I dia ni para u fanmataitai i mita siha
- 9. Dilikuente siha na diben kandet

I pupbliku sina mana'halom tinige' siha na komento yan/osino' rekomendasion put i manmapropoponi na regulasion gi halom i trenta dias na teimpo despues di fecha ni mana'halom este na nutisia gi halom i Rehistran Commonwealth. Todu komento yan/osino' rekomendasion siha debi di u fanmasatmiti guato gi sigente na address:

Executive Director Commonwealth Utilities Corporation Lower Base Saipan, M.P. 96950

na dia gi Decembre

C.E. (Bud) White

Board Chairman, CUC

Pedro Sasamoto

ARONGORONGOL TOWULAP

SSIWELIL FFÉÉRÚL SEDBISYOL DENKKI SÁNGI ALLÉGHÚL COMMONWEALTH UTILITIES CORPORATION

School Commonwealth Utilities Corporation, reel rebwe tabweey ailéewal 1 CMC 9104 (a), rekke arongaar towulap 1gha ekke mangi bwe rebwe adaptááli allégh kka mwetto mellól alléghúl Electric service regulations reel ffeer kka faal:

- 1. Abwóssul igha ebwe toolong dengkki.
- 2. Meta faal mille: Pro-rata Marginal Cost (Llapal abwoss ye re kkadkkulaı)
- 3. Igha raa ghi sségh aramas kka re mwuschál yááyá dengkki.
- 4. Sedbisyo ye ese aléghélégh.
- 5. Tappal easement ye re ghal ira bwe Right-of way
- 6. Application-ul Full Service Security Service (abwossul alegheleghul sedbisyo).
- 7. Llapal line-il dengkki.
- 8. Ráálil ye rebwe ghal amwuril miital dengkki.
- 9. Ngare rese kke abwossuuw dengkki (molofit me ngare diibi).

Aramas towulap emmwel rebwe atotoolong meta tipeer reel isch reel allegh kkaal liól eliigh ral (30) mwuril yaal toowow arongorong yeel mellól <u>Commonwealth</u>

<u>Register</u>. Tipitip kkaal nge rebwe afángáángáli Executive Director mellól bwulasiyool CUC, reel address ye faal:

Executive Director

Commonwealth Utilities Corporation
Lower Base
Saipan, MP. 96950

Ráalii ye

Decembre, 1989

C.E. (Bud) White Board Chairman, CUC

Pedro Sasamoto

PROPOSED AMENDMENTS OF THE COMMONWEALTH UTILITIES CORPORATION TO THE ELECTRIC SERVICE REGULATIONS

Part 2.1 NEW DEFINITION

Pro-rata marginal cost: The cost of adding new transmission/ generation/distribution infrastructure and service attributable to the demand created by the customer's need for electric power service.

Part 2.1.7 Cost of service connection: The sum of the cost of labor, materials, transportation, excavation equipment, and road repair, if any, and other incidental charges (such as overhead, design costs, <u>project management</u>, profits, etc.) including the installation costs of a meter <u>including the pro-rata marginal cost of adding electrical generation capacity and electric transmission capability, excluding the cost of the meter.</u>

Part 2.1.24 <u>Temporary service: for enterprises or activities which are temporary in character or where it is known in advance such service will be of limited duration.</u> Service which in the opinion of the CUC is for operations of a speculative nature, or the permanency of which has not been established, also shall be considered temporary service.

Part 2.1.24.1 <u>Construction Power: Service for the purpose of construction of a building or other structure where the service is limited to the length of time of construction only.</u>

Part 3.1.1 As a condition for receiving electric service, customers must provide CUC a legal easement for electric facilities to be located on the customer property or provide an easement for facilities which have previously been constructed on the customer's property for which an easement has not been signed.

Part 5.4 The <u>security</u> deposit made at the time of application shall be in an amount equal to the estimated usage for one month electric service <u>for residential customers</u>. <u>For commercial customers the security deposit shall be an estimated usage for three months electric service</u>. In the event of an increase or decrease in demand requested by the customer, or increase or decrease in actual usage, the CUC may review the amount of deposit and require or make such changes as indicated.

- Part 5.6 Customers shall give the CUC written notice of the extent and nature of any increase in demand of electrical service subscribed from the change in the size, character or extent of equipment or operations for which service was originally Such notice shall be given at least three (3) months <u>in advance</u> before making any change(s). <u>Customers will be</u> required to pay a service connection fee for the additional electric power service based on the pro-rata marginal cost of the additional electrical generation and transmission capacity required. Customers who do not pre-notify the CUC in accordance with this regulation may be disconnected.
- Part 5.7.1 The applicant shall pay, in advance or otherwise as required by the CUC the estimated cost of service connection including the pro-rata marginal cost of electrical generation and electric transmission equipment.
- Part 6.6 Customers who have paid a Grant-In-Aid for a line extension and where another customer(s) have been connected to the line extension may be reimbursed for part of the original Grant-In-Aid according to a formula established by policy.
- Part 7.1 The CUC shall construct, operate and maintain all service connections. The cost of service connection construction including the customer's pro-rata share of electrical generation and transmission capacity shall be paid by the customer before the connection is installed. The service connection fee is non-reimbursable once the connection is made. The service connection fees shall be \$1,165.00 per KVA of electric capacity for all customers requiring 150 KVA of electric power or more. Customers requiring less than 150 KVA of electric power will be exempt from the pro-rata marginal cost of infrastructure development part of the connection fee.
- Part 14. Subsection 14.4 shall be deleted in its entirety.
- Part 17.3 Any amount past due shall be paid within fifteen (15) calendar days after the date of presentation of a disconnect notice to prevent disconnection.
- Part 17.6 Customers who have been disconnected for non payment, or have a poor payment history with CUC may be required to provide a security deposit based on established policy.

PUBLIC NOTICE

PROPOSED AMENDMENT TO THE SEWER SERVICE REGULATIONS OF THE COMMONWEALTH UTILITIES CORPORATION

The Commonwealth Utilities Corporation, pursuant to 1 CMC 9104(a), hereby gives notice to the public of its intention to adopt proposed amendments to the Sewer Service Regulations relating to the following matters:

- Definition of "DISCHARGE CONDITION".
- 2. Definition of "PRO RATA MARGINAL COST".
- Connection Permits and Conditions.
- 4. Customer's installation cost.
- Holding tanks requirements.
- 6. Private pumps sizing, capacity and pumping time determination.
- 7. Connection fees
- 8. Use charges.

The public may submit written comments and/or recommendations regarding the proposed regulations during the thirty (30) day period following this date of publication in the Commonwealth Register. Such comments and/or recommendations should be sent to the Executive Director of the CUC as follows:

Executive Director
Commonwealth Utilities Corporation
Lower Base
P. 0. Box 1220
Saipan, MP 96950

DATED this

30

day of December, 1989.

C.E. (BUD) WHITE

Board Chairman, CUC

PEDRO SASAMOTO

NOTICIAN PUBLICO

I Mapropone yan Amendasion Port Setbision Sewer Regulasion I Commonwealth Utilities Corporation

I Commonwealth Utilities Corporation, sigun i 1 CMC 9104(a), estaguiya na hana guahayi noticia para i publico pot i intensionna na para uadopta i mapropone na amendasion pot i Regulasion i Setbision Sewer sigun i sigente siha:

- 1. Keimeke-ilegna i areglamento yan clase pat Kondision ni para un chuda.
- 2. Kumeke-ilegna i aucto na gasto ni hanasesetbi i publico.
- 3. Applicasion pot i para umanacheton yan kondision.
- 4. Gaston i customer pot i para unacheton.
- 5. I ginagagau na areglamento yan i minedong i tanki.
- 6. Minedong, capacidad, yan i ora ni kumalalamten i private na bomba.
- 7. Apas pot i makonek i public Sewer.
- 8. Apas pot i hagagasta gi mes.

I publico sina ma submitte commento yan osino recommendation pot i maproprone na regulasion duranten i trenta (30) dias na tiempo despues de este na publicasion gi Commonwealth Register. Este na commento osino recommendasion debe de umanahano guato para i Executive Director gi CUC.

Executive Director
Commonwealth Utilities Corporation
Lower Base
P. O. Box 1220
Saipan, MP 96950

Mafecha guine gi dia de ______ Decembre, 1989.

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C.E. (BUD) WHITE Board Chairman, CUC

PEDRO SASAMOTO

PROPOSED AMENDMENTS TO CUC

SEWER REGULATIONS

ARTICLE I, DEFINITION TO BE ADDED

"Discharge conditions" refer to the set of conditions under which persons may discharge sewage into the public sewer. These conditions will pertain to the allowable location of the hookup or point of connection with the public sewer, the amount of sewage that will be discharged into the public sewer by each building or group of buildings, the size of the pumps used to discharge sewage into the public sewer, times when discharge is allowable, and other factors as deemed necessary by the Chief Engineer.

ARTICLE I, DEFINITION TO BE ADDED

"Pro-rata marginal cost" shall mean the cost of adding new infrastructure and service attributable to the demand created by the customer's need for sewage collection, treatment and disposal service.

ARTICLE II, SECTION 1.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Chief Engineer. The Chief Engineer shall determine when, where and under what discharge conditions sewer connections will be allowed.

ARTICLE II, SECTION TO BE ADDED

The CUC and the Chief Engineer shall not allow connection to the public sewer of any commercial buildings, industrial buildings, or new multiple residential developments that will increase the daily volume of sewage in that public sewer line beyond its existing carrying capacity.

ARTICLE II, SECTION TO BE ADDED

The CUC and the Chief Engineer shall not allow connection to the public sewer of any commercial buildings, industrial buildings, or new multiple residential developments that will increase the daily volume of sewage treatment plant and corresponding disposal facility beyond its existing treatment and disposal capacity.

ARTICLE II, SECTION 3

All costs and expenses incident to the installation and connection of the building sewer to the public sewer shall be born by the permit applicant. This includes, but is not limited to, the pro-rata marginal costs and expenses of infrastructure for sewage collection, sewage treatment, and sewage disposal, plus the costs and expenses of administration. The applicant shall indemnify the CUC for and hold harmless from any loss or damage that may directly or indirectly be caused by the installation and connection of the building sewer.

ARTICLE III, SECTION TO BE ADDED

All new commercial, industrial, and multiple residential or subdivision developments discharging more than 7,200 GPD shall install a sewage holding tank capable of holding 24 hours of the users sewage production. The tank shall conform to all CUC and DEQ public health and safety standards and regulations. The sewage holding tank, its connections to the public sewer, and its connection to the building(s), shall be gastight and watertight. The sewage holding tank shall be purchased, owned and maintained by the developer and not by the CUC.

ARTICLE III, SECTION TO BE ADDED

All privately owned pumps used to move sewage into the public sewer must be operated according to CUC regulations. The CUC shall determine the allowable pumping capacity and operating procedures for each pump connected to the public sewer, to maximize the sewage transmission efficiency and minimize potential nuisance.

- A. The CUC shall determine the allowable size and pumping capacity for all pumps discharging into the public sewer.
- B. The CUC shall determine the allowable time and duration of operation for all public and private sewage pumps discharging into the public sewer.
- C. The CUC shall determine individual pump capacities and operating procedures such that all sewage will be removed from each building and storage tank daily.
- D. Should persons operating a sewage pump, discharging into the public sewer, not comply with CUC regulations regarding pump sizing and operations, they shall be financially liable for all damage and nuisance created by their non compliance.

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ARTICLE V, SECTION 2, B. 1

There shall be no connection fee for single family dwellings or duplexes which will discharge less than 25,000 gallons per month.

ARTICLE V, SECTION 2, B. 2

All other customers shall pay a one time connection fee prior to connecting to a public sewer, in any case prior to the time of notification required under section 10 Article II. The fee will be based on the customer's daily per gallon discharge allotment. The allotment shall equal 100% of the customer's desired maximum daily sewage discharge. Allotment will be estimated by the CUC based on information provided by the customer. The CUC reserves the right to reassess the connection fee at anytime sewage discharge rises above the allotted level. Failure to pay the full connection fee may result in the disconnection of service. The fee will be calculated according to the following rates based on sewer discharge estimates for each customer as determined by the Chief Engineer and will be subject to revision as required.

- Customers with estimate flows of 5,000 gallons per a. month (167 gallons per day) or less - the connection fee will be \$4.00 per gallon per day.
- b . Customers with estimated flows greater than 5,000 gallons per month (167 gallons per day) and less than 25,000 gallons per month (833 gallons per day) - the connection fee will be \$6.00 per gallon per day.
- c. Customers with estimated flows greater than 25,000 gallons per month (833) gallons per day - the connection fee will be \$8.00 per gallon per day.

ARTICLE V, SECTION 2, A

All customers shall be charged \$1.00 per 1,000 gallons of metered water or estimated water used, subjected to a minimum of \$5.00 per billing cycle.

PUBLIC NOTICE

PROPOSED AMENDMENT TO THE WATER SYSTEM REGULATIONS OF THE COMMONWEALTH UTILITIES CORPORATION

The Commonwealth Utilities Corporation, pursuant to 1 CMC 910(a), hereby gives notice to the public of its intention to adopt proposed amendments to the Water System Regulations relating to the following matters:

- 1. Definition of "cost of service connection"
- 2. Installation charge
- 3. Daily water allotment and connection fee
- 4. Water rates
- 5. Monthly service charge

The public may submit written comments and/or recommendations regarding the proposed regulations during the thirty (30) day period following this date of publication in the <u>Commonwealth Register</u>. Such comments and/or recommendations should be sent to the Executive Director of the CUC as follows:

Executive Director Commonwealth Utilities Corporation Lower Base Saipan, MP 96950

day of December, 1989

DATED this

C.E. WHITE

- (- 14

BOARD CHAIRMAN, CUC

PEDRO SASAMOTO

EXECUTIVE DARECTOR, CUC

NOTICIAN PUBLICO

I Mapropone and Amendasion Pot Setbision hanom Regulasion I Commonwealth Utilities Corporation

I Commonwealth Utilities Corporation, sigun i 1 CMC 910(a), estaguiya na hana guahayi noticia para i publico pot i intensionna na para uadopta mapropone na amendasion pot i Regulasion i Setbasion hanom sigun i sigente siha.

- 1. I Balin i ma pegana i setbisio
- 2. Aplicasion pot i setbision hanom
- 3. I hun husa yan i balin i mapegana
- 4. I balin i hanom
- 5. I balin i un mes na setbisio

I publico sina ma submitte commento yan osino recommendasion pot i mapropone na regulasion duranten i trenta (30) dias na tiempo despues de este na publicasion gi Commonwealth Register. Este na commento osino recommendasion debe de umanahanao guato para i Executive Director gi CUC:

> Executive Director Commonwealth Utilities Corporation Lower Base Saipan, MP 96950

Mafecha quine gi dia de 30 Decembre, 1989.

C.E. WHITE

BOARD CHAIRMAN, CUC

PEDRO SASAMOTO

EXECUTIVE\DIRECTOR, CUC

Proposed Amendments to CUC Water Regulations

ARTICLE I, 3.

"Cost of service connection" shall mean the sum of the cost of labor, materials, transportation, equipment, excavation and road repair, if any other incidental charges necessary for the complete installation of a service connection, but excluding the cost of a meter and meter box, including the pro-rata marginal cost of developing fresh water supply, storage tank(s), primary and secondary water supply pipe valves, meters, and pumps including electrical distribution line(s) poles and transformers.

ARTICLE I, NEW DEFINITION

"pro-rata marginal cost" shall mean the cost of adding new infrastructure and service attributable to the demand created by the customer's need for service.

ARTICLE V, 2.

Installation charge. The cost of the services connection shall be paid by the applicant before the connection is installed. Installation charges shall be based on the cost of such installation including, but not limited to, the pro-rata marginal cost of developing water supply and the pro-rata marginal cost of providing CUC water service pipes to supply the customer's water requirements as established by CUC and shall be as initially set at the rates indicated in ARTICLE X-3.1. which would be revised time to time.

ARTICLE X, 3.3. SECTION TO BE ADDED

One-time service installation charges based on daily per gallon allotment. The allotment shall equal 100% of the customer's desired maximum daily water consumption. Allotment will be estimated by the CUC based on information provided by the customer. The CUC reserves the right to reassess the Connection Fee at anytime water consumption rises above the allotted level. Failure to pay the full Connection Fee may result in the disconnection of service.

For all appartments, commercial, industrial and government customers.

Daily water allotment	<u>Connection Fee</u>
Up to 100 gallons per day	\$2.00 per gallon
Up to 500 gallons per day	\$3.00 per gallon
Up to 1000 gallons per day	\$4.00 per gallon
Up to 2000 gallons per day	\$5.00 per gallon
Above 2000 gallons per day	\$6.00 per gallon

ARTICLE X, 4. Existing language relating to water rates shall be deleted and replaced by the following.

Water Rates:

Monthly service charge:

Meter Size:	Service Charge:
5/8", 3/4"	\$ <u>4.00</u> /month
1"	7.00
1"-1/2"	<u>15.00</u>
2"	28.00
3"	<u>63.00</u>
4"	112.00
6"	252.00
811	448.00
10"	700.00
12"	1000.00

NOTICE OF ADOPTION OF EMERGENCY REGULATION

Pursuant to 4 CMC 1818, the Director of Finance has the authority, with the concurrence of the Governor, to promulgate regulations concerning the assessment and collection of taxes, penalties, fees and charges and for the proper administration of the CNMI tax laws. The Director herewith gives notice of his intention to amend CNMI Revenue and Taxation Regulations No. 8301 to include an additional section numbered 4.810.0, entitled "Assessments". The purpose of the new section is to clarify the powers of the Director with respect to the assessment of taxes, penalties and interest imposed under 4 CMC, Division I, including assessments of tax arising from adjustments made to the Northern Mariana Territorial Income Tax rebate of taxpayers. To avoid any gap in the application of the proposed new section before it becomes effective as a permanent regulation, so that the proposed new regulation can be applied immediately without the 30 days notice normally required for regulations, the Director of Finance, with the concurrence of the Governor, finds that the public interest requires the proposed new section to go into effect immediately as an emergency regulation. Consequently, the proposed regulation shall go into effect immediately as an emergency regulation on the date it is filed with the Registrar of Corporations and copies are mailed under registered cover to the Governor, and shall remain in effect for a period of not to exceed 120 days thereafter. Copies of the complete text of this new regulation can be obtained during regular business hours from the Director of Finance, Capitol Hill, Saipan, MP 96950.

DATED THIS DAY OF DECEMBER, 1989.

at the OFFICE of the ATTER 1989 REGUIRAR CALL -Commonwealth of the Northern Moriana blands ELOY S. INOS Director of Finance

Concur:

Issued:

TENORIO

Governor

Roceived in bovernor's office 12/22/89, 1/AM On JANUARY 15/1990 6785

VOLUME 12

NOTISIA POT INA-DOPTAN I EMERGENCY NA REGULASION

Segun gi Titulu 4, Dibision 1, Seksiona 1818, gi Kodikun i Commonwealth, I Direktot i Finansiat guaha atoridat-na, ginen i kinemfotman i Gobietno, para una' ma deklara i regulasion pot i matasa-na yan marekohe-na i aduana, pena, apas yan mutta, yan para i kombiene na atministrasion i lai pot aduana gi CNMI. I Direktot hana' guahayi guine Notisia pot i intension-na ni para uma amenda i CNMI Regusion Numero 8301 pot nina' halom aduana, yan para u ma inclusu mas seksiona komo numero 4.810.0, ni ma desikna "Matasa-na I Aduana". I propositun i nuebo na seksiona para u klarafika i fuetsa-na i Direktot kon respeto para u tasa a balen i aduana, pena, yan interes nu i ma establesi gi papa 4 CMC, Division 1, inclusu i matasa-na i aduana segun i ma ahustan-na gi Northern Marianas Territorial Income Tax pot i rinebahan i aduanan i man man-apapasi aduana. Para u eskapayi maseha hafa na ginatdon i aplikasion i ma propositun i nuebo na seksiona antes de u efektibo i petmanente na regulasion, kosa ke i nuebo na regulasion ni ma propositu si-na u aplikao ensegidas sin i 30 na notisia nue ginagaogao komo naturat gi regulasion. I Direktot i Finansiat, yan i kinemfotman i Gobietno, ha sodda' na i interes i publiko ha nesesita i ma propositu nu i nuebo na seksiona gi regulasion u efektibo ensegidas komo emergency na reuglasion. resutta, i ma proposito na reuglasion debe de u efektibo ensegidas komo emergency gi fecha anai ma rehistra halom gi Registrar of Corporation, yan kopia siha u ma na hanao Pos nu i ma rehistra, para guato gi Gobietno, ya debe e u efektibo 120 dias na tiemp, sin mas. I komplido na kopian este i nuebo na regulasion si-na ma chule duranten i regulat no oran chocho gi Ofisian i Direktot i Finansiat, Capitol Hill, Saipan, MP 96950.

FINECHAN ESTE NA HAANE I DIA 20 DE DECEMBER, 1989.

FILED at the OFFICE of the ALT TIMEY GENERAL DATE: 22 DEC 1989 MAIL: 10:50 Commonwed Northern Mariana Islands

Pineblika:

ELOY S. INOS Director of Finance

Konfotme:

PEDRO P. TENORIO

Governor

Received in Governors of NO. 01

EMERGENCY AMENDMENT TO CNMI REVENUE & TAXATION REGULATION NO. 8301

Section 4.810.0 Assessments.

- (a) <u>In General</u>. The Director of Finance or his delegate, the Chief of Revenue and Taxation, is authorized to make the inquiries, determinations and assessments of all taxes (including interest, additional amounts, additions to tax and penalties) imposed by 4 CMC, Division I. The Director shall assess all taxes determined by the taxpayer or by the Director as to which returns, schedules or lists are required to be made. Assessments shall be made by recording the liability of the taxpayer in the office of the Director. The Director may, at any time within such periods as may be prescribed for assessments, make such supplemental or additional assessments whenever it is ascertained that any assessment is imperfect or incomplete. For purposes of the Northern Marianas Territorial Income Tax ("NMTIT"), 4 CMC, Division I, Chapter 7, and subject to the procedure provided herein for adjustment of a taxpayer's NMTIT rebate (4 CMC 1708), assessments of the NMTIT shall be made in accordance with applicable provisions of the Internal Revenue Code and the Regulations thereunder. Assessments of all other taxes imposed by 4 CMC, Division I, including assessments arising from adjustments of a taxpayer's NMTIT rebate (4 CMC 1708), shall be made in accordance Chapter 8, Division I of 4 CMC and in accordance with this section of the CNMI Revenue and Taxation Regulations; provided, however, that assessment and collection of the CNMI excise tax, 4 CMC, Division I, Chapter 4, shall follow the excise and customs procedure set forth in Part III of the CNMI Revenue and Taxation Regulations unless the Director, or his delegate, the Chief of Customs, elects to apply this Section 4.810.0 of the Revenue and Taxation Regulations.
- (b) <u>Director's Assessment: No Return Filed</u>. Upon the failure of any person, business or employer, hereinafter referred to as the taxpayer, to make and file a return, schedule or list required under 4 CMC, Division I, excluding Chapters 4 & 7 thereof, within the time and in the manner and form prescribed, or upon failure to pay any amount due, the Director may notify the taxpayer of such failure and demand that a return be made and filed and that the tax and any penalties and interest due be paid. If such taxpayer, upon notice and demand by the Director, fails or refuses within 30 days after receipt of the notice and demand to make and file a return in the manner requested by the Director and to pay the tax and any penalties and interest that may be due, the Director may make a return for such person, business or employer from any information and records obtainable, and may assess the appropriate amount of tax, interest and penalties. Such assessment shall be presumed to be correct unless and until it is proved incorrect by the taxpayer disputing the assessment.
- (c) <u>Director's Assessment: Erroneous Return Filed</u>. In the event any person, business or employer, hereinafter referred to as

the taxpayer, makes and files a return, schedule or list required under 4 CMC, Division I, including a return, schedule or list relating to the NMTIT rebate (4 CMC 1708), and the Director determines that said return, schedule, or list is untrue, erroneous, incomplete or incorrect in any respect, or does not otherwise conform to law, the Director may notify the taxpayer and demand that an amended return be made and filed in the manner requested by the Director, and that any tax, interest and penalties that may be due be paid. If the taxpayer, upon notice and demand made by the Director, fails or refuses to make and file an amended return as requested by the Director within 30 days after said notice and demand has been mailed to the taxpayer at the taxpayer's last known address, or within 30 days after said notice has been otherwise caused to be delivered to the taxpayer, the Director may amend the return of the taxpayer based on any information and records available to the Director, and the Director may assess the appropriate amount of tax, interest and penalties due. assessment shall be presumed to be correct unless and until it is proved incorrect by the taxpayer disputing the assessment.

(d) Emergency Assessments.

- (1) In the event the Director believes that the assessment and collection of the taxes subject to this section will be jeopardized by delay, or will be wholly or partially ineffectual unless done without delay, because the taxpayer is or appears to be designing quickly to depart from the CNMI or to conceal himself therein, or the taxpayer is or appears to be designing to quickly place his property beyond the reach of the CNMI Government either by removing it from the CNMI, by concealing it, by dissipating it, or by transferring it to other persons (including in the case of a corporation distributing all or part of its assets in liquidation or otherwise), or the taxpayer's financial solvency is or appears to be imperiled, or the taxpayer designs to do any other act which would tend to prejudice the assessment and collection of the tax subject to this section, the Director shall immediately make a determination of the tax due for the taxable periods in question, even if the time for filing a return, schedule or list for the said taxable periods has not yet come due, and notwithstanding subsections (b) or (c), such amounts shall become immediately due and The Director shall immediately assess the amounts of the tax so determined (together with interest, additional amounts, additions to tax and penalties) and shall immediately cause notice of such determination and assessment to be mailed to the taxpayer at the taxpayer's last known address, or shall otherwise cause the notice to be delivered to the taxpayer, together with demand for immediate payment thereof.
- (2) Any assessments made under this subsection shall be presumed to be correct unless and until they are proved incorrect by the person disputing the assessment.

- Mathematical or Clerical Error. If a taxpayer is notified that, on account of a mathematical or clerical error appearing on the taxpayer's return, an amount of tax in excess of that shown on the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical or clerical error, such notice shall not in the first instance be subject to subsections (b) or (c). Each notice to a taxpayer under this subsection shall set forth the error alleged and an explanation thereof. within 30 days after notice is given the taxpayer files with the Director a request for abatement of the assessment specified in the notice, the Director shall abate such assessment upon receipt of the request. Any reassessment of the tax with respect to which the abatement was made shall thereafter be subject to subsection (b), (c) or (d).
- (f) <u>Administrative Review:</u> If within the 30 day period referred to in subsections (b) and (c), and subject to the power of the Director to make emergency assessments under subsection (d), a taxpayer notifies the Director in writing of the taxpayer's desire to have a conference to review the proposed assessment, the taxpayer shall be afforded a conference with the Director provided the taxpayer has not previously had any of the conferences authorized by Section 4.810.2 of Revenue and Taxation Regulation No. 8301. In the event a taxpayer is afforded a conference with the Director under this subsection (f), the conference shall be held without unreasonable delay and no further action shall be taken by the Director under subsections (b) or (c) until said conference has been concluded and a conference report has been rendered.
- (g) <u>Court Review</u>: A taxpayer desiring to appeal an assessment made under subsections (b), (c) or (d) shall have a period of one year from the date of the assessment to file an appropriate proceeding in the Commonwealth Superior Court under 4 CMC 1810.
- (h) Stay of Collection: A taxpayer may stay collection of an assessment made under subsections (b), (c), or (d) during the pendency of a court proceeding brought under subsection (g) by posting with the Director and continuously maintaining in effect a surety bond, property or cash satisfactory to the Director, in an amount or having a value of 150% of the amount of the assessment, plus additional penalties and interest to be accrued.

DATED THIS 20 DAY OF DECEMBER, 1989.

Issued:

ELOY S. INOS

Director of Finance

Concur:

PEDRO P. TENORIO

Governor

VOLUME 12

NOTICE OF ADOPTION OF EMERGENCY REGULATION

Pursuant to 4 CMC 1811 and 1818, the Director of Finance has the authority, with the concurrence of the Governor, to promulgate regulations concerning the enforcement and collection of taxes through the use of tax liens and levies upon property belonging to taxpayers. The Director herewith gives notice of his intention to amend Section 2.811.1 of CNMI Revenue and Taxation Regulations No. 8301, entitled "Lien and Levy Procedure". The purpose of the new section is to clarify and establish the legal effect of tax liens and the powers, remedies and procedures of the Director with respect to the levy and collection of taxes. To avoid any gap in the application of the amendment to Section 2.811.1 before it becomes effective as a permanent regulation, so that the proposed new regulation can be applied immediately without the 30 days notice normally required for regulations, the Director of Finance, with the concurrence of the Governor, finds that the public interest requires the proposed new section to go into effect immediately as an emergency regulation. Consequently, the proposed regulation shall go into effect immediately as an emergency regulation on the date it is filed with the Registrar of Corporations and copies are mailed under registered cover to the Governor, and shall remain in effect for a period of not to exceed 120 days thereafter. Copies of the complete text of this new regulation can be obtained during regular business hours from the Director of Finance, Capitol Hill, Saipan MP 96950.

DATED THIS 29 DAY OF Develop 1969.

Issued:

Director of Finance

Concur:

PEDRO P. TENORIO

Governor

FILED

OFFICE of the ATTURNEY GENERAL

DATE: 12-29-

ORFORATIONS REGIT IN AN OF/

Commonwealth of the

Northern Mariana Islands

Received by boseinois office 12/29/69 / 3 pm

NOTISIA POT IN-ADOPTAN I EMERGENCY NA REGULASION

Segun gi Titulu 4, Seksiona 1811 yan Seksiona 1818, i Direktot i Finansiat quaha atoridat-na, ginen i kinemfotman i Gobietno, para una' ma deklara i regulasion siha pot pudet yan Koleksion i aduana siha gi manera na uma usa i tax liens (ma-tasan i propriedat, tano pat personat, para apas dibin aduana) yan levies (ma rekohen i ma tasa na kantida) gi propriedat i man man-apapase aduana (taxpayers). I Direktot hana' huyung guine notisia pot i intension-na para uma amenda i Seksiona 2.811.1 gi CNMI Regulasion Numero 8301 para Retidu yan Aduana, ni ma desikna "Lien and Levy Procedure". I propositun i nuebo na seksiona para u klarifika yan u establese i fundamentun i lai pot <u>Tax liens</u> yan i fuetsa, remedio yan areglamentum Direktot bon respetu pot i levy yan koleksion i aduana siha. Para u eskapayi maseha hafa na ginatdon i aplikasion i ma amenda na Seksiona 2.811.1 antes de u efektibo komo petmanente na regulasion, kosa ke i ma propositu nu i nuebo na regulasion si-na ma aplika ensigidas sin i 30 dias na notisia ni gina-gagao gi regulasion, i Direktot i Finansiat, yan i kinemfotman i Gobietno, ha sodda' na i interes i publiku ha nesesita i ma propositu nu i nuebo na seksiona na u efektifo ensegidas komo emergency na regulasion debe de u efektibo ensegidas komo emergency na regulasion gi fecha anai ma rehistra halom gi Rehistradoran i Korporasion, yan kopia siha uma na-hanao i Pos nui ma-rehistra, para quato qi Gobietno, ya debe de u efektibo 120 dias na tiempo, sin mas despues. I komplido na kopian este i nuebo na regulasion si-na ma chule doranten i regulat na oran chocho gi Ofisina i Direktot i Finansiat, Capitol Hill, Saipan, MP 96950.

FINECHAN ESTE NA HAANE I DIA 29 de Disiembre, 1989.

Pineblika:

ELOY S. INOS

Director of Finance

Konfotme:

PEDRO P. TENORIO

Governór

FILED

at the

OFFICE of the ATLURNEY GENERAL

DATE: /a

2:30 AM (PAN

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REGILTRAR OF COST ORATIONS
Commonwealth of the

Northern Mariana Islands

COMMONWEALTH REGISTER

VOLUME 12

NO. 01

JANUÁRY 15, 1990

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EMERGENCY AMENDMENT TO CNMI REVENUE & TAXATION REG. NO. 8301

Section 2.811.1 Lien and Levy Procedure

By virtue of 4 CMC 1811 and 1818, the Director has authority to issue regulations concerning the enforcement and collection of taxes through the use of tax liens and levies upon property belonging to taxpayers. For purposes of the Northern Marianas Territorial Income Tax ("NMTIT"), 4 CMC, Division I, Chapter 7, the rules governing liens and levies found under the Internal Revenue Code ("IRC") and the Regulations promulgated thereunder shall apply.

For purposes of Business Gross Revenue Tax ("BGRT"), 4 CMC, Division I, Chapter 3, and the Wage and Salary Tax ("WST"), 4 CMC, Division I, Chapter 2, tax liens governed by 4 CMC 1811 shall arise on the date when a full, true and correct return showing the full amount of gross revenue or wages and salaries imposed by the BGRT or the WST should have been filed and the full amount tax imposed by the BGRT or WST should have been paid, as set forth in 4 CMC 1804 and 4 CMC 1805.

Such tax lien shall cover all BGRT or WST plus penalties and interest imposed or authorized by 4 CMC 1815, 1816 and 1817.

The priority of such tax lien in real estate or in any interest therein shall be determined in accordance with applicable CNMI law (including 1 CMC 3711 and 3712, 2 CMC 4521 through 4523, 2 CMC 4520, and 2 CMC 4615). With respect to property other than real estate, and subject to other applicable provisions of CNMI law, no such tax lien shall have priority over any bona fide purchaser or lessee for valuable consideration, a bona fide holder of a security interest for value, a bona fide judgment lien creditor or other bona fide interest or encumbrance unless such tax lien has been first recorded in the Office of the CNMI Recorder or said party has actual notice of such tax lien or claim giving rise to such tax lien; Provided, that none of the aforesaid parties shall prevail over such tax lien unless they have taken all steps under applicable law to properly perfect their interest in the property.

The form and content of the notice of tax lien shall be established by the Director, as set forth in 4 CMC 1806.

In addition to any other levy, collection and foreclosure procedures, powers and remedies allowed by CNMI law (including 7 CMC 4102 through 4104, 4 CMC 4201 through 4210, and 2 CMC 4520), the Director is granted and shall have the right to use the levy,

collection and foreclosure procedures, powers and remedies set forth in IRC 6331 through 6333 and IRC 6335 through 6343 for purposes of the BGRT and the WST, provided, however, that IRC 6331(d)(4) and (g), and IRC 6335(f) and (g) shall not apply.

DATED THIS 29 DAY OF Derouby, 1989

Issued:

ELOY S. INOS Director of Finance

Concur:

PEDRO P. TENORIO

Governor

FILED

at the

OFFICE of the ATTORNEY GENERAL DATE: 12:29-87

Commonwealth of the

Northern Mariana Islands

Received by bosemois office 12/29/19 0, 3 pm

NOTICE OF ADOPTION OF EMERGENCY REGULATION

Pursuant to 4 CMC 4202, the Registrar of Corporations has the authority, with the concurrence of the Governor, to promulgate such regulations as are deemed advisable to administer and carry into effect the provisions of 4 CMC, Division 4, Chapter 2. Registrar herewith gives notice of her intention to amend Part 7 of the CNMI Corporation Regulations, entitled "Service of Process". The purpose of the amendment is to simplify the procedure for service or delivery of notices, demands and process upon corporations, made necessary by the difficulty of locating proper persons within the CNMI upon whom to make such service or delivery. avoid any gap in the application of the proposed amendment before it becomes effective as a permanent regulation, so that the proposed amendment can be applied immediately without the 30 days notice normally required for regulations, the Registrar of Corporations, with the concurrence of the Governor and the Attorney General, finds that the public interest requires the proposed amendment to go into effect immediately as an emergency regulation. Consequently, the proposed amendment shall go into effect immediately as an emergency regulation on the date it is filed with the Registrar of Corporations and copies are mailed under registered cover to the Governor, and shall remain in effect for a period of not to exceed 120 days thereafter. Copies of the complete text of this new regulation can be obtained during regular business hours from the Registrar of Corporations, Capitol Hill, Saipan, MP 96950.

DATED THIS 29 DAY OF Derember 1989

Issued:

SOLEDAD B. SASAMOTO Registrar of Corporations

Concur:

PEDRO P. TENORIO

Governor

EDWARD MANIBUSAN Attorney General

FILED at the OFFICE of the ATTORNEY GENERAL DATE: 12-29

Commonwealth of the Northern Mariana Islands

NO. 01

Received by Sovernois office 12/29/19 / 3 pm

JANUARY 15, 1990

NOTISIA POT IN-ADOPTAN I EMERGENCY NA REGULASION

Segun qi Titilu 4, Seksiona 4202, qi Kodikun i Commonwealth, i Rehistradoran i Korporasion guaha atoridat-na, ginen i kinenfotman i Gobietno, para una' ma deklara regulasion siha komo inabisa na ma nesesita para uma administra yan una efektibo i probision i Titulu 4, Dibision 4, Kapitulu 2, gi Kokikun i Commonwealth. I Rehistradora man na-nae notisia quine pot i intension-na para uma amenda i Patte 7 gi Regulasion i CNMI Korporasion, ni madesigna "Service of Process". I propositum i amendasion pot para una libiano i manera pot setbisio osino ma pasana i notisia siha, demandasion yan process gi korporasion siha, anai numesesario sa mapot ma sodda i propio persona siha gi halom i CNMI anai para uma entrega i persona nu i service or delivery. Para ma eskapayi maseha hafa na ginatdon i aplikasion i ma propositu na amendasion antes de u efektibo komo petmanente na regulasion, kosa ke i ma propositu na amendasion si-na aplikao ensegidas sin i 30 dias na notisia nu ginagagao magahet gi regulasion, i Rehistradoran i Korporasion yan i kinenfotman i Gobietno yan i Fiskat, ha sodda' na i interes i publiku ha nesesita i ma propositu na amendasion na u efektibo ensegidas komo emergency na regulasion gi fecha anai ma entrega halom gi Registradoran i Korporasion yan mana hanao Pos kopia siha ni ma rehistra, para guato gi Gobietno, yan debe de u efektibo 120 dias na tiempo, sin mas despues. I kompledo siha na kopian este i nuebo na regulasion si-na ma chule duranten i regulat na oran chocho qi Ofisinan i Rehistradoran i Korporasion siha, Capitol Hill, Saipan, MP 96950.

FINECHAN ESTE NA HAANE I DIA 29

DE DISIEMBRE, 1989.

Pineblika:

ELOY S. INOS

Direktot i Finansiat

Konfotme:

PEDRO P, TENORIO

Governor

OFFICE of the ATTORNEY GENERAL DATE: 12-29-989 GENERAL

REGISTRAN OF COM

Commonwealth of the Northern Mariana Islands

COMMONWEALTH REGISTER VOLUME 12

NO. 01 JANUARY 15, 1990

ly bonewor's office 03 pm

EMERGENCY AMENDMENT TO CNMI CORPORATION REGULATIONS

PART 7. SERVICE OF PROCESS

7.1 Manner of Service.

Service of any notice, demand or process authorized or permitted by law to be served upon or delivered to any corporation, whether domestic or foreign, shall be made in the manner and upon the individuals otherwise prescribed by law. In the event any of the said individuals can not be readily found within the territory of the CNMI, such service may be made upon the CNMI Registrar of Corporations, who shall be deemed to have been appointed by the corporation as an agent to receive service or delivery of notices, demands or process. Said service shall be made by delivering and leaving with said Registrar duplicate copies of the notice, demand or process. Service or delivery upon the corporation shall be effective upon receipt by the Register of such notice, demand or process. Thereafter, the Registrar shall immediately cause one of the notices, demands or process to be mailed to one of the officers or the registered agent of the corporation by certified or registered mail at the mailing address provided to the Registrar by the corporation for the said individual.

Service or delivery as provided herein shall be supported by the execution of and filing with the Registrar of a statement by the party seeking such service or delivery stating that no individual otherwise prescribed by law for receipt of service or delivery can be readily found within the territory of the CNMI, and said statement shall be conclusive with respect thereto.

The Registrar shall keep a record of the date and time of all notices, demands and process delivered to the Registrar hereunder, and the date on which a duplicate thereof was mailed to the corporation as provided above. Upon request, the Registrar shall prepare and execute a statement reciting the facts of service or delivery as provided above, and said statement may be filed with any court as needed.

7.2 Not Exclusive Service.

Nothing hereinabove contained shall limit or affect the right to serve or deliver any notice, demand or process required or permitted by law to be served or delivered upon a corporation in any other manner now or hereafter provided by law.

DATED THIS 29 DAY OF Darember, 1989.

Issued:

SOLEDAD B. SASAMOTO

Registrar of Corporations

Concur:

EDWARD MANIBUSAN

Attorney General

PEDRO P. TENORIO

Governor

FILED

at the

OFFICE of the ATTORNEY GENERAL

DATE: 12-24-89

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REGISTRAN OF CORPORATIONS

Commonwealth of the Northern Mariana Islands

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SUMMARY STATEMENT REGARDING CERTAIN EMERGENCY REGULATIONS

Certain CNMI taxpayers who have failed to properly report, compute and pay significant amounts of tax to the CNMI are in the process of removing themselves and/or their assets from the CNMI or are secreting themselves and/or their assets within the CNMI for the purposes of evading assessment and collection of said taxes. order to prevent such acts from occurring and to maintain, preserve and protect the fiscal integrity of the CNMI, the undersigned have found that the public welfare requires that several emergency amendments to certain CNMI regulations be made and that they go into effect immediately without any delay so that no gap will occur in their application. These amendments shall be used as necessary to forthwith assess and collect said taxes, and to serve such notices, demands and process as may be needed upon corporations, to prevent these abuses from occurring. The regulatory amendments to which this summary statement applies are as follows: 2.811.1 and Section 4.810.0 of CNMI Revenue & Taxation Regulation No. 8301; Part 7, Sections 7.1 and 7.2, of the CNMI Corporation Regulations. These emergency amendments are effective upon their filing with the Registrar of Corporations and their mailing under registered cover to the Governor, and shall remain in effect for a period not to exceed 120 days thereafter. Copies of the complete text of these emergency amendments may be obtained from the Registrar of Corporations, Capitol Hill, Saipan, MP 96950.

DATED THIS 29 DAY OF Derember PEDRÓ P. ELOY S. INOS TENORIO Director of Finance Governor EDWARD MANIBUSAN SOLEDAD B. SASAMOTO Attorney General Registrar of Corporations at the OFFICE of the ATTORNEY GENERAL

Commonwealth of the

VOLUME 12

COMMONWEALTH REGISTER

Northern Mariana Islands
NO: 01 JANUARY 15, 1990

6798

SUMARI'A NA DELCARASION POT PATTIKULAT SIHA NA REGULASION NI MAN EMERGENCY

Guaha siha na man a-apase aduana ti man man-report ni propiu, ti ma kalkula yan ti man apase signifikao na kantidan aduana guato gi CNMI ya ha tutuhon siha rumuemueba siha yan o sino i guinahan niha ginen i CNMI o sino man a-atog yan o sino mana a-atog i guinahan niha gi halom i CNMI pot i para uma eskapayi i tinasa (assessment) yan koleksion i ma sangan na aduana siha. Kosa ke si-na ma ataha este siha na akto ya ti u ma susede, yan para uma mantiene, adahe yan protehe i kompledu yan onesto na fiscal (fiscal integrity) i CNMI, i man man-fitma guine ma sodda na para i minauleg i publiku, ha nesesita uma fatinas unos kuantos na amendasion ni emergency para partikulat siha na regulasion i CNMI yan ufan efektibo ensegidas sin hafa na detension kosa ke u taya sinesedin ginatdon gi aplikasion-niha. Este siha na amendasion ufan ma usa komo nesesario para uma tasa yan rekohe i ma sangan na aduana siha, yan para i-ma entregan-niha siha i notisia, demando yan process gi anai ma nesesita para i korporasion siha, para uma ataha ya munga ma susude este siha na chat finatinas. I regulatot i amendasion pot este na sumarian deklarasion aplikao quine: Seksiona 2.811.1 yan Seksiona 4.810.0 gi CNMI Retidu yan Aduana na Regulasion Numero 8301; Patte 7, Seksiona 7.1 yan 7.2, gi CNMI Regulasion i Korporasion. Este siha na amendasion ni emergency u efektibo gigon ma entrega guato gi Rehistradoran i Korporasion siha yan i man mana-hanao-niha gi Pos nui ma rehistra para guato gi Gobietno, yan u efektibo para 120 dias sin mas despues. I man kompledo siha na kopian este na amendasion ni emergency, sina man machule ginen i Rehistradoran i Korporasion siha, Capitol Hill, Saipan, MP 96950.

FINECHAN ESTE NA HAANE I DIA 29 DE DISIEMBRE, 1989.

PEDRO P. TENORIO

Gobietno /

ELOY S. INOS

Direktot i Finansiat

Maubusan
Attorney General

SOLEDAD B. SASAMOTO

Rehistradoran i Korporasion

FILED

OFFICE of the ATTORNEY GENERAL

DATE: 12-29

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BY:

REGISTRAR OF CORPORATIONS

Commonwealth of the

JANUARY 15, 1990

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COMMONWEALTH REGISTER

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COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS OFFICE OF THE GOVERNOR SAIPAN, MP 96950

PROCLAMATION

STATE FUNERAL FOR THE LATE HONORABLE GREGORIO TUDELA CAMACHO

January 15, 1990

WHEREAS, 1 CMC, Section 451 et. seq. authorizes that a State Funeral be held for outstanding citizens who have performed exemplary services for the people of the Commonwealth of the Northern Mariana Islands; and

WHEREAS, the late Honorable Gregorio Tudela Camacho passed away on January 7, 1990; and

WHEREAS, the late Honorable Gregorio Tudela Camacho was born on July 23, 1911; and

WHEREAS, the late Honorable Gregorio Tudela Camacho was married to the late Elizabeth Blanco Camacho and is survived by five children; and

WHEREAS, the late Honorable Gregorio Tudela Camacho served as District Commissioner for Chalan Kanoa Village from 1948 to 1950 and as District Commissioner for San Roque from 1950 to 1960; and

WHEREAS, during the Naval Administration, the late Honorable Gregorio Tudela Camacho was appointed to serve as a member of the Saipan Municipal Council and the Board of Education; and

WHEREAS, from 1970 to 1973, the late Honorable Gregorio Tudela Camacho served as an Associate Judge of the Marianas District Court and as a Special Judge of the High Court of the Trust Territory of the Pacific Islands; and

WHEREAS, the late Honorable Gregorio Tudela Camacho was very active in civic and religious affairs, having served as the President of the Parent Teachers Association of the San Roque Elementary School, as President of the Parent Teachers Association of the Saipan Intermediate School and as President of the San Roque Church Parish Council; and

WHEREAS, in recognition of his many contributions to the community, the Commonwealth Rotary Club selected the late Honorable Gregorio Tudela Camacho as "Rotary Man of the Year" for 1987-1988; and

WHEREAS, the Mayor of Saipan and the members of the House of Representatives, Seventh Northern Marianas Commonwealth Legislature have requested that the late Gregorio Tudela Camacho be given a State Funeral in honor of his exemplary service.

NOW, THEREFORE, I, LORENZO I. DE LEON GUERRERO, Governor of the Commonwealth of the Northern Mariana Islands, do hereby declare that:

- 1. There shall be State Funeral for the late Honorable Gregorio Tudela Camacho on Saipan on January 15, 1990.
- 2. There shall be the lowering of the flag to half-mast on that day throughout the Commonwealth of the Northern Mariana Islands.
- 3. There will be an appropriate honor guard and fifteengun salute pursuant to 1 CMC Section 457 (c) (4).

IN WITNESS WHEREOF, I have hereunto set my hand this day of January 1990.

> ŁORENZO I. DE LEON GUERRERO Governor