

OFFICIAL

SE

COMMONWEALTH OF THE NORTHERN MARIANA ISALNDS

SEPTEMBER 15, 1991

SAIPAN, MARIANA ISLANDS

COMMONWEALTH

REGISTER

COMMONWEALTH REGISTER SEPTEMBER 15, 1991 VOLUME 13 NO. 09

TABLE OF CONTENTS

ADJUSTMENT TO ELIGIBILITY GUIDELINES

PROPOSED REGULATIONS:

PROPOSED AMENDMENTS :



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

FOR OFFICIAL USE CABLE ADDRESS GOV. NMI SAIPAN *REPLY TO:* Dept., C & CA Div. of NAP

PUBLIC NOTICE

ADJUSTMENT TO ELIGIBILITY GUIDELINES FOR THE NUTRITION ASSISTANCE PROGRAM GUIDELINES DEPARTMENT OF COMMUNITY & CULTURAL AFFAIRS

The Director of the Department of Cultural & Affairs is changing certain guidelines governing the operations of the Nutrition Assistance Program in the Northern Marianas.

This matter relates to the NAP Manual of Operations policies and procedures in the area of:

Exhibit A: Income Eligibility Guidelines Exhibit B: Benefit Levels

The effective date for the change is October 1, 1991.

Information on this matter is available for review during regular working hours, Monday through Friday, at the Department of Community and Cultural Affairs, NAP Division, Lower Base, Saipan, MP 96950.

Anyone interested in commenting on the change may do so by submitting comments in writing to the Director, DCCA, Lower Base, Saipan, MP 96950 no later than October 1, 1991.

JESUS B. PANGELINAN

Director, DC&CA



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

FOR OFFICIAL USE CABLE ADDRESS GOV. NMI SAIPAN REPLY TO: Dept., C & CA Div. of NAP

NUTISIAN PUBLEKU

TINULAIKA GI MANERAN ELIHIBLE I PRUGRAMAN AYUDON NEGKANNO' DEPATTAMENTON Y KOMUNIDAT YAN KUTTURA

I Direktot i Depattamenton Community and Cultural Affairs man pruponpont amendasion para i regulasion ni ginebebetna i ma'atministran Prugraman Ayudon Nengkanno' gi halom i Sangkattan na Islan Marianas.

Este siha na tinulaika para i NAP Manual of Operations ha sasangan i areglo siha yan taimanu ma'aplika'na gi sigiente siha na patte:

Exhibit A: Income Eligiblity Guidelines Benefit Levels Exhibit B:

I fecha ni para u efektibu este na tinulaika para Oktobre 1, 1391.

I tinulaika mana'guaha para u ma'ina gi duranten i oran cho'cho gubenamento, Lunes asta Betnes, gi Depattamenton Kuminida yan Kottura, Division of NAP, Lower Base, Saipan, MP 96950.

Haye enteresao mannai ayudu para i tinulaika sina ha na'halom i tinige'-na pot i ma sangan na tinulaika guato gi Direktot i DCCA, Lower Base, Saipan, MP 96950 gi antes di Oktobre 1, 1991.

FECHA: 9/14/91

DM GEL TNAN DIREKTOT. DCCA



COMMONWEALTH HEALTH CENTER

OFFICE OF THE DIRECTOR

GOVERNMENT OF THE NORTHERN MARIANA ISLANDS DEPARTMENT OF PUBLIC HEALTH-ENVIRONMENTAL SERVICES

PUBLIC NOTICE

Proposed Regulations Governing Communicable Diseases Department of Public Health and Environmental Services

In accordance with Public Law 1-8, Chapter 12, Section 3, the Department of Public Health and Environmental Services has the responsibility of administering all government-owned health care facilities and of adopting relevant regulations, policies and procedures as deemed necessary.

The Director of Public Health and Environmental Services has the responsibility of carrying out the duties of the Department. In accordance with those duties, the Director has promulgated regulations governing communicable diseases.

It is the intent and philosophy of the Department of Public Health and Environmental Services to minimize and control communicable diseases.

Copies of the proposed regulations may be obtained from the Department of Public Health and Environmental Services, Commonwealth Health Center, Garapan, Saipan, MP 96950.

Anyone interested in commenting on the proposed regulations governing communicable diseases may do so by submitting comments in writing to the Director, Department of Public Health and Environmental Services, Saipan, MP 96950, within thirty (30) days from the date this notice is published in the Commonwealth Register.

INN

Dr. Jose L. Chong, Director Department of Public Health and Environmental Services

COMMONWEALTH REGISTER VOLUME 13 NO. 09 SEPTEMBER 15, 1991 PAGE 7858

PAGE 7858

P.O. BOX 409, CK, SAIPAN MP 96950 TELEPHONE: (670) 234-8950/51/52/53/54 •• TELEX: 783-744 PHES SPN, FAX (670) 234-8930





OFFICE OF THE DIRECTOR

GOVERNMENT OF THE NORTHERN MARIANA ISLANDS DEPARTMENT OF PUBLIC HEALTH-ENVIRONMENTAL SERVICES

Notisian Publiku

I ma propoposito na areklo para u ginibietna i chetnot ni man tatatme

Department of Public Health and Environmental Services

<u>Atoridat</u>

Gi papa i lai Publiku 1-8, Kapitulu 12, Seksiona 3, i Depattamenton Hinemlo ni gaige i responsabilidat para u atministra todo fasilidat hinemlo ni gaige gi halom gobietnon Commonwealth ya sina man adapta otro siha na areklo yanggen nisisario para hu chogue.

I Directot i Depattmento Hinemlo' gai responsabilidat na hu li'e na i che'cho depattamento ma chochogue. Ginen este na responsabilidat anai sina i Direktot, Depattamento Hinemlo man laknos areklo ni para hu gobietna i chetnot ni man tatatme.

I intension yan filosofian i Depattmento Hinemlo para hu na menos yan hu suheta i chetnot ni man tatatme.

Kopian i ma propopone na areklamentu sina machule' gi ofisinan i depattamenton hinemlo' giya Garapan, Saipan, MP 96950.

Haye interesao muna'halom rekomendasion pot i mapropopone na areklo, sina matugi'i i Direktot, Depattamenton hinemlo', giya Saipan, MP 96950 gi halom trenta (30) dias despues de i fecha ni mapublika este na notisia gi halom i Rehistran Commonwealth.

Dr. Jose I. Chong, Director Department of Public Health and Environmental Services

COMMONWEALTH REGISTER VOLUME 13 NO. 09 SEPTEMBER 15, 1991 PAGE 7859

The proposed regulations governing communicable diseases include the following categories:

I proposito na areklo ni para hu gobietna i chetnot ni man tatatme inkluso siha in man sigiente siha na katiguria:

Chapter 12

Communicable Diseases

Note: Except as otherwise noted, this Chapter is taken from Section 3 of P.L. 1-8, which vested the Department of Public Health and Environmental Services with powers and duties.

12301.	Definitions
12302.	Duty to Report
12303.	Same: Dispensaries, Hospitals, Etc.
12304.	Same: Laboratories.
12305.	Same: Keeper of Boarding or
	Lodging Houses.
12306.	Same: Master of Vessel; Captain of
	Aircraft.
12307.	Investigation.
12308.	Same: Access to Records, Reports,
	Etc.
12309.	Isolation and Quarantine:
	Regulations.
12310.	Same: Authority of Director.
12311.	Placarding.
12312.	Violation of Isolation or
	Quarantine.
12313.	Chief of Police.
12314.	Disinfection of Premises.
12315.	Destruction of Property.
12316.	Compensation.
12317.	Closing of Schools.
12318.	Disposal of Bodies.
12319.	Responsibility of Person in
	Charge of Minor.
12320.	Willful Exposure.
12321.	Concealing Disease.
12322.	Vaccination and Immunization.
12323.	Prenatal Test.
12324.	Report as to Prenatal Test.
12325.	Prevention of Blindness at
	Childbirth.
12326.	Immunization Audit.
12327.	Same: Confidentiality.
12328.	Autopsy.
12329.	Penalty

```
Section 12301. Definitions.
     As used in the Chapter:
          Communicable disease includes any of the following
     (a)
diseases or conditions which are dangerous to public health:
               Acquired Immune Deficiency Syndrome
          1.
                (AIDS)
               Amebiasis (amoebic dysentery);
          2.
          3.
               Anthraz;
          4.
               Brucellosia (Undulant fever);
          5.
               Chancroid;
          6.
               Chickenpox;
               Cholera:
          7.
               Cholonorchiasis (liver-fluke);
          8.
               Conjunctivitis, acute infectious
          9.
                (pink eye);
         10.
               Denque;
         11.
               Diarrhea of newborn (epidemic
               infantile);
         12.
               Diphtheria;
         13.
               Encephalitis, primary (infectious);
         14.
               Erysipelas;
         15.
               Favus:
         16.
               Filariasis;
         17.
               Fish (ciguatera) poisoning;
         18.
               Food Poisoning (Bacterial);
         19.
               Glanders (Farcy)
         20.
               Gonorrhea;
         21.
               Gonorrheal Ophthalmia;
               Granuloma inquinale;
         22.
         23.
               Hemophilus Influenza B.;
         24.
               Hepatitis A (infectious);
         25.
               HIV-seropositive condition.
         26.
               Hepatitis B (Serum);
         27.
               Hepatitis C (Serum);
         28.
               Hookworm Disease;
         29.
               Impetigo Contagious (in institution);
         30.
               Influenza;
         31.
               Japanese Encephalitis;
         32.
               Kerato-Conjunctivitis (Infectious);
               Leprosy (Hansen's Disease);
         33.
         34.
               Leptospirosis (Wells disease or
               Hemorrhagic Jaundice);
         35.
               Malaria:
         36.
               Measles (Rubella);
         37.
               Melioidosis;
         38.
               Meningitis, aseptic;
         39.
               Meningitis, cerebrospinal
                (Meningococcic);
               Meningitis, other infectious;
         40.
         41.
               Mononucleosis, infectious;
```

```
42.
      Mumps;
43.
      Paratyphoid Fever;
      Pertussis (Whooping cough);
44.
45.
      Plaque:
46.
      Poliomyelitis, acute anterior
      (Infantile paralysis);
47.
      Psittacosis-ornithosis;
48.
      Puerperal septicemia;
49.
      Rabies;
50.
      Relapsing Fever;
51.
      Rheumatic Fever (active);
52.
      Rickettsial Disease;
      Ringworm of the scalp (Tinea Capitis);
53.
54.
      Rubella (German Measles);
55.
      Salmonellosis;
56.
      Scabies;
57.
      Scarlet Fever:
58.
      Septic sore throat (streptococcus).
59.
      Shigellosis (Bacillary dysentery);
60.
      Smallpox;
61.
      Syphilis;
62.
      Tetanus;
63.
      Trachoma;
64.
      Trichinosis:
65.
      Tuberculosis (Pulmonary);
66.
      Tuberculosis (other than Pulmonary);
67.
      Tularemia;
68.
      Typhoid Fever;
69.
      Typhus Fever;
70.
      Yaws;
      Yellow Fever;
71.
72.
      Any other disease deemed by the
```

Director to be dangerous to the public health may be added by regulation;

(b) **Isolation** means the separation of persons suffering from a communicable disease or carriers of such a disease from other persons for the period of communicability in such places and under such conditions as will prevent the transmission of the causative agent; and

(C) Quarantine means the limitation of freedom of movement of those who have been exposed to a communicable disease, whether a person or animal, for a period of time equal to the longest usual incubation period of the disease, in such manner as to prevent effective contacts with those not so exposed.

Section 12302. Duty to Report.

Any person licensed or registered to practice any healing art under Section 7 of Public Law No. 3-30 who has knowledge of or suspects the presence of any communicable disease or any other disease dangerous to the public health, shall report the same to the Director within forty-eight (48) hours after diagnosis, unless a different time is prescribed by regulation, together with the name, age and sex of the person afflicted, the house or other place in which such person may be found, and such other information as may be required by regulation.

Section 12303. Same: Dispensaries, Hospitals, Private Clinics, Etc.

The superintendent, chief medical officer, nurse in charge or other person in charge of any hospital, clinic, dispensary, infirmary, medical aid station or other establishment providing medical care, either to the general public or otherwise, who has knowledge or suspected knowledge of the presence of any communicable disease or any other disease dangerous to the public health shall report the same to the Director in accordance with Section 12302. When the patient is hospitalized, the person in charge of the hospital in which he is hospitalized shall make the report.

Section 12304. Same: Laboratories.

The Director, administrator, chief officer or other person in charge of any laboratory, public or private, performing any tests or examinations upon persons or their blood, urine, feces or any other body products shall, upon identification or suspected identification of an etiologic agent, antigen, antibody or any other substance or combination of substances generally accepted as being diagnostic of the presence of a communicable disease, shall report same to the Director in accordance with 12302.

Section 12305. Same: Keeper of Boarding or Lodging Houses, Government Departments and other Working Institutions.

Any owner, keeper or other person in charge of the operation of a hotel, boarding house or dormitory government departments and other working institutions shall immediately report to the Director the presence therein of any person he has reason to believe to be sick of, or to have died of any contagious, infectious, communicable or other disease dangerous to the public health.

Section 12306. Same: Master of Vessel; Captain of Aircraft.

Any master of a vessel or captain of an aircraft, or ships shall immediately report to the Director or his representative the presence aboard such vessel or aircraft of any person he has reason to believe to be sick or to have died of any communicable disease.

Section 12307. Investigation.

When a complaint is made or a reasonable belief exists that a communicable disease or other disease dangerous to the public health prevails in any house or elsewhere which has not been reported, the Director shall make an inspection for the purpose of discovering whether any such disease exists.

Section 12308. Same: Access to Records, Reports, Etc.

When the Director has reason to believe that a communicable disease exists but that full and complete information as required by **Section** 12302 of this Chapter has not been provided, the Director or his representative may examine any and all records or reports deemed necessary to fully investigate the disease.

Section 12309. Isolation and Quarantine: Regulations.

Isolation and quarantine shall be imposed in accordance with regulations. Such regulations shall designate the disease for which isolation or quarantine is necessary, and such other requirements concerning diagnosis, treatment, release and other pertinent matters as may be necessary.

Section 12310. Same: Authority of Director.

(a) Notwithstanding 12309, when a person has or is suspected of having or is suspected of being a carrier of any communicable disease or any other disease dangerous to the public health, the Director may impose isolation on such person and may impose quarantine on anyone who has had contact with such person. The extent and duration of isolation and quarantine imposed in a given case and release therefrom shall be within the discretion of the Director depending upon the disease. The Director may, in his discretion, determine the persons subject to isolation and quarantine, specify the places or areas to which or in which they are restricted in their movements, prescribe other conditions and requirements to be observed, decide the duration of isolation and quarantine and release therefrom and issue other necessary instructions. He shall insure that provisions are made for medical observation of such persons as frequently as necessary during isolation and quarantine. He may, in his discretion, terminate isolation and quarantine or amend the degree thereof and other restrictions imposed in connection therewith at any time.

5

COMMONWEALTH REGISTER VOLUME 13 NO. 09 SEPTEMBER 15, 1991 PAGE 7864

(b) When a person has or is suspected of having or is suspected of being a carrier of any communicable disease or any other disease dangerous to the public health, the Director may, in his discretion and for the safety of the public, remove such person, with or without his consent, to a licensed hospital or other designated premises for the purpose of isolation and treatment until the disease is no longer communicable by such person. If the Director should determine that removal of such person is not practicable, such person may be allowed to remain where he is and the Director may take such measures as he may deem advisable to provide for his care for the public health by way of isolation and quarantine.

Section 12311. Placarding.

When a person has been isolated or quarantine and is restricted thereby to his residence or other building, the Director may place in a conspicuous position on the exterior of the premises when such person is isolated or quarantine a placard having printed on it in large letter the name of the disease and warning all unauthorized persons to remain off the premises. Such placard shall be in English and Chamorro and in any other languages the Director deems appropriate. No person shall remove, deface or destroy such placard until authorized by the Director. Except as authorized by the Director or regulation, no person shall enter or leave any premises which has been placarded.

Section 12312. Violation of Isolation or Quarantine.

No person who has been isolated or quarantined shall leave the premises or area to which he has been restricted without the written permission of the Director until he has been released from such isolation or quarantine.

Section 12313. Director of Public Safety.

Upon the request of the Director, it shall be the duty of the Director of Public Safety to act and assist in the enforcement of isolation and quarantine, using such force as may be reasonably necessary.

Section 12314. Disinfection of Premises.

The Director may, if he deems it advisable, order the premises and content thereof in which any person has been ill or has died of a communicable disease or any other room, building, premises or area, any contents thereof, which may be infective by contact with any communicable disease, to be disinfected and purified in such manner as he may direct. It shall be the duty of the owner or occupant or such premises to comply with any such order.

Section 12315. Destruction of Property.

The Director may destroy any infective clothing, bedding or to other article which cannot be made safe by disinfection. He shall furnish to the owner thereof a receipt showing the number, character, condition and estimated value of the article so destroyed. A copy of such receipt shall be retained by the Director.

Section 12316. Compensation.

Upon the presentation of the original receipt for articles destroyed under 12315 and approval by the Attorney General, the Director shall pay to the owner of such property, out of such appropriations of the Department of Public Health and Environmental Services as may be available, the value of such destroyed articles.

Section 12317. Closing of Schools.

During an epidemic or threatening epidemic or when a dangerous communicable disease is unusually prevalent, the Director may close any public or private school and prohibit any public or private gathering for such time as may be necessary in the interests of the public health.

Section 12318. Disposal of Bodies.

The Director, in his discretion, may require that the body of a person, who has died of a communicable disease or any other disease dangerous to the public health, be buried or cremated immediately or within such period of time and in conformity with such procedures for the protection of the public health, as he may designate.

Section 12319. Responsibility of Person in Charge of Minor.

Where any person suffering from a communicable disease is required to remain isolated or quarantine or to do or refrain from doing any act or thing whereby spread of the disease may be enhanced and such person because of his tender age or of physical or mental disability is unable to comprehend or comply with such requirements, it shall be the duty of the parent, guardian or other person, including any attendant having such patient under his care, custody or control to comply or cause compliance with the isolation or quarantine so imposed and pertinent provisions of this Chapter.

Section 12320. Willful Exposure.

No person having a communicable disease or any other disease dangerous to the public health or being in charge of any other person afflicted with such a disease, shall willfully expose himself or such person in any public place, street or highway except as may be authorized by the Director.

Section 12321. Concealing Disease.

No person shall conceal any person having any communicable disease or any other disease dangerous to the public health, including any sexual transmitted disease. No parent, guardian or other person having custody or care of a minor child shall conceal the fact of a minor child having any such disease.

Section 12322. Vaccination and Immunization.

No child shall be enrolled in any public or private school within the Commonwealth unless evidence is presented to the enrolling officer that the child has had all such vaccinations or immunizations, including but not limited to Diphtheria, Pertussis, Tetanus, Polio, Measles (Rubeola), Mumps and Rubella (German Measles, Hepatitis B) or against other communicable disease as the Director shall, by regulation, require, except that exemption may be granted upon certification by a parent or legal guardian that such vaccination or immunization would be against their religious belief or a child that has been certified by a licensed medical doctor that said child shall be exempt from this Section where medical contraindication to receiving a specific vaccine exists. The Director may require vaccination and immunization of any person or persons suspected as carriers of a communicable disease upon entering or leaving the Commonwealth which the Director believes may present a risk to the public health of the Commonwealth. The Director, in case of an epidemic or to control a possible epidemic of a communicable disease, may direct that the general population be vaccinated and immunized against said disease.

Section 12323. Prenatal Test.

Any licensed or registered physician attending a pregnant woman for condition relating to her pregnancy during this period of gestation or at delivery shall take or cause to be taken a sample of the blood of such woman and submit such sample to the Department of Public Health And Environmental Services laboratory or other laboratory approved by the Director for a standard serologic test for syphilis. Any other person permitted by law to attend pregnant women, but not permitted by law to take blood samples, shall cause a sample of blood of every pregnant woman attended by him to be taken by a duly licensed or registered physician or at the Department of Public health and Environmental Services laboratory approved by the Director for a standard serologic test for syphilis. Such samples of blood shall be taken

at the time of the first visit of the pregnant woman or within fourteen (14) days thereafter. Every pregnant woman shall permit such samples of her blood to be taken as provided in this Section.

Section 12324. Report as to Prenatal Test.

In reporting any birth or stillbirth, any physician or other person required to make such reports shall state in a report accompanying the certificate whether, according to his knowledge or information, a blood test for syphilis has been made upon a specimen of blood taken from the woman who bore the child for which the birth or date when the specimen was taken. The Director is authorized to investigate the circumstances surrounding the birth of any baby on whose mother no serologic test, as required by the provision of this Subchapter, appears to have been taken.

Section 12325. Prevention of Blindness at Childbirth.

Any physician, midwife or any other person in attendance at childbirth immediately after birth shall administer (1%) silver nitrate solution to both eyes of the newborn child. Preparations other than one percent (1%) silver nitrate may be used only on approval of the Director and subject to such conditions and restrictions as the Director may impose.

Section 12326. Immunization Audit.

Annually, the Director shall conduct an immunization audit. The sample audits shall be private clinic records and private physicians' record to determine if:

(a) One (1) consolidated immunization records is posted on the inside front cover of the patient's medical record if the patient is under the age of eighteen (18), and

(b) That the record of any child found to be deficient in immunizations indicates:

(1) that progress towards immunization is being made;

(2) a record of scheduled return appointment for the child; or

(3) a reason for the lack of immunization.

Section 12327. Same: Confidentiality.

The immunization audit shall be done by the Director who may delegate his duty to the Immunization Coordinator of the Division of Public Health. The Director shall be responsible for assuring the confidentiality of individual patient record is preserved. The Department of Public Health and Environmental Services shall be responsible for compiling a statistics of the audit.

Section 12328. Autopsy.

The Director may order an autopsy to determine if the deceased died of a communicable disease or whenever, in his discretion, the public interest justifies it.

Section 12329. Penalty.

A person who violates any of the provisions of this Chapter or regulations issued pursuant thereto shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than one year, or both.

PUBLIC NOTICE

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENTAL SERVICES

PROPOSED OF UNDERGROUND STORAGE TANK REGULATIONS FOR PUBLIC LAW 1-8 AND PUBLIC LAW 3-23

The Director of the Department of Public Health and Environmental Services, of the Northern Mariana Islands (CNMI), in accordance with Public Law 6-37 and Public Law 3-23 proposes to promulgate Underground Storage Tank Regulations.

The proposed regulations apply to Underground Storage Tanks (USTs) containing regulated substances such as petroleum products. Storage of hazardous substances or waste in UST systems is prohibited by the proposed regulations. Included are requirements for permitting, installation, monitoring, and removal of USTs. The purpose of these requirements is to prevent UST leaks and spills, and to find leaks and spills and correct the problems that they create. In addition, the proposed regulations contain provisions for financial responsibility in order to make sure that owners and operators of USTs can pay for correcting the problems created if their USTs leak.

Copies of the proposed UST regulations may be obtained from the Department of Public Health and Environmental Services, Division of Environmental Quality, located at Dr. Torres Hospital, Saipan, MP 96950. Anyone interested in commenting on the proposed regulations may submit comments in writing to the Chief, Division of Environmental Quality, Post Office Box 1304, Old Dr. Torres Hospital, As Terlaje Area, Saipan, MP 96950, not later than thirty (30) days of the publication of this notice in the commonwealth Register.

DR. JOSE L. CHONG, Director Department of Public Health and Environmental Services

NOTISIAN PUPBLIKU

DEPATTAMENTON HINEMLO I PUPBLIKU YAN ENVIRONMENTAL SERVICES

I MANMAPROPOPONI NA REGULASION PUT TANGKE SIHA GI PAPA' TANO' PARA I LAI PUPBIKU NUMIRU 1-8 YAN 3-23

I Direktot i Depattamenton Hinemlo Publiku yan Environmental Services i Commonwealth of the Northern Mariana Islands (CNMI), sigon gi Lai Pupbliku Numiru 1-8 yan i Lai Pupbliku Numiru 3-23, ha proponi manlaknos regulasion i tangke siha gi papa' tano'.

I manmapropoponi na regulasion siha para u afekta todu tangke siha gi papa' tano' osino' i Underground Storage Tanks (USTs) ni manmasahguaniniyi substances ni manma'adadahi tak komu produkton petroliu siha. I ma polon piligru pat anusa siha na substances gi halom substances gi halom i USTs na sistema manmaprihibi gi i manmapropoponi na regulasion. I kondision para manlisensia, manmega pat manhatsa, manek yan muna'suhan USTs manma'engklusu gi halom i manmapropoponi siha na regulation. I Propositon este siha na kondision ayu i para u prihibi sume' yan chinida' gi UST na sistema, Yan i para manespihan yan chinida' siha ni para u makorihi i prublema ni mana'guaguaha. Lokkue', i manmapropoponi na regulasion ha pribebeni probension para i resposabilidat fainansiat ni para u asigura i drenu yan operadot USTs siha na sina ma apasi i gasto para u ma korihi i prublema yanggen sume' i USTs-niha.

Kopia siha para i manmapropoponi na regulasion UST siha sina manmachuchule' ginen i Depattamenton Hinemlo Publiku yan Environmental Services, Division of Environmental Quality, gi hagas Dr. Torres Hospital, Saipan, MP 96950. Interesante siha na petsona ni manmalago' manmama'tinas komento siha put i manmapropoponi na regulasion sina mana'halom komento siha gi tinige' guato gi Chief, Division of Environmental Quality, Post Office Box 1304, Old Dr. Torres Hospital, As Terlaje Area. Saipan, MP 96950, sin mas di trenta dias despues di i fecha ni mapupblika este na nutisia gi halom i Rehistran Commonwealth.

Fecha: <u>al 10 /4</u>

luntaln

DR. JOSE L. CHONG, Direktot Depattamenton Hinemlo Publiku yan Environmental Services

ARONGORONGOL TOWLAP

BWULASIYOOL PUBLIC HEALTH ME ENVIRONMENTAL SERVICES

MWÓGHÚTÚGHÚTÚL FFÉÉRÚL LLIWEI REEL UNDERGROUND STORAGE TANK REGULATIONS EBWE ATOTOOLONG LLÓL ALLÉGHÚL TOWLAP (PUBLIC LAWO YE 1-8 ME ALLEGHUL TOWLAP YE 3-23

Direktoodul Bwulasiyool Public Health me Environmental Services, mellól Commonwealth of the Northern Mariana Islands (CNMI), reel ebwe attabweey ailééwal mw bwángil Alléghúl Towlap 1-8 me bwal iye 3-23 nge rebwe ayoora lliwel kka ebwe fil ngali ammwelel tangkki kka e ghal lo faal ppwel (Underground Storage Tank Regulations).

Lliiwel kkall nge e ghil ngáli all'ghúl mille Underground Storage Tanks (USTs) iye ghal yoor milikka re ghal ira bwe petroleum products. Ngáre rebwe isiis milikkall, me ngáre meta kka llól UST systems nge rebwe ghi ammala fischiiy bwe attabweey ailééwal allégh. Milikka e bwal toolong llol lliiwel kkaal nge reel rebwe fiteey igha rebwe atotoolong (installation), amwuri fischiiy (monitoring), me meremerel milikka USTs. Mille rebwe fééru milkkaal reel, nge igha ebwe pileey me bwalúúw bwe ete yoor llesch me rebwe aghatchú sefáliiy milikka re anngowa. Bwal eew nge iye reel selaapi (financial responsibility), igha ebwe yoor alúghúligh bwe aramas kka re yááyá (owners) me operators, nge emmwel ngáliir bwe rebwe abwossuuwow ngare e ghal itto bwe eyoor llesch me meta kka problema.

Koopiyal All'ghul milikka UST nge emmwel schagh bwe aramas ebwe lo bweibwogh mellól Bwulasiyool Public Health me Environmental Services, Division of Environmental Quality, iye elo iwe fasul Dr. Torres Hospital, Saipan, MP 96950. Aramas ye e mwuschal ngáre tip'áli nge emmwe schagh bwe ebwe ischiitiw meta tipal me mangemangil reel lliiwel kkall, nge raa afanga ngali Chief, Division of Environmental Quality, Post Office Box 1304, Old Dr. Torres Hospital, As Terlaje Area, Saipan, MP 96950, nge essobw aluuwlo eliigh (30) ral igha arongorong yeel e toowwow mellol Commonwealth Register.

afw/aj Ral:

untal

DR. JOSE L. CHONG, Direktoodul Bwulasiyool Public Health me Environmental Services

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS UNDERGROUND STORAGE TANK REGULATIONS

CONTENTS

- PART 1 AUTHORITY
- PART 2 PURPOSE AND POLICY
- PART 3 ADMINISTRATION
- PART 4 DEFINITIONS
- PART 5 APPLICABILITY
- PART 6 REGULATORY REVISIONS
- PART 7 PERMITTING
- PART 8 INSTALLATION
- PART 9 TANK CERTIFICATION
- PART 10 MONITORING
- PART 11 LEAK REPORTING AND CORRECTION
- PART 12 TANK CLOSURE
- PART 13 RECORD KEEPING
- PART 14 FINANCIAL RESPONSIBLITY
- PART 15 ENFORCEMENT
- PART 16 PENALTIES FOR VIOLATIONS

PART 1. AUTHORITY

1.1 General Provisions

These regulations have been promulgated by the Department of Public Health and Environmental Services in accordance with the Commonwealth of the Northern Mariana Islands Public Law 3-23, the Commonwealth Environmental Protection Act (2 CMC, Title 2, 3101 et seq.). These regulations and technical provisions shall have the force and effect of law and shall be binding on all persons and other legal entities subject to the jurisdiction of the Commonwealth of the Northern Mariana Islands.

The Department of Public Health and Environmental Services, Division of Environmental Quality, shall serve as the official representative for all purposes of Subtitle I of the Resource Conservation and Recovery Act of 1976 (Public Law 94-580) as amended, and for the purpose of such other federal or local legislation as may hereafter be enacted to assist in the management of underground storage tanks in the Commonwealth of the Northern Mariana Islands.

1.2 U.S. Federal UST Authority

The U.S. federal Underground Storage Tank (UST) Regulations are issued under the Environmental Protection Agency (EPA) authority of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act (RCRA) of 1976 (42 USC 6901 et seq.) as amended and effective on December 22, 1988.

Section 9004 permits the EPA to authorize states, including the Commonwealth of the Northern Mariana Islands, to implement their own UST programs in place of the federal requirements, if the state's requirements are "no less stringent" than EPA's and provide for adequate enforcement.

PART 2 PURPOSE AND POLICY

2.1 The purpose of these regulations is to establish a system of control and enforcement over the permitting, installation, use and monitoring of all Underground Storage Tanks (UST) containing regulated substances and prohibit the storage of hazardous substances or wastes in UST systems by persons within the CNMI as necessary to conserve the land and water resources of the CNMI, protect public health, and prevent environmental pollution, resource degradation and public nuisances.

2.2 These regulations provide a means to protect the CNMI surface and groundwater resources, as stated in the Commonwealth Groundwater Management and Protection Act of 1988 (P.L. 6-12). Since the CNMI is dependent on groundwater for its drinking water supply, these regulations establish a mechanism to protect this limited resource from contamination from petroleum products

contained in underground storage tanks. Thus, the purpose of these regulations is to also establish leak detection, leak prevention, financial responsibility, and corrective action requirements for all UST containing regulated substances.

2.3 These regulations provide a means to protect marine resources and coastal areas under the Coastal Resource Management Act (P.L. 3-47). These UST regulations provide a mechanism to prevent the degradation or pollution of, or damage to the marine resources of the CNMI from underground storage tanks. The provisions stated in these regulations are consistant with the purpose and objective of the CRM Act.

2.4 The Department of Public Health and Environmental Services, Division of Environmental Quality (DEQ) shall have primary jurisdiction to enforce those regulations in the CNMI. Additionally, the Environmental Protection Agency (EPA) Region IX Office, may independently enforce these regulations without requiring DEQ action.

PART 3 ADMINISTRATION

3.1 The Chief is authorized to take such action as may be necessary in the administration and enforcement of the Underground Storage Tank Regulations for the CNMI.

3.2 The Division of Environmental Quality shall be reponsible to prepare, adopt, promulgate, modify, update, repeal, and enforce rules and regulations governing underground storage tank design, construction, permitting, installation, release detection and inventory control, compatibility, record maintenance, reporting, corrective action, closure, and financial responsibility in order to protect human health and environment, and enable DEQ to carry out the purposes and provisions of these regulations.

PART 4 DEFINITIONS

"Acceptable pressure gauge" shall mean a pressure gauge with a scale reading of no more than twice the test pressure required (ie. a 50 psi gauge is not acceptable for use to conduct a 20 psi pressure test).

"Associated piping" shall mean all underground piping used in the operation of a UST through which regulated substances flow, also referred to as product delivery lines.

"Certified Tank Installer" shall mean a person trained by an authorized person on the proper handling, testing and installation of tank systems in accordance with the manufacturers specifications, the code of practice developed by a nationally recognized association or independent testing laboratory and these regulations. "Certified Tank Tester" shall mean a person trained and certified by an authorized person to conduct precision testing in accordance with the manufacturers specifications, the code of practice developed by a nationally recognized association or independent testing laboratory and these regulations.

"Chief" shall mean the Chief of DEQ or his/her duly authorized designee.

"Closure of tank system" shall mean the temporary or permanent removal of a tank system from service or operation in accordance with the federal UST regulations.

"Contractor or Agent" shall mean the person desingated and binded by contract, signed by all involved parties, to represent the owner/operator to conduct the installation of an UST system. The contractor or agent shall not be responsible for any other provisions of these regulations, but for those specified in Part 8, Installation Standards, without a waiver approved by the Chief.

"DEQ" shall mean the CNMI Department of Public Health and Environmental Services, Division of Environmental Quality.

"DEQ UST Inspector" shall mean an employee of the Division who has been trained and certified in the proper installation and operation of UST in accordance with the manufacturers specifications.

"Division" shall mean the CNMI Department of Public Health and Environmental Services, Division of Environmental Quality.

"Department" shall mean the CNMI Department of Public Health and Environmental Services.

"Existing tank" means any UST installed and operated prior to the effective date of these regulations and which has not been the source of any release to the environment."

"Facility" shall mean the location or property where the UST is or was installed, and operating.

"Federal UST regulations" shall mean the Underground Storage Tank regulations (40 CFR 280) promulgated by the Environmental Protection Agency (EPA) under the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act (RCRA) of 1976 (42 USC 6901 et seq.) as amended and effective on December 22, 1988.

"Guarantor of Insurer" shall mean any person, other than the owner or the operator, who provides evidence of financial responsiblity for the underground storage tanks and associated piping.

"Inland waters" shall mean surface freshwaters, such as streams, that are not subject to the ebb and flow of the tide.

"Local fire jurisdiction" shall mean the Fire Division of the CNMI Department of Public Safety.

"Navigable waters" shall mean those waters that are subject to the ebb and flow of the tide shoreward to the mean high water mark and/or are presently used, or have been used in the past or may be susceptible to use to transport interstate or foreign commerce.

"New tank" shall mean any UST installed on or after the effective date of these regulations which shall be required to comply with all provisions of these regulations.

"Operational life" shall mean the period begining when installation of the tank system has commenced until the time the tank system is properly closed, in accordance with these regulations.

"Operator" shall mean any person in control of, or having responsibility for, the daily operation of an UST.

"Owner" shall mean any person who owns an UST and the associated piping used for the storage, use or dispensing of regulated substances, or in the case of an UST no longer in operation at the effective date of these regulations, any person who owned such UST at the time operation or use of such tank system was discontinued.

"Perched aquifer" shall mean a water bearing stratum of permeable rock, sand, gravel in a geological area where there is a layer of impermeable material above the water table, forming a zone of saturation above it.

"Person" shall mean any individual, trust, firm, joint stock company, corporation (private and government), partnership, consortium, joint venture, commercial entity, association, political subdivision of the CNMI, interstate body, or any agency, department, or instrumentality of the U.S. Federal or Government of the Northern Marianas Islands, or any other legal respresentative, agency or assigns.

"Public Water Supply" shall mean water that is collected and distributed by a municiple water system for human use and consumption.

"Precision test" shall mean a tank tightness test capable of detecting a 0.1 gallon per hour leak rate from any portion of the tank that routinely contains product while accounting for the effect of thermal expansion or contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table.

"Psi" shall mean the unit of pressure measurement, pounds per square inch.

COMMONWEALTH REGISTER VOLUME 13 NO. 09 SEPTEMBER 15, 1991 PAGE 7877

"Regulated Substances" shall mean any element, compound, mixture, solution, or substance that, when released into the environment, may present substantial danger to the public health, welfare, or the environment. The term includes;

a. Any substance defined in Section 101(14) of the federal Comprehesive Environmental Response, Compensation and Liablity Act of 1980, Public Law 96-510. as amended, but not including any substance regulated as a hazardous waste under Subtitle C of the Resource Conservation and Recovery Act of 1976 (Public Law 94-580) as amended; or

b. Petroleum, including crude oil or any fraction thereof, which is liquid at standard conditions of temperature and pressure (60 degrees Fehrenheit and 14.7 pounds per square inch absolute); and c. Any other substance as designated by the Chief.

"Release" shall mean the spilling, leaking, emitting, discharging, escaping, leaching, or disposing of a regulated or hazardous substance from a UST or associated piping.

"Secondary containment" shall mean a system installed around a UST that is designed to prevent a release from migrating beyond the secondary containment system outer wall (in the case of a double-walled UST) or excavation area (in case of a liner) before a release can be detected.

"Sensoring devices" shall mean techniques used to identify a loss of product that are based on volumetric measurements of the tank contents and reconciliation of those measurements with product delivery and withdrawal records.

"Septic tank" shall mean a water-tight covered receptacle designed to receive or process, through liquid separation or biiological digestion, the sewage discharged from a building sewer. The effluent from such receptacle is distributed for disposal through the soil and settle solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

"Shoreline" shall mean the line where the water surface meets land at the mean high tide.

"Surface water bodies" shall mean the area where water collects at the surface which is feed by rainfall or a groundwater source such as a perched aquifer.

"Tank" any stationary device constructed primarily of non-earthern materials which provide structural support.

"Tank system" shall mean an UST and piping associated with the operation of a UST which contains any amount of a regulated substance for any period of time.

"Tidal area" shall mean any land within 500 feet of the shoreline, navigable waters, or area influenced by tidal fluctuations.

"Underground Storage Tank" means any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10 percent or more beneath the surface of the ground.

"Upgrade" shall mean any addition or retrofit of some systems such as cathodic protection, lining, or spill and overfill controls to improve the ability of an tank system to prevent the release of regulated substance."

"USC" shall mean United States Code.

"UST" shall mean underground storage tank.

"Well" shall mean the system whereby water is pumped out of the ground to be collected, and used for drinking water supply.

"Wetland" shall mean any geographic area which includes areas inundated by surface or groundwater, with a frequency sufficient to support a prevalence of plant or aquatic life, that require saturated or seasonally saturated soil conditions for growth and reproduction.

PART 5 APPLICABILITY

5.1 These regulations shall apply to all tank systems which receive, store or distribute regulated products, and have at least 10 percent of its volume underground.

5.2 The following tanks shall be excluded from the definition of UST and shall be exempt from the provisions of these regulations:

5.2.1 Farm or residential tanks of 150 gallons or less capacity storing motor fuel for noncommercial purposes;

5.2.2 Tanks storing heating oil for consumptive use on premises where stored;

5.2.3 Septic tanks;

5.2.4 Storm water catchment systems;

5.2.5 Wastewater treatment plants;

5.2.6 Surface impoundments, pits, ponds and lagoons;

5.2.7 Flow-through process tanks (except oil:water separators, which must be a USEPA approved design and comply with all provisions of federal and CNMI UST regulations);

5.2.8 Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations;

5.2.9 Pipeline facility (including gathering lines) regulated under;

- a. The Natural Gas Pipeline Safety Act of 1968 (P.L. 90-481) as amended; and
- b. The Hazardous Liquide Pipeline Safety Act of 1979 (P.L. 96-129), as amended, and

5.2.10 Storage tanks located on or above the floor in in underground room.

PART 6 REGULATORY REVISIONS

6.1 Any ammendments to the U.S. EPA Underground Storage Tank Regulations (40 CFR 280) promulgated by the U.S. EPA shall apply to the CNMI. Ammendments to the federal UST Regulations shall be incorporated into these regulations by the Director.

6.2 Any revisions to these regulations that are more strigent than the corresponding requirements specified in the federal regulations may be incorporated into these regulations only after publication in the CNMI Commonwealth Register for a period of thirty (30) days, and a public hearing if requested from a resident or citizen of the CNMI.

6.3 Prior to the adoption of any amendments to the CNMI UST regulations that are more stringent than existing federal regulations, DEQ shall comply with the requirements of the Administative Procedure Act (APA), CMC 9104.

PART 7 PERMITTING

7.1 Prior to installation of any UST, the owner or operator shall apply for and obtain a UST Permit to Install from DEQ. The UST Permit to Install application shall be completed in full, signed by the owner or operator submitting the application, and be submitted to DEQ with a copy of the design blue prints and a vicinity map.

7.1.1 The owner or operator shall pay an UST Permit to Install application fee of five hundred (\$500.00) US Dollars per tank (new and replacement) payable to the Division of Environmental Quality, at the time the UST Permit to Install application is submitted.

7.1.2 DEQ shall notify the applicant if any additional information is needed within 14 working days from the date the application is submitted. A UST Permit to Install application will not be considered complete until DEQ has received the additional information requested.

7.1.3 DEQ shall not issue an UST Permit to Install until the owner, operator, or designated contractor has obtained a DEQ Earthmoving and Erosion Control Permit.

7.1.4 Prior to the permitting of the installation of any new or replacement UST, the owner or operator and the certified tank installer who will be responsible for the proper installation of the new or replacement UST shall attend an UST Program Briefing to be conducted by DEQ after an application has been filed at DEQ.

a. The UST Program Briefing shall minimally include a review of federal and CNMI UST Regulations and the DEQ UST Program.

7.1.5 No UST Permit to Install shall be issued without prior proof of financial liability in accordance with Part 14.

7.1.6 There will be a 30 day processing period for any UST Permit to Install application, from the time all requirements in this Part have been completed and DEQ determines the application complete.

7.1.7 DEQ has the right to reject any UST Permit to Install application that does not comply with all requirements as specified in the federal or CNMI UST Regulations, or as the Chief may deem necessary to protect public health or the environment.

7.1.8 All UST Permits to Install shall be non-transferable.

7.2 The operator of the tank system shall apply for and obtain an UST Permit to Operate from DEQ;

a. prior to commencing the operation of a newly installed tank system, and

b. within 90 days of the effective date of these regulations for any tank system existing prior to the effective date of these regulations.

7.2.1 The UST Permit to Operate Application shall be completed in full, signed by the operator submitting the permit application and submitted to DEQ.

7.2.2 The operator shall pay an UST Permit to Operate Application fee of One-hundred and fifty (\$150.00) US Dollars per tank (new and replacement) payable to the Division of Environmental Quality at the time the application is submitted.

7.2.3 DEQ has the right to reject any UST Permit to Operate application and revoke any UST Permit to Operate if DEQ believes or finds the tank system is not being operated and maintained by a person with sufficient training and experience in preventing corrosion, and in a manner that ensures that no releases occur. 7.2.3 All UST Permits to Operate shall be non-transferable.

PART 8 INSTALLATION

8.1 The following standards apply to any UST and associated piping installed after the effective date of these regulations. The following installation requirements and criteria shall be met:

8.1.1 tank installation shall be conducted in accordance with the manufacture's specifications and in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory;

8.1.2 each tank shall be equipped with the means to prevent overfilling of the tank;

8.1.3 each tank shall be equipped with the means to detect an overfill before any discharge can occur;

8.1.4 tanks and associated piping shall be made of or lined with materials compatible with the regulated substance(s) and designed and equipped to prevent corrosion for the operational life of the UST, accomplished by;

- a. use of fiberglass reinforced or other non corrosive materials for UST's, piping and fittings, or
- b. any other equally effective design approved by the Chief in writing, and

8.1.5 tanks shall be equipped with secondary containment either by;

- a. installation of double walled tanks and double walled piping with piping containment sumps, or
- b. lining the excavation pit with a material, other than cement or concrete, compatible with the regulated substance being stored, or
- c. any other equally effective design approved by the Chief in writing, and

8.1.6 tanks shall be equipped with mechanisms or methods that are capable of detecting releases from any portion of the tank by one of the following methods;

- a. inventory control,
- b. manual tank gauging,
- c. automatic tank gauging,

d. vapor monitoring,

e. groundwater monitoring,

f. interstitial monitoring, or

g. any other equally effective leak detection method approved by the Chief in writing.

8.1.7 product delivery lines shall be equipped with mechanisms or methods that are capable of detecting releases from any portion of the piping by one of the following methods;

a. automatic line leak detector that detects a release within an hour by restricting or shutting off flow or sounding an alarm,

b. applicable method used in Part 8.1.6 that is designed to detect a release from any portion of the piping that rountinely contains regulated substances, or

c. any other equally effective leak detection method approved by the Chief in writing.

d. No release detection is required for suction piping that is designed and constructed to meet the following standards:

- i. the below-grade piping operates at less than atmospheric pressure,
- ii. the below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released,
- - iv. the check valve is located directly below and as close as practical to the suction pump; and
 - v. any other method approved by the Chief in writing that complies with i-iv of this part.

8.2 The owner/operator or the certified tank installer shall notify the local fire jurisdiction in writting before beginning construction. Notification shall specify the number, size and contents of tanks to be installed, the location, and estimated date tank operation will commence.

8.3 The owner/operator shall be responsible for assuring the installation of tanks and associated piping be conducted in compliance with these regulations by contracting a certified tank installer to conduct or oversee and inspect all installation procedures. **8.4** The certified tank installer shall comply with the following testing criteria for both tanks and associated piping:

8.4.1 conduct tank tests prior to placing tanks into the ground and before covering the tanks; and

8.4.2 contact a DEQ UST Inspector at least 2 days prior to the scheduled date of pressure testing; and

8.4.3 test product lines to 50 psi with an acceptable pressure guage for the amount of time recommended by the manufacturer, or deemed necessary by the Chief; and

8.4.4 test vent lines to 20 psi with an acceptable pressure guage for the amount of time recommended by the manufacturer, or deemed necessary by the Chief.

8.5 A DEQ UST Inspector shall be present during all pressure testing of UST's and the associated piping.

8.5.1 Any pressure test conducted without visual inspection of a DEQ UST Inspection shall be deemed invalid, unless tests are conducted under the supervision of a certified tank installer.

8.6 A DEQ UST Inspector shall inspect the bedding prior to placing tanks underground.

8.7 The owner/operator shall be responsible for the correction of any procedure or replacement of any materials that do not comply with these regulations.

8.8 DEQ shall be responsible for completing the DEQ UST Installation Inspection Checklist (IIC). The IIC shall include all phases of installation including, but not limited to, construction of the tank, size of backfill material used, tank integrity, adequacy of excavation, bedding and anchoring, manway risers, and pipe material, trenching and pressure testing.

8.8.1 The IIC shall not replace any installation checklist required by the manufacturer for warranty purposes.

a. The certified tank installer shall be responsible for completing manufacturer checklists.

b. The owner/operator shall be responsible for compliance with any warranty requirements for equipment installed.

8.9 An UST Inspector shall make frequent inspections of all installation procedures to assure compliance with these regulations.

8.10 DEQ shall not certify any tank until the UST Installation Inspection Checklist is complete.

8.11 There shall be no tanks installed after the effective date of these regulations in the following locations:

a. within a wetland; or

b. within five hundred (500) feet of a private or municiple well; or

c. within five hundred (500) feet of surface waters bodies, such as a reservoir or cave, from which public drinking water supply is collected; or

d. within five hundred (500) feet of inland waters; or

e. within five hundred (500) feet of the shoreline or navigatable waters; or

f. within tidal or storm wave inundation areas; or

g. any area determined as unsuitable by the Chief.

8.12 It shall be prohibited to install additional tanks to any tank system located in an area specified in Part 8.11 which were installed prior to the effective date of these regulations.

8.12.1 Tank systems which were installed in an area specified in Part 8.11 prior to the effective date of these regulations may be replaced or upgraded in compliance with these regulations.

a. The owner/operator shall comply with any additional requirements specified by the Chief as necessary to protect public health and the environment.

8.13 The owner/operator shall upgrade operating tank systems which were installed prior to the effective date of these regulations such that the entire tank system will be in compliance with Part 8.1.2-5 of these installation standards by December 22 1998.

8.13.1 The owner/operator shall upgrade the UST system such that leak detection is installed and operated in compliance with subpart 8.1.6 by December 1993.

8.14 The owner/operator shall upgrade the tank(s) which were installed prior to the effective date of these regulations such that the tank(s) is in compliance with Part 8.1.6 by;

8.14.1 December 22, 1991 for tanks installed before 1965, and between 1965-74

8.14.2 December 22, 1992 for tanks installed between 1975-79,

8.14.3 December 22, 1993 for tanks installed between 1980-88,

8.15 The owner/operator shall upgrade product delivery lines which were installed prior to the effective date of these regulations such that the piping is in compliance with Part 8.1.7 by;

8.15.1 September 22, 1991 for pressurized piping and

8.15.2 the same date as specified for existing tanks in 8.14 for suction piping.

PART 9 TANK CERTIFICATION

9.1 Upon completion of installation and final visual inspection of newly installed UST's, but prior to the filling and operation of any UST, the owner or operator shall have the tank(s) and associated piping precision tested.

9.1.1 The precision testing shall be conducted by a certified tank tester,

9.1.2 The method of precision testing used must be capable of detecting leaks of .01 gallon per hour, and

9.1.3 The certified tank tester shall provide the Chief with the test results within forty eight (48) hours of the time that the precision test is conducted.

9.2 Upon receipt and approval of the precision test results, the Chief shall issue a Letter of Certification to the owner/operator.

9.2.1 The Letter of Certification shall testify that;

a. the owner/operator applied for and obtained an Earthmoving Permit from the Chief prior to the commencement of clearing of land and excavation activites,

b. the owner/operator applied for and obtained an UST Permit from the Chief by complying with all provisions in Part 7 of these regulations prior to the commencement of installation procedures,

c. the owner/operator has obtained any permits, leases or certifications required by other CNMI agencies or offices,

d. the owner/operator has provided proof of financial liability as specified in Part 14, and

e. DEQ has inspected and approved all installation procedures and verifies that all federal and local specifications have been met and followed.

9.2.2 The Letter of Certification shall be kept at the UST site and be readily available at all times for inspection by the Chief or DEQ UST Inspector.

9.3 Any UST installed prior to the effective date of these regulations shall be certified by DEQ within twelve (12) months from the effective date of these regulations in accordance with Section 9.1 of Part 9, Tank Certification.

9.4 The UST Certification is valid for one year from the date of issuance. It is the responsibility of the owner/operator to contact DEQ at least 30 days prior to the expiration of the UST Certification and request renewal of the certification.

9.5 Transfer of tank ownership is prohibited without first providing DEQ with proof that the transferree has complied with the the financial assurance requirements specified in Part 14 of these regulations.

PART 10 MONITORING

10.1 The owner/operator shall operate and maintain a leak detection system capable of detecting release of regulated substances from any portion of the UST system that routinely contains regulated substances in compliance with Part 8 for the operational life of the tank system. Release detection requirements shall apply to all UST systems;

10.1.1 when a new UST system is installed, and

10.1.2 by upgrading existing UST systems before December 21, 1993, except that release detection for the piping attached to any existing UST through which regulated substances routinely pass, under greater than atmospheric pressure must be upgraded by September 22, 1991.

10.1.3 An UST system with cathodic protection shall be operated and maintained by a person with sufficient experience and training in preventing corrosion of the system.

10.2 All USTs shall minimally be monitored monthly, except that new or upgraded tanks already in compliance with Part 8.1.2-8.1.4 and the monthly inventroy control requirements in Part 8.1.6 (a) (b), may may use precision tank testing (in accordance with Part 9.1) at least every two years until December 22, 1998, or for 10 years for new and upgraded tank systems, whichever is later.

10.3 Automatic line leak detectors installed in piping through which regulated substances routinely pass under pressure in accordance with 8.1.7 shall have a line tightness test conducted every year and use a monthly monitoring method conducted in accordance with 8.1.7 (c) (d).

11.3 The owner or operator of any UST must report any verified or suspected leak, spill, overfill, discharge or any other release from a tank(s) or associated equipment within 24 hours to DEQ.

11.4 DEQ may undertake any reasonable investigation as necessary to identify the existence, source, nature, and extent of a verified or suspected release and the extent of danger to the public health and welfare or the environment.

11.5 The owner/operator shall identify, contain and mitigate any immediate health and safety threats that are posed by a release (including the investigation and initiation of free product removal, if present).

11.6 Any UST or associated equipment from which a release has been detected shall be;

a. immediately removed from service until the tank is repaired or replaced; and

b. meet all installation requirements contained in Part 7 as appropriate prior to being returned to service;

11.7 The owner/operator shall conduct an investigation of the release site to determine possible adverse impacts on soil, groundwater and surface waters.

11.8 Within 20 days after release confirmation, or within another reasonable period of time determined by the Chief, the owner/operator must submit a report to the DEQ summarizing the initial abatement steps taken to comply with subpart 11.1 to 11.6 and include any resulting information or data.

11.9 Unless otherwise directed by the Chief, the owner/operator shall prepare an initial site characterization which shall include the following information;

11.9.1 data on the nature and estimated quantity of release,

11.9.2 data from available sources including an estimate of the surrounding populations, water quality, use and approximate locations of wells potentially affected by the release, subsurface soil conditions, locations of subsurface sewers, climatological conditions, and land use, and

11.9.3 results of the site investigations as specified in this part, Part 11, and corrective action taken in response to a release.

11.10 The tank owner/operator shall be liable for any and all property or personal damages and/or expenses incurred by others as a direct or indirect cause of any discharge, or efforts or actions to stop or contain an identified release from a UST or associated equipment.

11.11 The tank owner/operator shall provide reasonable assurance that money will be available up-front to respond to releases from tank systems and pay for potential damages as specified in this Part and in compliance with Part 14, Financial Responsibility requirements.

11.12 The owner/operator shall be responsible for the clean-up and disposal of all regulated substances released from an UST or associated equipment in a manner that will protect human health and the environment.

11.12.1 All regulated substances shall be cleaned-up and properly disposed of within thirty (30) days of the release or by a date indicated by the Chief.

11.13 The owner or operator is responsible for the clean-up and proper disposal of any soil or water contaminated by a release.

11.13.1 All soil or water contaminated shall be cleaned-up and properly disposed of within ninety (90) days of the release or by a date indicated by the Chief.

11.13.2 DEQ shall publish a Public Notice to notify the affected public of all confirmed releases requiring a plan for soil and grounwater remediation. Upon request, DEQ shall provide interested persons information on the nature of the release and the corrective measures planned or taken.

11.14 DEQ may take emergency corrective action if the Chief determines a confirmed release constitutes a clear and immediate danger requiring immediate action to prevent, minimize, or mitigate damage to the public health and welfare or the environment.

11.14.1 Prior to taking such action, the Chief shall make every reasonable effort, taking into consideration the urgency of the situation, to order the owner or operator to take corrective action.

PART 12. TANK CLOSURE

12.1 Any tank removed from service prior to the effective date of these regulations or any tank to be removed from service for more than one year shall be permanently closed.

12.2 To permanently close a tank the owner/operator shall;

12.2.1 notify the Division of the intent to permanently close the tank in writing no less than 30 days prior to the anticipated date of closure,

12.2.2 assess the site to determine whether there has been a release of regulated substances,

12.2.3 notify the local fire jurisdiction of the intent to permanently close the tank in writing no less than 30 days prior to the anticipated date of closure, and

12.2.4 remove and properly dispose of all regulated substances and any sludge or other waste materials remaining in the UST and associated piping in a manner that eliminates the potential for safety hazards and any future releases.

12.3 If a tank system shall be temporarily removed from service (for a period less than 12 months), the owner/operator shall;

12.3.1 continue to comply with operating requirements, release reporting and investigation and release response and corrective action,

12.3.2 continue to comply with release detection requirements if regulated substances are stored in the tank,

12.3.3 leave vent lines open and functioning,

12.3.3 be closed off to outside access, and

12.3.4 comply with subpart 12.2 if the UST system has not been protected from corrosion and has not been used in one year.

12.4 To remove an UST from the ground the owner/operator shall;

12.4.1 properly dispose of the tank and associated piping,

12.4.2 backfill the area or space previously occupied by the UST and associated piping to the ground level, and

12.4.3 close off the area until it is completely backfilled to restrict access and risk of injury to persons, animals or property.

12.5 To leave the UST and associated piping in the ground the owner/operator shall completely fill the tank with a solid, inert material, approved in advance by DEQ.

12.6 Owners/operators of USTs to be permanently or temporarily removed from service shall maintain all records necessary to verify compliance with these closure requirements.

PART 13 RECORD KEEPING

13.1 The owner/operator shall notify DEQ, using the CNMI UST Notification Form, within thirty (30) days after newly installed tank system is brought into use. The CNMI UST Notification Form shall specify information including, but not limited to, the age, size, type, location, and uses of new UST.

13.1.1 The owner/operator is responsible for submitting a CNMI UST Notification Form each year, indicating any changes which have been made to the UST system, or the ownership or operation of the system.

13.1.2 DEQ shall be responsible for submitting copies of all CNMI Notification Forms to the EPA.

13.1.3 CNMI UST Notification Forms shall be public information.

13.2 The owner/operator shall maintain records of monitoring, testing, repairs and closures sufficient to demonstrate recent facility status, except that records demonstrating compliance with repair and upgrading requirements must be maintained for the remaining operational life of the facility.

13.2.1 Copies of all records required by these regulations shall be maintained at the UST facility.

13.3 All records shall be made immediately available to the Chief or DEQ staff member upon request.

13.3.1 Wilfull willholding of requested information shall be subject to enforcement procedures specified in Part 16.1.

13.4 All records or other information furnished to or obtained by the Division concerning regulated substances shall be public information, except for information concerning trade secrets, processes, operations, style of work or apparatus or to the identity, confidential statistical data, amount or source of any income, profits, loses or expenditures which shall be for the confidential use at the Division in the administration of these regulations.

13.4.1 The owner/operator may expressly waiver any of the exceptions specified in 13.4 and make this information available to the public.

13.4.2 The owner/operator shall have the right to claim the privilege and identify confidential information, subject to a final determination by the Chief, at the time the information if submitted to DEQ.

13.5 This Part does not prohibit the publishing of quantitative and qualitative statistics pertaining to the storage of regulated substances.

13.6 Information regarding the nature and quality of releases from a UST or associated piping otherwise reportable pursuant to this Part shall be available to the public.

PART 14 FINANCIAL RESPONSIBILITY

14.1 The owner/operator of an UST shall provide DEQ with evidence of financial responsibility such as security bond or guarantee agreement which provides insurance coverage for taking corrective action and in order to adaquately compensate third parties for bodily injury and property damage caused by sudden and non-sudden accidental releases arising from the operation of a UST.

14.1.1 The owner/operator shall obtain \$2 million (US Dollars) insurance per occurence coverage if they own and/or operate between 100-999 tanks.

14.1.2 The owner/operator shall obtain \$1 million (US Dollars) insurance per occurence coverage by April 1, 1991 if they own and/or operate between 13-99 tanks, or by October 1, 1991 if they own one to twelve tanks in accorandance with federal UST regulations, 40 CFR 280.95 to 280.99.

14.1.3 The owner/operator shall obtain \$500,000 per occurence coverage for third party liability and corrective action claims for UST systems not used in petroleum production, refining or marketing and handle a throughput of 10,000 gallons per month or less.

14.2 Proof of coverage shall be provided in the form of insurance/risk retention group coverage, self-insurance, guarantee, letter of credit, surety bond, trust fund, state-funding mechanism, as defined in the federal UST regulations and certified by the CNMI Attorney General.

14.3 If the owner/operator is in bankruptcy, reorganization, or under other court order not to disperse any funds or if personal jurisdiction in either CNMI state or US District Court cannot be obtained over such owner than the Chief may seek recovery for damages arising from accidental UST releases directly from the guarantor or insurer. The guarantor or insurer is entitled to invoke all rights and defenses which the owner would have in an action by claimants under this Section.

14.4 The total liablity of a guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner/operator under this subsection. This subsection does not limit any other CNMI or federal statutory, contractual, or common law liability of a guarantor to its owner/operator, including but not limited to, the liability of the guarantor for bad faith in negotiating or in failing to negotiate the settlement of any claim. This subsection does not diminish the liability of any person under section 107 or 111 of the Compresensive Environmental Response, Compensation and Liability Act of 1980, P.L. 96-516, as amended, or other applicable law.

PART 15. ENFORCEMENT

15.1 The Chief shall institute civil actions transmitted through and with the approval of the Director and the Attorney General as necessary to enforce these regulations in consonance with, and in accordance with the applicable laws of the CNMI and in accordance with Federal UST Regulations. The Attorney General will institute legal actions to enjoin a violation, continuing violation or threatened violation of these regulations.

15.2 The Chief, shall have the responsibility to prepare, issue, modify, revoke and enforce orders for compliance with any of the provisions of these regulations or of any rules and regulations issued pursuant thereto and requiring the taking of such remedial measures for underground storage tank management as may be necessary or appropriate to implement or effectuate the provisions and purposes of these regulations.

15.3 If the Chief has probable cause to believe there has been a violation of these regulations, upon receipt of an order or warrant from the Commonwealth Trial Court or the District Court, DEQ may enter upon and search any property, take necessary samples or readings therefrom, seize evidence found therein and examine or impound any book or record found therein or specified in such order or warrant.

15.3.1 The Chief may enter property for purposes specified in subpart 15.3 if a violation has occurred or is imminent; the violation poses a serious, substantial and immediate threat to public health or welfare; or the process of obtaining a warrant or order would prolong or increase the threat, impair discovery of evidence of a violation or impair mitigation of the treat.

15.4 DEQ shall provide for public participation in the enforcement of these regulations by providing notice and opportunity for public comment on all proposed settlements of civil enforcement actions (except where immediate action is necessary to adequately protect human health and the environment), and investigating and responding to citizen complaints about violations,

15.5 Nothing in this section shall prevent US EPA enforcement of either the federal or CNMI UST regulations.

15.6 DEQ shall make information obtained available, upon request, to the US EPA or any duly authorized committee of Congress without restriction.

PART 16 PENALTIES FOR VIOLATIONS

16.1 Any person who violates, or who refuses or neglects to comply with any provision of these regulations, or any certification, standard, notification or order issued by the Chief, Department, or Attorney General, or any valid rule or regulation promulgated under these regulations, shall be subject to a civil penalty not to exceed one thousand dollars (\$1,000.00) for each tank for each day of violation.

16.2 Upon request of the Chief, the CNMI Atorney General shall petition the Commonwealth Trial Court or the United States District Court for the CNMI for a judgement assessing damages arising from a violation of these regulations or of any certification, standard, notification or order. In determining such damages, if any, the court having jurisdiction of the matter shall consider the magnitude of harm caused by the violation, the nature and persistence of the violation, the length of time during which the violation has occured and any corrective or ameliorative action or circumstances on the part of the person or persons against whom the damages are to be assessed.

16.3 Any person who knowingly and willfully makes any false statement, representation, or certification in any application, records, report, plan or other documentation filed or required to be maintained under these regulations, or by any certification, or order issued under these regulations, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required to be maintained pursuant to these regulations or any certification or order of the Chief pursuant to these regulations shall be subject to criminal prosecution and upon conviction shall be assessed fines not to exceed fifty thousand dollars (\$50,000.00) per day or imprisoned not less than six (6) months and not more than one year or both.

16.4 All sums received as fines pursuant to this part and all permit fees collected pursuant to these regulations shall be paid to the treasurer of the CNMI for credit to the general fund of the CNMI.

16.5 Any person with an interest, which is or may be adversely affected by a violation of these regulations, may intervene as a matter of right in any civil action brought by the Chief, Department, or CNMI Attorney General's Office to require compliance with the provisions of these regulations.

enn M. Lalura

<u>9/17/9/</u>

DR. JOSE L. CHONG, Director Department of Public Health and Environmental Services



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS DEPARTMENT OF PUBLIC SAFETY

Saipan, Mariana Islands 96950



NOTICE OF PROPOSED RULES AND REGULATIONS DEPARTMENT OF PUBLIC SAFETY DIVISION OF CORRECTIONS

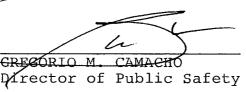
PUBLIC LAW 1-8 CH 10 §7

PROPOSED REGULATIONS: The Director of Public Safety hereby promulgate proposes to Rules and Regulations pursuant to the of CMC provisions 1 2504(C), 1 CMC 2507, and 1 CMC §9104 regulating the activities and performance of prisoners and the Correctional Facility in the Commonwealth of the Northern Mariana Islands.

> **<u>CONTENTS</u>**: These regulations govern the conduct required by and the rights accorded to inmates while in the Correctional Facility.

Pursuant to 1 CMC §9104, comments regarding the contents of these regulations may be sent to the Office of the Director, Department of Public Safety, Civic Center, Susupe, Saipan, MP 96950 within thirty (30) days from the date of this publication in the Commonwealth Registry.

12 day of Sept Dated this 1991.



EMERGENCY - 911

COMMONWEALTH REGISTER VOLUME 13 NO. 09 SEPTEMBER 15, 1991 PAGE 7896

Member: South Pacific Islands Chiefs of Police Association • National Criminal Justice Association • South Pacific Islands Criminal Intelligence Network (SPICIN) • International Association of Chiefs of Police

Gregorio M. Camacho Director

Jerry P. Crisostomo Deputy Director, Administration

Francisco M. Camacho Depuly Director, Operations

Thomas P. Rabago Chief of Administration

Vicente T. Seman Chief of Corrections

Jesus M, Castro Chief of Fire

Antonio A. Reyes Chief of Police

Matias A. Chargualaf Chief of Motor Vehicle

Administrative Division (670) 234-6823/8536 Central Station 234-6333/7271/6431 Corrections Division 234-7254/8534 Fire Division 234-6222/9222/3437

Facsimile - (670) 234-8531 Cable - c/o GOV, NMI Saipan

Patrol Division/Public Relations

234-7271/8536 Investigation Section

234-7208 Juvenile Unit

234-9136 Motor Vehicle Bureau

234-6921/9137

Highway Safety Dffice 234-6021/6055

Traffic Section

234-7212/7153

Boating Safety Office 322-4037 (

CST Office 234-5298

Police Academy/Training 234-5639/8536

ĸ rille Substation

NUTISIA PUT I MANMAPROPOPONI SIHA NA AREKLAMENTO YAN REGULASION DEPATTAMENTON PUBLIC SAFETY

LAI PUPBLIKU

- I MAPROPOPONI NA REGULASION: I Direktot i Public Safety gienen este ha propopni manlaknos areklamento yan regulasion sigon gi aturidat ni mapribeni gi Lai Pupbliku CMC §9104 yan i 1 ni dumiririhi i aktebidat yan kinalamten i presuneru siha yan i fasilidat tribunat gi Sangkattan siha na Islas Mariana. siha FUNDAMENTO: Este na regulasion
 - para u gubetna i mangginagagao na kondukta yan direcho ni manmasedi i presuneru siha mentras ki manmapopongle gi halom i tribunat na fasilida.

Sigon i l CMC \$9104 komento siha ginen i pupbliku hinerat i este siha na put fundamenton regulasion sina manmasatmimiti quato qi ufisinan i Direktot, Department of Public Safety, Civic Center, Susupe, Saipan, MP 96950 qi halom trenta (30) dias despues di i fecha anai este na nutisia gi halom i manpupblika Rehistran Commonwealth.

Mafecha gi este i mina 12 na dia gi 3471287. 1991.

GREGORIO M. CAMACHO Director of Public Safety

COMMONWEALTH REGISTER VOLUME 13 NO. 09 SEPTEMBER 15, 1991 PAGE 7897

ARONGORONG REEL FFEERUL ALLEGH LLOL DIPATAMENTOOL PUBLIC SAFETY

ALLEGHUL TOWLAP

- Direkttodul Public Safety ALLEGH KKA EBWE FFEER: е mwuschal arongaar towlap reel igha e bwe ffeer allegh sangi bwangil me aileewal Public Law \$9104 reel ammweleer 1 CMC me mwoghutghutuur aramas ka re me kalabwoos mellol Correctional mellol Facilities Commonwealth of the Northern Mariana Islands. Allegh kkaal nge ebwe lememliir OWUTOL:
 - school kalabwoos me mwoghutughutuur igha relo llol Correctional Facility.

Reel alleewal 1 CMC §9104 nge emmwel aramas rebwe ischiitiw meta tipeer me mangemangiir nge raa afanga ngali Office of the Director, Department of Public Safety, Civic Center, Susupe, Saipan, MP 96950 eliigh (30) ral sangi igha e toowow arongorong yeel llol Commonwealth Registry.

Raalil ye 12 maram Sept, 1991.

In GREGORIO M. CAMACHO Difector of Public Safety

TABLE OF CONTENTS

DESCRIPTION	PAGE
Introduction	1
§ 10 Prisoner Admission and Orientation	2
§ 20 Medical Care	3
§ 30 Personal Hygiene	5
§ 40 Personal Property	6
§ 50 Classification System	7
§ 60 Disciplinary Action	9
§ 70 Prisoner Grievance Procedure	22
§ 80 Searches and Shakedowns	23
§ 90. (Reserved)	24
§ 100 Corrections Counseling	24
§ 110 Visitation	26
§ 120 Access to Religious Resources	31
§ 130 Access to Legal Resources	32
§ 140 Prisoner Clubs and Community Organizations	33
§ 150 Correspondence	35
§ 160 Telephone Usage	36
§ 170 Leave	36
§ 180 Prisoner Employment: Public Service and	
Work Release	38
§ 190 Juvenile Detention	41
§ 200 Female Prisoners	43
§ 210 Staff Rules	44
§ 211 Statements to the Media	47
§ 212 Release of Inmate Information	47
§ 220 Glossary	48

INTRODUCTION

These are the rules and regulations by which your stay in the Commonwealth Correctional Facility is guided. It is important that you are familiar with these rules and regulations, as they explain the procedures by which you can protect your rights and earn privileges. They also explain the limitations that life in prison requires. Each inmate is given a copy of the rules and regulations and a copy is available for reference in the prison library. It is wise to take good care of your copy so you have it for future use.

You have been found guilty of violating the laws of the Commonwealth of the Northern Mariana Islands. The Commonwealth has imposed a limitation upon your liberty for a specific period of time as punishment for your offense. While your right to liberty has been temporarily taken from you, some other constitutional rights continue to exist. The rules and regulations of the Division of Corrections respect your dignity as a human being and your rights under the Constitution. The rules require that you respect these same rights and dignity in your fellow inmates and the staff. The rules and regulations are also designed to fulfill the basic purpose of this facility, which is to restrict your liberty of movement.

The correctional officers are familiar with these rules and will abide by them in their dealings with the inmates.

COMMONWEALTH REGISTER VOLUME 13 NO. 09 SEPTEMBER 15, 1991 PAGE 7900

SECTION 10.

PRISONER ADMISSION AND ORIENTATION

- 1) Prisoners are accepted into custody of the Division of Corrections <u>only</u> upon the presentation of a duly executed Court order. The order is to be presented to the Chief of Corrections, or the duty officer in the absence of the Chief of Corrections, either along with the prisoner or in anticipation of the prisoner's arrival at the Correctional Facility
- 2) All prisoners who are accepted into custody are given a full body search and any possessions they may have will be confiscated and an itemized receipt will be issued with a copy signed by the prisoner and kept in the prisoner's permanent file. Once the property is searched, material that is consistent with Division of Corrections policy will be returned to the prisoner and a receipt signed. Material not consistent with DOC policy will be kept pending the prisoner's release or turned over to a nonprisoner at the prisoner's written request. All valuables will be kept by DOC staff. No neck jewelry will be permitted. Wedding rings may be worn.
- 3) The prisoner is placed in a cell in the cell block appropriate to age and sex. If overcrowding requires that some prisoners share cells, the new prisoner is allowed a cell to himself for at least the orientation period, if possible.
- 4) Upon acceptance into custody under Court order the prisoner is fingerprinted and photographed.
- 5) Orientation lasts for five days and, at the minimum, consists of a medical examination and an interview with the Corrections Counselor. If the necessary orientation activities are completed in less than five days, the orientation period may be shortened. It will not exceed five days, even if medical exam and Corrections Counseling are temporarily unavailable.

During the orientation period the prisoner is not required to take part in work or other activities that may interfere with orientation processing. The Chief of Corrections may suspend the orientation period for prisoners who are serving sentences of a month or less, if there is certification by a physician that the prisoner is in good health based on a physical examination within the previous six months.

- 6) The medical examination which is part of the orientation is to determine if the prisoner has any physical condition requiring special care or limitation of activity while with the Division of Corrections. It is to be administered by a physician licensed to practice in the Commonwealth. The physician's report is entered in the permanent file with any restrictions on diet or physical activity clearly noted. When possible the examination will be given in the Correctional Facility.
- 7) The meeting with the Corrections Counselor is to ensure that the prisoner understands all of the requirements of prison life and is aware of all available services of a rehabilitative nature. The counselor reviews all of the rules and regulations of the Division and the standard daily schedule. The counselor discusses any financial arrangements necessary regarding support of dependents or the payment of legal debts. Rehabilitation programs are also discussed. Following the meeting the counselor makes whatever arrangements are necessary to meet the needs of the prisoner's family and ease the prisoner's entrance into the routine of the Corrections Facility. These duties may be done by a DOC officer or employee if no Corrections Counselor is available.

SECTION 20.

MEDICAL CARE

1) The Division of Corrections is responsible for the health care of the prisoners in its custody. Any prisoner who is aware of a medical

condition from which he or she suffers is asked to report that condition at the orientation interview and at the initial physical. During the admissions process each prisoner receives a physical examination to determine health status, ability to perform various types of work assignments, and to identify any illness in need of treatment. Any limitations noted as a result of the physical exam are taken into account in the assignments given the prisoner and any injuries or illness affecting the prisoner while in the custody of the Division of Corrections are treated with proper medical care by medical personnel. Shortly before the release from the Correctional Facility the prisoner is given a physical examination similar to the one received upon admission in order to document the state of health upon release. The release physical is required only for prisoners who are incarcerated for more than three months.

- 2) The Correctional Facility has the capacity of providing medical examinations, subject to the availability of medical personnel. It is preferable that non-emergency medical treatment be provided within the Facility at a time convenient for the medical personnel. Emergency medical treatment may be provided at the hospital but security must be maintained at the level appropriate to the prisoner's situation. This may be done through the use of guards or restraints. The Chief of Corrections may waive this requirement when the prisoner's condition makes escape impossible or the hospital is able to provide a room that can be secured.
- 3) Prisoners receiving medication are provided the proper dosage on a proper basis by correctional staff. The time, date, amount, and who administered the medication is entered into the prisoner's file upon each administration of the medication.
- 4) The Chief of Corrections may change cell assignments as a result of illness and in other ways alter the prisoners' schedule as necessary to protect the health of the prisoners in case of infectious disease.

COMMONWEALTH REGISTER VOLUME 13 NO. 09 SEPTEMBER 15, 1991 PAGE 7903

- 5) All medication is locked in the office of the Chief of Corrections and is limited in access only to those who have been assigned the duty of administering medication to the prisoners. Any medication with a narcotic component shall be subject to a running inventory and audited on a regular basis.
- 6) Medication is only used to treat specific illness and is taken in front of the Division staff administering the medication.
- 7) A first aid kit is available at each guard station for use in emergency situations. It shall not be used in non-emergency situations. Any supplies taken from the medical examination room must be with the knowledge and assent of the staff member assigned as medical liaison.

SECTION 30.

PERSONAL HYGIENE

- 1) Prisoners are required to shower at least once daily for a period of 10 minutes counted from the time they leave their cell. Showers are normally taken in the evening, following the evening meal. Prisoners on work release may shower immediately upon their return to the Correctional Facility with the permission of the duty officer. Those prisoners who were involved in work assignments within the Facility involving heavy labor may take showers at the completion of their assignment with the permission of the duty officer.
- 2) The shower room for each cell block is designed for only one person at a time. Therefore, while the shower is in use no other prisoner is to be in the shower area. Unless placed under disciplinary restrictions, prisoners may wait their turn for the shower in their cells or in the dayroom. The duty officer determines the order in which the shower room is used and limits its use to 10 minutes per prisoner.

- 3) When no juveniles or females are being held in the Correctional Facility, the duty officer may allow prisoners to use the shower rooms available in those cell blocks; however, there must be sufficient guards on duty to ensure security and the proper supervision of the prisoner while in the other cell block.
- 4) Clothing and linen washdays will be posted. The prisoner is expected to make himself aware of the schedule and be sure that his soiled clothing or linen are available for washing. Prisoners are expected to maintain themselves and their clothing in a clean and hygienic manner.
- 5) The Chief of the Division of Corrections may require that head hair and facial hair, be trimmed. Prisoners have access to barber services at least once per month and are encouraged to make use of these services.

SECTION 40.

PERSONAL PROPERTY

- 1) Possessions of the prisoners are allowed in the Correctional Facility only with the approval of the Chief of Corrections or his designee. Approval is only given when the requested possessions do not present a threat to security, and are legal to possess. Permission may be revoked if the possessions become a cause of problems within the facility.
- 2) Prisoners may keep in their cells only those possessions that can be stored in plain sight on shelves provided for that purpose. Normally such possessions include soap/shampoo, a toothbrush and toothpaste, reading material, a deck of cards or other small game, small writing materials, comb/brush, clothing, photographs (unframed). Other items may be approved by the Chief of Corrections.

- 3) Each prisoner is assigned a locker which can be secured. Property for which the prisoner has approval but may not keep in his cell must be stored in the locker. The locker is subject to search without notice at any time.
- 4) The administration provides the means of acquiring personal property beyond that which is provided by the Facility. This is done by placing an order with the correctional counselor for the specific item desired. If the purchase is approved, the counselor checks the prisoner's account to be sure that sufficient funds are allotted for the purchase and also checks with the Chief of Corrections to see that the item is deducted from the prisoner's account and must be within the allocation approved by the Chief of Corrections for such purchases.

SECTION 50.

CLASSIFICATION SYSTEM

- No specific security level classification system will be maintained at the Facility. However, when space and population permit, inmates serving a sentence of less than six (6) months for conviction of a non-violent crime shall be placed in the women's or juvenile's section of the Facility.
- A general classification system will be maintained on the basis of Facility services and activities. Activities will be classified as treatment services, unrestricted privileges, and restricted privileges.
- 3) Treatment services are those which are necessary for an inmate's physical, emotional, and psychological well-being. These services shall be treated as an entitlement of the inmate to the extent that they are available in the CNMI, and shall be provided to all inmates on an equal basis when the inmate has been determined by professional evaluation to be in need of the service. Such services include medical and

psychiatric treatment, psychological counseling, alcoholism and substance abuse counseling, and others.

- 4) Each inmate is entitled upon request to receive at least one treatment service evaluation for the various treatment services available to the inmates. Each inmate may be required to submit to a treatment service evaluation upon referral by the Chief of Corrections or the Corrections Counselor. Such evaluations may be required if the possible need for treatment is noticed by or brought to the attention of the Chief of Corrections or the Corrections Counselor at anytime, including orientation, disciplinary proceedings, qualification determination process for restricted activities, or for any other reason.
- 5) Unrestricted privileges are those which are provided to all inmates on an equal basis without prior approval or qualification. These activities may be restricted for an inmate as a result of disciplinary action, imposed in accordance with the disciplinary procedures contained in these rules, or when temporarily suspended to maintain facility security. Unrestricted privileges include:
 - a. Physical exercise and recreation.
 - b. Access to the Facility commissary.
 - c. Visitation.
 - d. Mail privileges.
 - e. Telephone privileges.
 - f. Other privileges designated by the Chief of Corrections.
- 6) Restricted privileges are those for which an inmate must first be found to be eligible by determination of the Chief of Corrections. Once granted, these privileges may be temporarily suspended when necessary to maintain Facility security, or as a result of disciplinary action imposed in accordance with the disciplinary procedures contained in these rules. These privileges may also be discontinued to effectuate a new policy or regulation prospectively. Restricted activities include:

- a. Home furlough.
- b. Work release.
- c. Educational release.
- d. Work details outside of the Facility.
- e. Other activities designated by the Chief of Corrections.
- 7) In determining eligibility for restricted privileges the Chief of Corrections shall consider the following:
 - a. Inmate behavior.
 - b. Type of offense for which convicted.
 - c. Treatment service evaluations.
 - d. All other relevant factors.
- 8) Any inmate who disagrees with the denial, suspension, or termination of any treatment services, unrestricted activities, or restricted activities shall have the right to file a grievance in accordance with the prisoner grievance procedure contained in these rules.

SECTION 60

DISCIPLINARY ACTION

- So that inmates may live in a safe and orderly environment, it is necessary for institution authorities to impose discipline on those inmates whose behavior is not in compliance with Department of Corrections rules. The following general principles apply in every disciplinary action:
 - a. Only institution staff may take disciplinary action.
 - b. Staff shall take disciplinary action at such times and to the degree necessary to regulate an inmate's behavior within Department of

Corrections rules and to promote a safe and orderly institution environment.

- c. Staff shall control inmate behavior in a completely impartial and consistent manner. Disciplinary action may not be capricious or for retaliation.
- d. Staff may not impose or allow imposition of physical punishment of any kind.
- e. If it appears at any stage of the disciplinary process that an inmate is mentally ill, staff shall report the matter to the Chief of Corrections or Corrections Counselor. Either the Chief or Counselor shall refer the inmate to a mental health professional for determination of whether the inmate is responsible for his conduct or is incompetent. Staff may take no disciplinary action against an inmate whom mental health staff determines to be incompetent or not responsible for his conduct.
- 2) The Department of Corrections staff shall advise each inmate in writing promptly after arrival at the Facility of the types of disciplinary action which may be taken, the disciplinary action procedure and the time limits thereof, and the prohibited acts.
- 3) The following acts are prohibited:
 - a. destroying or altering government property
 - b. tampering with or blocking any locking device
 - c. making sexual proposals or threats to another while in the custody of the Division; engaging in sexual relations with another prisoner or staff member while in the custody of the Division
 - d. attempting or planning escape
 - e. possession or introduction into the facility of any intoxicants not prescribed for the prisoner by the medical staff; or the fabrication of alcohol
 - f. possession of an explosive, ammunition, gun, weapon, sharpened instrument, knife, or unauthorized tool

- g. possession of any property belonging to another person without the person's permission
- h. rioting or encouraging others to riot
- i. making threats to staff members, visitors, or other prisoners
- j. refusing to obey a reasonable order of any staff member
- k. lying or providing false statements to staff members
- I. being in an unauthorized area
- m. using any equipment or machinery which is not specifically authorized and in a manner that is contrary to instructions and safety standards
- n. being intoxicated while in custody of the division
- o. smoking where prohibited
- p. gambling
- q. littering
- r. violating any commonwealth or federal law
- s. misuse of telephone
- 4) The acts listed above are in addition to any other restrictions placed upon the prisoners by the body of general orders that comprise the rules and regulations of the Division. The Chief of the Division of Corrections may introduce, amend, or remove various rules and regulations by the publication of an appropriate general order and written notification to the prisoners of the change. The change will also be explained to the prisoners in the vernacular.
- 5) A prisoner may only be disciplined due to an action that was specifically prohibited at the time the act occurred. Prisoners are not subject to discipline occurring before a regulation is created to limit such behavior and the regulation has been explained to the prisoners.
- 6) Violations of the rules are classified as minor, serious, and/or criminal, depending upon the seriousness of the violation. Inmates are subject to the following types of disciplinary sanctions according to the type of violation:

- a. Minor Offense
 - 1. Spoken warning
 - 2. Loss of privileges for not more than 4 days
 - 3. Up to 4 hours of extra work within the DPS compound
 - 4. Up to 8 hours confinement in the inmate's cell or barracks
- b. Serious Offense
 - 1. Loss of privileges for up to 6 months
 - 2. Restriction to cell or barracks for up to 2 months
- c. Criminal Offense Referral for criminal prosecution.
- 7) Minor offenses.
 - a. Discipline of a minor nature is for violations of rules that pose no threat or danger of a serious nature to the health, welfare, and security of the staff and prisoners. Such discipline may be imposed by the duty officer of a shift. Any one or a combination of the sanctions listed above under 6a. maybe imposed depending upon the relative seriousness of the offense and the occurrence of similar violations within 3 months prior to the offense. Any disciplinary action other than a spoken warning is noted in the shift log and entered in the prisoner's permanent file, unless it is later determined in the course of disciplinary proceedings that the disciplinary notation should be expunged from the inmate's records.
 - b. Disciplinary procedure for minor offense.

The following procedure shall be followed prior to imposing any disciplinary sanctions on an inmate for a minor offense.

- 1. Before the duty officer imposes discipline, he must be satisfied that the prisoner did commit the violation and that the violation meets the criteria given in these rules for a minor offense. Before imposing any disciplinary action for a minor offense, other than a spoken warning, the duty officer must prepare or receive an incident report, and the duty officer shall see that the inmate receives a copy of the incident report. The incident report shall contain the following information:
- (a) A written notice of the intent to impose minor disciplinary sanctions on the inmate, and specific notification of the sanction to be imposed.
- (b) A statement of the grounds for the imposition of the punishment.
- A statement that the discipline shall commence at a specified time. No discipline shall commence for at least 24 hours from the time that the inmate receives the notice.
- (d) A statement that the inmate has the right to appeal the disciplinary action to the Chief of Corrections by signing a written request within 24 hours of the receipt by the inmate of the notice. The notice shall contain an appeal request form.
- (2) If the inmate appeals the minor disciplinary action to the Chief of Corrections, the Chief of Corrections shall conduct an inquiry and determine whether the inmate did commit a violation of the Facility rules and the punishment, if any, which should be imposed for the violation. If the Chief of Corrections determines that the inmate is not guilty of a punishable offense, any record of the offense shall be removed from the prisoner's permanent file.

- 8) Serious Offense
 - a. Serious offenses are those rule violations that pose a serious threat to the health, welfare, safety, or security of the prisoners or staff, and include any offense, including criminal offenses, for which any punishment, other than minor offense sanctions, is imposed.
 - b. Disciplinary Procedure.
 - (1) Incident Report. When staff witnesses or has a reasonable belief that a violation of a rule amounting to a serious offense has been committed by an inmate, before any disciplinary action may be taken, the staff shall prepare an Incident Report and forward it to the Chief of Corrections. The Chief of Corrections may informally dispose of the report or investigation. If an investigation occurs, the Chief of Corrections will give a copy of the report to the inmate at the beginning of the investigation. The report will notify the inmate of the following:
 - (a) Charge of offense committed or rule violated.
 - (b) Factual basis for the charge.
 - (c) Explanation of rights of the inmate, including:
 - Right to remain silent. Notice that silence may be used against the inmate in the disciplinary hearing.
 - ii. Right to a hearing before the PrisonAdjustment Committee (PAC), if dissatisfiedwith the decision of the Chief of Corrections.
 - iii. Right to at least 24 hours prior notice to prepare before the PAC hearing is held.

- iv. Right to be represented by a full time staff member or other inmate at the PAC hearing.
- v. Right to make a statement, present evidence, question witnesses, and be present at the PAC hearing. The PAC may suspend the right to call witnesses or present documentary evidence if the PAC determines that this would threaten institutional or an individual's security.
- vi. Right to have the decision and the reasons for the decision of the PAC reduced to writing.
- (2) Investigation and review by Chief of Corrections, or his designee. When it appears likely that the incidents may be the subject of criminal prosecution, the investigating officer shall suspend the investigation, and the staff may not question the inmate until the criminal investigation has been completed or the agency responsible for the criminal investigation advises that staff questioning may occur. After the investigation, the Chief of Corrections may determine that an offense was committed, determine the degree of the offense, and determine the punishment to be imposed, or the Chief of Corrections may refer the matter to the PAC for a determination. If any sanction for a serious offense is imposed, the inmate will be notified of the decision of the Chief of Corrections, and notified of the right to appeal by requesting a hearing before the PAC.
- (3) Prison adjustment committee.
 - (a) The PAC is comprised of 5 members. One member shall be appointed by the following: Department of Corrections, Department of Public Safety, Office of the Governor, Office of the Attorney Generals, DOC

Inmates. The member chosen by the Office of the Governor may not be a full-time employee of the CNMI. The DPS appointee may not be a staff member of the DOC. The inmate's representative will be chosen once yearly by the prisoners, and this representative may not be an inmate during his term on the PAC, but may be a former inmate. In order to ensure impartiality, no member of the PAC may be the reporting officer, investigating officer, or a witness to the incident or play any significant part in having the charges referred, or be closely related to any victim involved in the incident.

- (b) Hearing procedure. The committee may develop rules of procedure with which to conduct the hearings. The rules must be in writing and available to all participants of the hearing. In addition, the hearings will be governed by the following rules:
 - An inmate may request a hearing before the PAC by signing the request form attached to the Incident Report.
 - ii. Upon the request for a committee hearing, the Chief of Corrections shall contact the PAC to schedule a hearing. The inmate shall be informed as soon as the hearing date is scheduled, but the inmate shall receive at least 24 hours prior notice to prepare before the hearing.
 - iii. The Chief of Corrections shall provide an inmate the service of a full time staff member or another inmate to represent the inmate at the hearing should the inmate so desire. The staff or inmate representative shall be

available to assist the inmate if the inmate desires by speaking to witnesses and presenting favorable evidence to the committee.

The inmate is entitled to make a statement and iv. to present documentary evidence. An inmate has the right to submit names of requested witnesses and have them called to testify in the inmate's behalf, provided the calling of witnesses or the disclosure of documentary evidence does not jeopardize or threaten institutional or an individual's security. The committee chairman shall call those witnesses who have information directly relevant to the charge(s) and who are reasonably available. The reporting officer and other adverse witnesses need not be called if their knowledge of the incident is adequately summarized in the Incident Report and other investigative materials supplied to the committee. The chairman shall request submission of written statements from unavailable witnesses when necessary. The chairman shall document reasons for declining to call requested witnesses in the committee report. The committee may question witnesses requested by the inmate. The inmate may submit questions for requested witnesses in writing to the committee.

v. The inmate has the right to be present throughout the PAC hearing except during deliberations of the committee or when institutional security would be jeopardized. The chairman must document in the record the reason for excluding an inmate from the hearing.

- vi. The PAC shall insure that the inmate has all rights required for the imposition of discipline, including the delivery of the incident report, advisement of rights, and other rights to be exercised at the committee hearing.
- vii. The PAC shall consider all evidence presented at the hearing and shall issue a decision in accordance with the greater weight of the evidence and one which is support by substantial evidence manifested in the record of the proceedings. The committee shall find that the inmate either committed the prohibited act or did not commit the prohibited act charged in the Incident Report. If the committee finds that there were extenuating or mitigating circumstances, the committee may reduce the sanction previously imposed by the Chief of Corrections, but the committee may not increase the sanction.
- viii. The PAC shall prepare a record of its proceedings which need not be verbatim. This record must be sufficient to document the advisement of inmate rights, the committee's findings, the committee's decision and the specific evidence relied on by the committee. The evidence relied upon, the decision, and the reasons for the actions taken must be set out in specific terms unless doing so would jeopardize institutional security. The committee shall give the inmate a written copy of the decision and disposition.

- ix. A record of the hearing and supporting documents are to be kept in the PAC files. The Committee shall expunge an inmate's file of the incident report and related documents whenever the Committee finds the inmate did not commit a prohibited act.
- x. At the time that the PAC gives an inmate notice of its decision, they shall also advise the inmate that the inmate may appeal the decision to the Director of the Department of Public Safety under the Grievance Procedures contained in these rules. The appeal to the Director of the DPS shall be the final administrative remedy.

TABLE I

SUMMARY OF DISCIPLINARY SYSTEM

Procedures

- 1. Incident involving possible commission of prohibited act.
- Staff prepares Incident Report forwards it to duty officer. Reports of serious offenses forwarded to Chief of Corrections.
- 3. Inmate may appeal minor punishment to Chief for review.
- 4. Chief investigates serious offenses.
- 5. Inmate may appeal serious offense sanction to Prison.
- 6. Inmate may appeal to Director of DPS through Inmate Grievance Procedure.

Dispositions

Observing staff may resolve informally or drop charges.

Duty Officer may resolve informally, impose sanction for minor offense, or refer to Chief for serious offense.

Chief may impose allowable punishment for minor offenses or drop charges.

Chief may informally resolve, impose sanctions or refer to PAC.

PAC may affirm allowable punishment, reduce punishment, or drop charges.

*(USE BLANK TYPING PAPER TO PROVIDE ADDITIONAL INFORMATION IF NECESSARY AND ATTACH TO THIS FORM)

DISCIPLINARY ACTION REPORT FORM

Name of Inmate:	Offense:	
Victim (if any):		
Describe what happened that is a violation of DOC rules or a violation of the law:		
Time and date of the offense:specific as possible):	Location of the offense (be as	
Did the offense present a serious threat to the security of the Correctional Facility (yes) (no) or the health and welfare of the prisoners/staff (yes) (no). If yes, please describe why it was a serious threat:		
List all witnesses:		
Describe and/or attach all evidence:		
Complaining Officer.		
NAME	DATE	
Reviewed by the Chief of Corrections:		
	GIGNATURE DATE	
Describe the type of discipline, when it was imposed, and b action:	y whom if matter handled as a minor disciplinary	

(attach a copy of the minutes of the adjustment committee hearing to this form and keep in the prisoner's permanent file.)

.

SECTION 70.

PRISONER GRIEVANCE PROCEDURE

- Prisoners have the right to present grievances to the Chief of Corrections, the Director of Public Safety, and the Attorney General. Grievances must be about specific conditions, or disciplinary action, or against specific individuals.
- 2) Grievances must describe the particular violation of the law or Division of Corrections rules and regulations, provide a detailed account of the event including time, place, witnesses, and other relevant particulars of the incident. The grievance must be in writing. If the prisoner is unable to write it himself, it may be written by a third party at the request of the prisoner.
- 3) Grievances are normally forwarded to the Chief of Corrections, who then investigates the complaint. The Chief will then institute whatever action is necessary to rectify the situation within one week of the receipt of the grievance. The Chief of Corrections provides the prisoner with a written response regarding the disposition of the grievance. If the prisoner feels that the response is insufficient, he has recourse to legal action in the Court through his attorney should the attorney feel there are sufficient grounds for legal action.
- 4) If the grievance results in the disciplining of another prisoner, the disciplinary procedure described in section 60 of these rules and regulations applies.
- 5) If the grievance involves a staff member, the personnel rules of DPS apply. If the grievance involves violation of the law and the investigation substantiates reasonable suspicion that the law has been violated the matter is forwarded to the Detective Bureau with a copy to the Attorney General's office.

- Grievances against the Chief of Corrections or the Director of Public Safety are forwarded directly to the Attorney General's office who will be asked to investigate the matter.
- 7) All grievance or record of grievances made are kept in the prisoner's permanent file.

SECTION 80.

SEARCHES AND SHAKEDOWNS

- All prisoners are subject to search upon their entry into a secure area of the Correctional Facility. Searches are performed by the correctional officer on duty at the sallyport and are not waived at any time. Visitors and staff are also subject to search at the sallyport at the discretion of the Chief of Corrections, if they enter a secure area.
- 2) The Chief of Corrections conducts rigorous and careful searches of the entire Correctional Facility at frequent intervals throughout the year for the purpose of confiscating any contraband that is in the possession of the prisoners.
- 3. Possession of contraband is against division regulations and makes the prisoner involved subject to disciplinary action. "Contraband" is defined as any tangible item, which the prisoner does not have permission to possess. If the contraband is illegal, the matter is reported to the detective bureau of DPS for formal investigation and action.
- All contraband is tagged, logged in the records of the Chief of Corrections, and kept in the Division of Corrections safe or the police evidence locker. Once legal or disciplinary action has been taken, the

Chief of Corrections ensures that the contraband is returned to the rightful owner (if stolen articles) or disposed of in a proper manner.

SECTION 90.

(RESERVED)

SECTION 100.

CORRECTIONS COUNSELING

- It is the goal of DOC that all prisoners are entitled to counseling services while with the Division of Corrections. Such services include counseling by professional mental health staff upon referral by the Chief of Corrections, individual counseling, family counseling, orientation counseling, alcoholism or substance abuse counseling, and other counseling services as may be available.
- 2) The Chief of Corrections will designate a person as Corrections Counselor who has training in individual, group, and family counseling in the correctional setting. The Counselor will provide the various types of counseling services required from the Corrections Counselor in these rules, and in addition will facilitate the referral of inmates to other counseling services available in the community. The Counselor will recommend referrals, coordinate referral activities, and work with other agencies in organizing, providing, and coordinating counseling, treatment, and educational services. The Corrections Counselor will have the right to periodically review the inmates case files of the various agencies providing services for the inmates. The counselor shall be afforded sufficient time from his other scheduled duties to allow him to

work with and review the work of the various agencies serving the inmates. The designee may be a member of the Division's staff or employed by another agency whose service is arranged for between the agencies. The counselor will schedule meetings at regular intervals with each prisoner.

- 3) Individual counseling is available to all inmates on an equal basis. Participation in counseling is voluntary for the inmate, unless otherwise ordered by the court, however if the prisoner wishes to make use of this service the counselor will schedule meetings at regular intervals with the prisoner.
- 4) Group counseling is available to all prisoners, unless the inmate is restricted to his cell as a result of a disciplinary sanction. Participation is also voluntary for the prisoners. The counselor will provide this service or arrange for it at the request of the prisoners, however the counselor has the responsibility to remind the prisoners that this service is available to them.
- 5) Family counseling is also available to aid the prisoner and his family in the adjustment to life back in the community after the prisoner is released. Such counseling is normally oriented to prisoners who are to be released from prison shortly. Participation is voluntary, though encouraged as an aid in the transition back to community life. The counselor will arrange for the meetings and coordinate any logistics involved in the counseling. The Chief of Corrections may give permission for the counseling sessions to be held outside of the Correctional Facility if it is determined to be appropriate for the prisoner and such a site is requested.

SECTION 110.

VISITATION

- 1) Prisoners may be visited by family members, relatives, and those whom the Chief of Corrections determines have a legitimate reason to meet with the prisoner. Anyone wishing to visit a prisoner must register with the Department of Corrections at least one week before the visit takes place and have the registration as visitor approved by the Chief of Corrections. A listing of approved visitors for each prisoner will be kept in the file for reference. For each prisoner to be visited, the potential visitor must register and receive separate approvals. Once approved, the visitor is free to visit the prisoner at the scheduled visiting hours until the prisoner is released from prison or the approval of the registration as an official visitor is revoked. A listing of currently approved visitors and the inmates they may visit will be prepared by assigned correctional staff and maintained in the visiting area. Before a person is brought to the visiting room or is allowed to see a visitor elsewhere, the correctional officer will check the listing to be sure that the visitor has been approved by the Chief of Corrections.
- 2) At the time the potential visitor registers, the visitor will complete the form on the following page which will be placed in the appropriate prisoner's file once approved. On this form the visitor will acknowledge that visitations are restricted to approved sections of the prison. Should a visitor enter a secure portion of the facility he/she is subject to search at the discretion of the duty officer if the Chief of Corrections is not available. If a visitor is to be searched, the search will be conducted by a member of the same sex as the visitor. If such an officer is not available, the visitor must delay the visit until the officer becomes available. Any weapons, illegal substances, or other contraband found on a visitor as the result of the search will make the visitor subject to criminal prosecution.

- 3) Visiting hours are between 12:00 noon and 2:00 p.m. every Saturday and Sunday, as well as legal holidays. The Chief of Corrections may schedule additional visiting hours if there is a need. Legal counsel may meet with their clients upon request in the officially designated visiting area at any reasonably convenient time, though it is preferred that several hours notice be given to allow the visitation to be scheduled with minimal disruption to the prisoner's normal routine.
- 4) The normal hours of visitation are re-scheduled or cancelled when the Chief of Corrections determines that an extraordinary situation exists which presents a threat to the security of the facility.
- 5) Visitors shall not come into contact with the prisoners except at the appointed visiting hours. Contact at other times may result in disciplinary action for the prisoner and trespassing charges for the visitor, at the discretion of the Chief of Corrections.
- 6) Prisoners may not arbitrarily be denied the right to have visitors. The right to have visitors may be temporarily denied as the result of disciplinary action taken according to the requirements of these rules and regulations. General security threats to the Correctional Facility may also involve the postponement or cancellation of visiting hours on specific days. Other extraordinary circumstances such as natural disaster may also result in temporary suspension of visiting hours. Under normal circumstances however, the Correctional staff will provide for visiting hours on a regular basis.
- 7) The Chief of Corrections normally approves all visitor registration forms except when the following situations exist:
 - a. The visitor is a co-defender or accused/convicted felon with no immediate blood relationship to the prisoner.

- b. The prisoner requests that the potential visitor not be allowed to visit.
- c. The visitor has a history of bringing contraband into the Correction Facility.
- d. The potential visitor violated Division of Corrections regulations in the past and has abused the privilege of visitation.
- e. The potential visitor is perceived as a serious threat to the security of the Correctional Facility or the individual prisoner as a result of specific actions or threats.

Before approval of the visit and the visitor, the Chief of Corrections must determine that the person requesting permission to visit a prisoner does not conflict with any of the above criteria for denial of permission to visit a prisoner. Denial of permission to visit one prisoner does not necessarily mean that permission to visit a different prisoner will be denied. Each request is treated on an individual basis.

VISITOR REGISTRATION FORM

The name of the prisoner I wish to visit is										
My name is								and I live in the village of		
		······			My maili	ng a	addr	ress is		
	and my telephone number is									
My relationship to the prisoner is: () immediate family, () relationship to the prisoner is:) immediate family, ()relative,		
()	friend,	()	legal counsel,	()	clergy, () other		
		······				Iw	wish to visit this person because			
						_				
	_						_			

I understand that if I am granted permission to visit the above mentioned prisoner I must do so only during approved visiting hours and in an officially designated visiting area. If I come into physical contact with a prisoner or enter a secure area I am subject to search of my person and property and expulsion from the facility. The search will be performed by a correctional officer of the same sex as I. If I am found to be in possession of any weapons, illegal or controlled substances, or any other contraband I am then subject to criminal prosecution. I am signing this visitor registration form with full awareness of the limitations that are required of my behavior as a visitor and the possibility of search. I agree to comply with the above listed regulations while I am a visitor at the Correctional Facility.

 Visitor's Signature
 Date

 COMMONWEALTH REGISTER VOLUME 13 NO. 09 SEPTEMBER 15, 1991
 PAGE 7928

DATE REQUEST R	ECEIVED:	
REQUEST	() APPROVED	() DENIED
IF DENIED, PLEAS	E GIVE REASONS:	

CHIEF OF CORRECTIONS

DATE

PRISONER

DATE

SECTION 120.

ACCESS TO RELIGIOUS RESOURCES

- Prisoners are entitled to exercise their right of religious worship. The prisoners are not restricted in their exercise of freedom of worship as long as the security of the Correctional Facility or the well being of the other prisoners is not threatened.
- 2) Prisoners are allowed to keep reading material of a religious or inspirational nature in their cells or sleeping area. Such material may also be kept in any other portion of the Facility designated as a library or reading area.
- 3) Religious services are available to the prisoners on a regular basis and to the extent possible on the traditional days of worship held by the religious community of which the prisoner is a member.
- 4) Pastoral counseling and other related services are provided to the prisoners on a regular basis and special arrangements can be made by request of the Corrections Rehabilitation Counselor or the Chief of Corrections.
- 5) All religious and pastoral services are provided subject to the needs of security. Visiting clergy or representatives of religious organizations are subject to all of the restrictions placed upon other visitors, including search of person and property and possible expulsion if a secure portion of the Correctional Facility is entered. The religious visitor may also have the visitor registration form rejected and be denied the right to visit a prisoner or prisoners if the criteria for denial of permission to visit presented elsewhere in these rules and regulations are met. If this happens the Chief of Corrections will see that the prisoner's religious organization.

6) The prisoner has the right to refrain from practicing any religion. Participation in religious activities is strictly voluntary on the part of the prisoners. Correctional staff can not require participation in the religious activities of any religion on the part of the prisoners.

SECTION 130.

ACCESS TO LEGAL SERVICES

- 1) Prisoners are entitled to due process under law and have the right to the necessary resources to ensure due process. This includes access to legal counsel, to legal references, and to recourse to the judicial system.
- 2) The prisoner has the right to correspond with his legal counsel in an unrestricted manner. The Chief of Corrections may give the prisoner permission to telephone his legal counsel if the call is within the Commonwealth or if the legal counsel will accept the cost of the phone call if it is outside of the Commonwealth. Legal counsel may participate in any grievance. Legal counsel may visit with his client at any reasonable time, though advance notice is requested and counsel is subject to search of person and property if a secure portion of the prison is entered.
- 3) Legal references will be made available to the prisoners when specifically requested by the prisoners. Arrangements will be made on a case by case basis regarding how the specific text will be made available. Access to legal references is subject to the availability of the text within the Commonwealth.
- 4) Access to legal references and counsel is provided within a reasonable period of time.

- 5) The Correctional Facility library maintains the following legal references for use by the prisoners:
 - 1. Commonwealth Code
 - 2. Commonwealth Digest
 - 3. Commonwealth Reports
 - 4. Commonwealth Rules of Civil Procedure, Evidence, and Criminal Procedure, Practice, and Probate Procedure
 - 5. U.S. Fed. Rules of Civil Procedure, Evidence, Appellate Procedure, and Criminal Procedure
 - 6. Rules of Procedure of the U.S. District Court for the Northern Mariana Islands
 - 7. Rules of Appellate Procedure of the U.S. District Court for the Northern Mariana Islands
 - 8. Ninth Circuit Rules
 - 9. Rules of the Commonwealth Supreme Court and
 - A copy of the rules and regulations of the Division of Corrections.
 These volumes will be kept in the Chief's office.

SECTION 140.

PRISONER CLUBS AND COMMUNITY ORGANIZATIONS

- 1) The Division of Corrections encourages the participation of prisoners in clubs and community organizations that help to develop the ability to be a productive citizen. Membership in such clubs must be consistent with the security requirements of the classification system. Membership in clubs and community organizations can not be allowed to compromise the security of the Correctional Facility or interfere with the Division's program of rehabilitation.
- 2) The prisoners may have clubs within the Correctional Facility to support religious, social, educational, hobby, craft, musical, and other interests

among the prisoners. These clubs must be recognized by the Chief of Corrections and given approval. A written request describing the purpose of the club, how it is to be organized, and a list of all prisoners who wish to be members of the club is the means by which approval for a club is obtained. The division will schedule time in the day room or other parts of the facility and lend what assistance it can in support of the club's activities. Club meetings and activities shall be held at times that do not interfere with the work schedule of the prisoners, meal times, or other restricted times. The clubs may have advisors, speakers, teachers, or other resource persons. These people may enter a secure portion of the prison to take part in club activities but are subject to search of person and property upon entry and must register as a visitor and be approved by the Chief of Corrections.

- Prisoners may participate in club activities to the extent allowed by their position in the classification system.
- 4) Participation in community activities outside the Correctional Facility is allowed for those prisoners whose classification allows limited access to the community. Participation in such activities must be requested by the prisoner. A responsible member of the organization with which the prisoner wishes to participate must bear the responsibility for supervising the prisoner while outside of the Facility and ensure his return at the required time.
- 5) Club members may take part in club activities of the Facility as a group only when a level of security consistent with their classification can be provided at the site of the proposed activity.

SECTION 150.

CORRESPONDENCE

- Prisoners may send and receive mail, however, except for privileged mail, all mail is subject to inspection by the Chief of Corrections or his designee. Inspection is for contraband or objectionable written material.
- 2. Privileged mail is not subject to inspection but may only be sent to the following people: the sentencing judge, the Director of Public Safety, the prisoner's legal counsel, the Attorney General, the prosecutor handling his case, and the Chief of Corrections. Mail being received by the prisoner from these people is subject to inspection but only for contraband and in the presence of the prisoner.
- 3) Contraband includes weapons, unauthorized tools, controlled and illegal substances, pornography and other designated materials.
- 4) Objectionable written material includes threats of physical harm or criminal activity threats of blackmail or extortion, plans to send contraband in to or out of the prison, plans to escape, plans for activities in violation of prison rules, materials which violate postal regulations, or materials involving the conduct of a prisoner's business without prior approval of the Chief of Corrections.
- 5) Contraband is turned over to the Detective Bureau or prosecutor's office with a written report describing the circumstances under which it was obtained. Objectionable written material is returned to the prisoner with an explanation of why it was returned, except when the objectionable material represents a violation of the law or a threat to the security of the Correctional Facility. In such cases the material is brought to the attention of the Chief of Corrections, the Director of Public Safety, and the Attorney General for action.

SECTION 160.

TELEPHONE USAGE

- 1) Telephones are available to the Division of Corrections prisoners on a free and equal basis and may be used for local calls during normal Commonwealth working hours and under the supervision of a guard, so long as making a phone call does not present a threat to the security of the prison. Priority access to the phones will be made available for calls to the inmate's legal counsel.
- 2) Phone calls may be terminated by the guard when behavior in violation of the law is committed or planned over the phone, as well as behavior in violation of the rules and regulations of the Division of Corrections.
- 3) Prisoners are permitted to send and receive calls of reasonable length in emergency situations such as death, critical illness, or accident of a family member. This is allowed without regard to position in the classification system.
- 4) Use of a telephone without permission of the Chief of Corrections or the duty officer and without supervision makes the prisoner subject to disciplinary action.

SECTION 170.

LEAVE

 No prisoner in the custody of the Division of Corrections may be absent from the facility without specific and written permission from the Chief of the Division of Corrections. Absence without permission is escape.
 When the prisoner has written permission allowing an absence from the Correctional Facility for a specific period of time he is considered to be on leave. The written permission shall list all restrictions and conditions of the leave.

- 2) Work release leave allows the prisoner to be absent from the facility for a specific number of hours everyday in order to hold a job in the community. Participation in the work release program is at the discretion of the Chief of Corrections. Specific procedures and regulations regarding work release are presented in Section 180 of these rules and regulations.
- 3) Education leave allows the prisoner to attend classes at a recognized institution outside of the Correctional Facility. The prisoner must be escorted both to and from class by a responsible person and may be outside of the Correctional Facility only for the amount of time necessary to attend class or work on supervised class projects. Education leave is a restricted privilege and must be authorized by the Chief of Corrections.
- 4) Furlough provides the prisoner who is nearing the time for release and has proven responsible within the facility with the opportunity to reestablish relationships in the community and to prove that the prisoner has the ability to act responsibly and within the law while in the community. A furlough may extend from six hours to one week, at the discretion of the Chief of Corrections depending upon the needs and proven ability of the prisoner to accept responsibility.
- 5) Emergency leave provides the prisoner the opportunity to be with family in times of severe crises, such as death or critical illness or accident of a wife, child, parent or sibling. Such leave will be to take part in specific activities, such as a funeral or hospital visitation and must be in the company of a guard at all times, unless otherwise authorized by the Chief of Corrections. In such a case the prisoner only needs to be under the supervision of a responsible person. Emergency leave will only be granted in the discretion of the Chief of Corrections.

- 6) a. All leave is for a specific period of time.
 - b. The prisoner on leave is responsible for being back at the Correctional Facility on time.
 - c. If the prisoner finds that he is unable to return to the facility on time he should telephone the Division of Corrections to report the problem. Whether the prisoner telephones or not absence from the facility in excess of the allotted time and other may result in disciplinary action. Absence from the facility in excess of one hour beyond the allowed time period is treated by the division as an escape, at the discretion of the Chief of Corrections, and may result in disciplinary action or criminal charges against the prisoner.
- 7. In order to protect the public, leave shall not be given to any prisoner considered to pose a threat of danger to the community. Any prisoner incarcerated for a crime which involved an attempt to or actually caused serious bodily injury, serious psychological injury, sexual contact or sexual intercourse, or which involved a dangerous device or dangerous weapon, shall not be eligible for work release, educational leave or furlough under any conditions.

SECTION 180.

PRISONER EMPLOYMENT: Public Service & Work Release

1) Every inmate is required to perform work assigned within the Correctional Facility which contributes to the healthful maintenance of the living area to which the prisoner is assigned or shares with other prisoners. Such work may include cooking, cleaning, laundry, minor repairs but does not include any task which requires special skills or an extraordinary element of danger. These assignments are not subject to the inmate's willingness to participate, though assignments will be rotated so that no prisoner is unfairly burdened with disagreeable assignments. A waiver of this requirement may be given for reasons of health or a conflict with rehabilitation program requirements but such an excuse should be considered a rare exception to the rule.

(PUBLIC SERVICE)

2) The Chief of Corrections may assign prisoners to work on public service projects from time to time. Public service projects are work activities that contribute to the general welfare of the community and do not replace anyone who is gainfully employed in the performance of the activity. Public service projects are located on sites other than the Correctional Facility compound. Except in time of emergency or disaster, work on such assignments is voluntary and the prisoner may choose to remain in confinement.

No prisoner who has attempted escape or escaped previously shall be assigned to work on public service projects.

(WORK RELEASE)

- 3) Work release is seen as primarily a rehabilitation activity in which prisoners are prepared for re-entry into the community by providing them with job skills, experience, and contacts useful for employment upon release. The work release program is a privilege and not a right. An inmate's employer may apply for the inmate's work release in writing to the Chief of Corrections.
- 4) Participation in the work release program is at the discretion of the Chief of Corrections. The following criteria are taken into account when deciding whether a prisoner may participate in the program:

- a. the prisoner is not likely to present a serious danger of escape or of committing criminal acts while on work release.
- b. work release assignments do not conflict with any disciplinary action or the prisoner's general classification.
- c. the prisoner has requested participation and has specific reasons for participation that are consistent with the goal of his rehabilitation.
- d. prisoner's behavior during custody with the Department of Corrections has been deemed satisfactory by the Chief of Corrections and Correction's Counselor.
- e. assessment of community reaction reveals that there will be no adverse impact on the inmate or members of the community.
- f. evaluations rendered by the various medical, mental health, substance abuse, or other treatment or counseling agencies to which the inmate has been referred present no substantial opposition. Compliance with the required referral for evaluations may be deemed a qualifying factor by the Chief of Corrections.

The inmate is entitled to a determination by the Chief of Corrections as to his eligibility to participate in the work release program within sixty (60) days of the inmate's written request. If the Chief of Corrections denies a request for work release, he shall specify the reasons for the denial in writing, and further specify what may be required for the inmate to qualify for work release in the future.

- 5) Employers need to apply for work release prisoners only once, providing in writing the nature of the task, the number of persons requested, the names of supervisors, and the expected duration of the work.
- 6) Transportation to and from the work release job site is not the responsibility of the Division of Corrections. When it is possible, the division will try to assist with transportation but the prisoner or his employer should make other arrangements for transportation on a regular basis. This may include rides with other employees or relatives of the prisoner. If the person providing the ride is other than the division or the employer they will need authorization from the division so they will be permitted to pick up the prisoner. Authorization can be provided using the visitor registration form and procedure.
- 7) All prisoners leaving the Correctional Facility for work release or other reasons must sign out in the daily log book and sign in upon their return. The duty officer will release a prisoner only to someone who is authorized to receive the prisoner.
- 8) In order to protect the public, work release shall not be given to any prisoner considered to pose a threat of danger to the community. Any prisoner incarcerated for a crime which involved an attempt to or actually caused serious bodily injury, serious psychological injury, sexual contact or sexual intercourse, or which involved a dangerous device or dangerous weapon, shall not be eligible for work release.

SECTION 190.

JUVENILE DETENTION

 Juveniles who are ordered by the Court to be detained in secure custody are remanded to the juvenile cell block of the Correctional Facility.
 Programs and administrative details are handled by the CNMI Division of Youth Services for juveniles in detention. However, the Division of Corrections has responsibility to assist DYS in ensuring secure detention, physical welfare, and routine maintenance needs. Their status as juveniles requires that they be treated differently than adults.

- At no time may juveniles and adult prisoners come into direct contact. Every effort must be made to keep juveniles and adults apart to the extent possible.
- 3) Juveniles should not be allowed into the adult cell block area but should receive all services within the juveniles cell block or compound area. If there is an exceptional need to make use of resources in an adult section of the facility, use of such resources must be scheduled so that there is no contact with adult prisoners.
- 4) Weather permitting, juveniles should be allowed at least one hour of physical recreation per day.
- 5) Juveniles may be visited by their family any day of the week during normal working hours, as long as such visitation does not conflict with educational, counseling, or work activities as a detainee.
- Unless specifically stated otherwise, Sections 20, 40, 70, 80, 90, 100 -170 of the rules and regulations of the Division of Corrections also apply to juvenile detainees.
- 7) When there are more than three juveniles in detention and no females are being detained, the female cell block may be used to house juveniles. Otherwise, two juveniles may be assigned per cell. When space is available one juvenile is assigned per cell.
- 8) Juvenile female detainees should be separated from both adult offenders and male juvenile offenders. If no adult female offenders are using the female cell block the juvenile female is housed there. If it is impossible to

provide separation from adult offenders and from juvenile male offenders the Division of Youth Services must make arrangements for secure detention of the juvenile female in quarters other than the Correctional Facility. The quarters must provide supervision equal to that provided in the juvenile cell block and provide a safe and healthy environment.

- 9) The Division of Youth Services provides a juvenile corrections worker to see to all the rehabilitation services delivered to the juveniles. This worker is in charge of educational, counseling, and recreational activities for juveniles detained. DYS establishes all policy regarding the care of the juveniles detained. The DYS also provides aftercare to juvenile detainees and assists their families to provide better supervision and support to their child.
- 10) Juvenile offenders who are certified by the Court as adults shall be treated the same as adult offenders, subject to protection of any remaining legal rights to education, DYS services and other entitlements.

SECTION 200.

FEMALE PRISONERS

- Female prisoners are confined to the female cell block of the Correctional Facility. At no time may they come into contact with male prisoners or juvenile prisoners.
- 2) Female prisoners may only be guarded by female members of the division staff or policewomen assigned to the division for such duty.
- 3) As with juveniles, all services for female prisoners will be provided in the female cell block or in the exercise yard provided for the female/juvenile cell block area. Exceptions may be made to this rule by the Chief of Corrections, however at no time may the exception include entry into the

adult male cell block at a time during which male adult prisoners are present.

4) All of the rules and regulations applying to adult male prisoners also apply to female prisoners, except where the Chief of Corrections specifically creates an exception in writing.

SECTION 210.

STAFF RULES

- 1) Division of Corrections staff are subject to all of the rules and regulations promulgated by the Department of Public Safety. In addition, staff are responsible for seeing that all of the provisions of the Rules and Regulations of the Division of Corrections are carried out exactly as presented in the currently authorized version. The Corrections staff has the essential responsibility for the security of the Division of Corrections. To the extent that they comply with the requirements of these policies they are meeting their responsibility.
- An officer shall not leave a duty station during the shift unless given specific permission to do so by the Chief of Corrections or the duty officer. If the nature of the assignment is such that security must be maintained, relief by another guard is required before leaving the duty station.
- 3) An officer shall not leave the duty station at the end of the shift until replaced by the next shift correctional officer or permission to leave by the Chief of Corrections or the duty officer is given.
- 4) An officer is responsible for security during each shift. The guard must check for potential breeches in security throughout the shift.

- 5) Correctional officers may allow prisoners only those services and activities to which they are entitled to as a result of the requirements of the classification system. Staff may not deny services or activities, except for reasons of security or discipline and then only in a reasonable and equitable manner, pursuant to these rules.
- 6) An officer may not provide a prisoner with any article, supplies, cigarettes, or other items not provided by the Division of Corrections, unless the items have been searched by the duty officer, are not contraband, and are consistent with any program limitations that might be placed on the prisoner.
- 7) Annual leave must be requested in advance of the day the staff member wishes to take off. Sick leave may be taken without advance notice but the duty officer or the Chief of Corrections must be notified as soon as possible about the need for sick leave so that substitutes may be found to cover the shift. The need to maintain security at the Correctional Facility requires that the staff members be responsible in assisting the Chief of Corrections to see that all shifts are covered.
- 8) Staff shall not use the supplies or equipment of the division or the property or labor of the prisoners for their personal advantage. The property, materials, supplies, and equipment assigned to the Division of Corrections may not be removed from the Correctional Facility without the written permission of the Chief of Corrections or the Director of Public Safety, and then only for purposes consistent with the goals of the Division of Corrections.
- 9) Correctional officers may not strike or use physical force on a prisoner, except for self protection or to prevent the commission of a felony (e.g., escape, assault of another prisoner, etc.). Nor may the correctional officer threaten the prisoners with physical violence or abusive use of the disciplinary mechanisms of the division. Correctional officers may not use abusive language with the prisoners.

- 10) Correctional officers may not engage in sexual activity with the prisoners nor may they condone such activity among the prisoners. Correctional staff are required to report such activity to the Chief of Corrections for appropriate disciplinary action.
- 11) The Department of Public Safety is a paramilitary organization in that its members are armed and subject to military style discipline. Correctional officers are members of the Department of Public Safety and subject to its organizational discipline and practices. Correctional officers must fully carry out orders they are given by superior officers in an efficient and reasonable manner. They must observe practices of courtesy with other officers and the public.
- 12) No correctional officer or other employee of the Department of Public Safety may enter a secure portion of the Correctional Facility with a firearm or other weapon without the specific permission of the Chief of Corrections or the Director of Public Safety. Such permission is valid only for a specific time and purpose and allows no one general permission to be armed within a secure portion of the Correctional Facility. Anyone who is armed upon entry into the Correctional Facility must proceed directly to the administration office where the weapon will remain until the person is ready to leave the Facility. The guard on duty may not, unless specifically ordered by the Chief of Corrections or the Director of Public Safety, open the sallyport to anyone who is armed with either a firearm or other weapon. At the discretion of the Chief of Corrections, a general policy may be set to allow chemical and other non-lethal "weapons" within the secure area in the possession of guards if there is a need.
- 13) Correctional officers are subject to search of person and property before entering a secure area, at the discretion of the Chief of Corrections.

14) Violation of the rules and regulations by Correctional staff will result in disciplinary action appropriate to the nature of the violation.

SECTION 211.

STATEMENTS TO THE MEDIA

- 1) It is proper that the jail respond to the media for reasonable requests for information. Discretion will be used so that the basic rights of the inmates are not violated.
- 2) All statements to the news media will be made only by the Director of the Department of Public Safety or his express designee, or by the Chief of the Division of Corrections or his express designee. In their absence, a deputy may provide to the media only the following information about inmates of the correctional facility: 1) that a specific person is lodged in the jail or has escaped, except that the name of a juvenile shall not be given unless written authorization to release the juvenile's name has been given by the court; 2) the specific charge(s) by which the inmate is detained.

SECTION 212.

RELEASE OF INMATE INFORMATION

- 1) The Department of Public Safety and Division of Corrections recognizes that inmates have a limited right to privacy while incarcerated.
- 2) In order to protect the privacy rights of the inmates and to prevent escape plans or illegal use of information, it is the policy of the Department and Division to refrain from release of personal data, criminal history, record information or other similar information about specific inmates. The Department and Division may, in their discretion, release such information where release serves the public interest in some important way.

- 3) Personal data, criminal history, and record information may be released to an identified law enforcement agency upon written request to the Director of the Department of Public Safety or the Chief of the Division of Corrections. The Director and Chief shall maintain records of each and every request for information and the response given. These records shall be made available to the inmate upon his request.
- 4) The Department of Public Safety or Division of Corrections may release to the news media or public, in general, information in the form of statistics about the inmates that includes personal data, criminal history and record information, provided that there is no identifying characteristic to the data that could be related to a specific individual inmate.

SECTION 220.

GLOSSARY

Cell Block:

A portion of the Correctional Facility that is assigned to prisoners who are segregated from other prisoners. The CNMI Correctional Facility contains three cell blocks: Adult Male, Adult Female, and Juvenile. Ideally, prisoners from one cell block will not come into contact with prisoners from a different cell block.

Certification:

A process in which a juvenile (under 18 years of age) is brought before the Court and the request is made that he or she be treated as an adult. Usually the reasons for the request reflect the seriousness of the alleged offense or the physical or mental maturity of the young person.

Classification System:

Inmates are not classified into security groups, but the types of activities in which the inmates may participate are classified as treatment services, unrestricted privileges, and restricted privileges. Treatment services are those to which inmates are entitled when necessary to address an inmate's physical, emotional, psychological, or other well-being. Unrestricted privileges are those given to all prisoners on an equal basis, unless restricted temporarily due to disciplinary action or unusual security requirements. Restricted privileges are those privileges for which a prisoner must qualify on the basis of good behavior and other factors.

Correctional Facility:

As used in these rules and regulations, the Correctional Facility refers to that area used to house those individuals who have been placed in custody, after adjudication, of the Division of Corrections of the Department of Public Safety, and includes fenced outdoor space available for recreational and other correctional purposes.

Contraband:

Contraband are items which are prohibited within the CNMI Correctional Facility. Such items are either illegal to possess in the general community or present a threat to the security or well being of the prisoners. A list of basic items of contraband is presented in the section entitled, "Disciplinary Action", and may be supplemented from time to time by the Chief of Corrections.

Counseling:

Counseling is a service by someone who is trained in the area of psychology or sociology or other relevant fields. The counselor works with prisoners for the purpose of trying to help develop the understanding necessary to successfully deal with life inside or outside the prison.

Custody:

Custody occurs when a particular individual or agency has responsibility for the well-being and freedom of movement of another person.

Disciplinary Action:

When a prisoner violates the rules and regulations of the Division of Corrections, the prisoner becomes subject to some form of punishment for the violation. Punishment is imposed whenever the prisoner violates the rules and regulations of the division of Corrections. Punishments are usually greater restriction of movement and loss of privileges within the Correctional Facility. The entire process constitutes Disciplinary Action.

Division of Corrections:

The Department of Public Safety is divided into three units reflecting the basic functions of the Department: Police, Fire, and Corrections. The Division of Corrections is that unit which is responsible for the custody and rehabilitation of individuals convicted of crime by the Commonwealth Superior Court and placed in its care. The division is also responsible for prisoners awaiting trial who are unable to post bail for release pending trial.

The staff of the Division of Corrections normally includes a Chief, a Corrections Counselor, Correctional Officers and Secretary support staff. The correctional officers are also sworn officers for the Department and have all of the authority of police officers to enforce the law.

Duty Station:

Those areas within the Correctional Facility to which a correctional officer is assigned as a specific area of responsibility is called the Duty Station. The two most common duty stations are the adult male cell block and the sallyport entrance to the adult male cell block. Whenever the facility is in use, guards should be posted at these two duty stations. When the juvenile or female cell blocks become active duty stations, guards must also be present.

Escape:

Escape occurs when a prisoner is absent from the Correctional Facility without leave. Return from authorized leave one hour or later after the specified return time may be considered escape by the Chief.

Grievance:

Grievance means a formal complaint by one person against another or against an institution.

Leave:

Leave is official permission to be absent from the Correctional Facility for a specific period of time to accomplish some purpose which the administration of the facility feel is consistent with the goal of rehabilitation.

Legal Counsel:

Legal counsel is any lawyer hired or appointed or designated to represent a prisoner.

Lock-up:

That area of the police station where arrestees are detained pending the posting of bail, or Court action is the Lock-up. This area is under the supervision of the Division of Corrections but is not used to house anyone who has been convicted. Upon conviction, a detainee is transferred to the Correctional Facility to begin serving his sentence. Exceptions may be made when deemed appropriate by the Chief, in writing to be kept in the inmate's file.

Orientation:

Orientation is a period of time during which a person is given the chance to learn how things operate and what the rules are governing the new environment. In reference to the Division of Corrections, orientation is that period following admission to the Correctional Facility when the prisoner is given the chance to learn the division's rules and regulations, become introduced to the rehabilitation resources available, and is given medical and (if needed) psychological examinations in preparation for the stay at the facility.

Prisoners:

Those people who have been ordered into the custody of the Division of Corrections by the Courts of this jurisdiction and are being confined with the CNMI Correctional Facility are prisoners. Alternatively, called inmates.

Privilege:

Privilege in these regulations, means access to specific freedoms or benefits listed in these rules. Unrestricted benefits are those enjoyed by all inmates on an equal basis. Restricted privileges are those enjoyed only by inmates first found to be qualified.

Rights:

There are certain benefits which no one has the moral or legal authority to take away from anyone, even prisoners. Under the United States system of government, some of these benefits include: freedom from cruel and unusual punishment, access to legal counsel, the ability to practice one's religion, freedom not to talk to police if by talking one will incriminate oneself, access to law books, access to proper food and medical care to maintain one's health; the CNMI Constitution further guarantees rights to a clean and healthful environment, freedom from discrimination on account of race, color, creed, ethnic origin or sex, and a free, public education as provided by law.

Sallyport:

This term denotes that area of the prison which serves as the normal entrance and exit of a cell block. Correctional officers are normally stationed at a sallyport of a cell block that is in use to control who enters or leaves the cell block area and to ensure that they do not carry contraband. Search (of person and property):

To ensure that no contraband enters a cell block area the correctional officer on duty has the right to check the packages and clothing of anyone wishing to enter a cell block in which prisoners are housed. The body of anyone wishing to enter such a cell block may also be searched either by metal detector, frisk, or, if there is reasonable cause, by strip search. Visitors may refuse to be searched if they are requesting entry into a cell block area but if they are not searched to the reasonable satisfaction of the correctional officer on duty they will be denied entry to the cell block. Prisoners returning to the prison from leave are subject to search and have no choice in the matter. Visitors or prisoners will be searched by DPS staff of the same sex.

Secure Area:

Secure area means that portion of the Correctional Facility in which prisoners are housed and, if earned, have relatively free access. Normally a secure area would be the cell blocks and exercise area associated with the cellblock. Access to a secure area is limited to the prisoners assigned to it, the staff of the Division of Corrections and those others with the specific permission of the Chief of Corrections. Any one entering a secure area is subject to search of person and property.

Separation by Sight and Sound:

It is the stated goal of the Congress of the United States, as presented in the Juvenile Justice and Delinquency Prevention Act, that juvenile offenders and adult offenders not come into contact with each other. The idea is that there be separate facilities for adults and juveniles. The minimum requirement where it is impossible to provide separate facilities, is that adults and juveniles be sufficiently separated that neither can see or hear the other.

Shakedown:

A shakedown refers to action by which the Chief of Corrections causes a cell block or the entire Correctional Facility to be searched very carefully for contraband. Such a search may include a careful search of all of the rooms and equipment within the facility, a search of personal and department property, and a search of the person of any prisoners. Such searches must be conducted with care to both locate contraband and to ensure that the property or dignity of the prisoners is not damaged. Such searches may be done whenever the Chief of Corrections deems it appropriate.

PUBLIC NOTICE

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENTAL SERVICES

PROPOSED AMENDMENTS TO WATER QUALITY STANDARDS FOR PUBLIC LAW 1-8 AND PUBLIC LAW 3-23

The Director of the Department of Public Health and Environmental Services, of the Northern Mariana Islands (CNMI), in accordance with Public Law 1-8 and Public Law 3-23, is proposing amendments to the existing CNMI Water Quality Standards. These changes conform with the requirements imposed on the Commonwealth in the federal Clean Water Act. The Water Quality Standards establish standards for water quality for all CNMI waters. The standards protect the use and value of CNMI waters for propagation of fish and wildlife, recreational purposes, public water supply use, and navigation.

The proposed amendments to the Water Quality Standards include a revised anti-degradation policy and a strengthened enforcement clause. In addition, the following new provisions are proposed: 1) wetlands addressed as waters of the CNMI, 2) procedures for Clean Water Act 401 Water Quality Certification, and 3) inclusion of the U.S. Environmental Protection Agency toxics criteria for aquatic life and human health.

Copies of the proposed amendments to the Water Quality Standards may be obtained from the Department of Public Health and Environmental Services, Division of Environmental Quality, located at Dr. Torres Hospital, Saipan, MP 96950. Anyone interested in commenting on the proposed amendments of the regulations may submit comments in writing to the Chief, Division of Environmental Quality, Post Office Box 1304, Old Dr. Torres Hospital, As Terlaje Area, Saipan, MP 96950, not later than thirty (30) days from the date of the publication of this notice in the Commonwealth Register.

9/3/91 DB. JOSE L. CHONG, -Director Department of Public Health and Environmental Services

NOTISIAN PUPBLIKU

DEPATTAMENTON HINEMLO PUPBLIKU YAN ENVIRONMENTAL SERVICES

I MANMAPROPOPONI NA AMENDASION GI STANDARDS KUALIDAT HANOM PARA I LAI PUPBLIKU NUMIRU 1-8 YAN 3-23

I Direktot i Depattamenton Hinemlo Pupbliku yan Environmental Services, i Commonwealth of the Northern Mariana Islands (CNMI), sigon gi Lai Pupbliku Numiru 1-8 yan i Lai Pupbliku Numiru 3-23, ha propoponi mama'tinas amendasion guato gi i eksisiste na regulasion put standards kualidat hanom CNMI, osino' i CNMI Water Quality Standards. Este siha na tinilaika mangonfotme yan i manginagagao na kondision ni ma'enganu i Commonwealth gi halom i Clean Water Act ginen i federat. I Water Quality Standards ha estableblesi standards para i kualidat hanom para todu i hanom siha gi halom i CNMI para mamoksai guihan yan otro lina'la ga'ga' machalet, para proposition recreation, uson suplikan hanom pupbliku, yan nabegasion.

I manmapropoponi na amendasion siha gi regulasion put Water Quality Standards ha engkluklusa i madiroga na areklamento put anti-degradation yan areklamento ni para u na'lametgot ma'enfuetsan-niha. Put mas, i sigente siha na nuebo na prubension manmapropoponi lokkue': 1) i sisonyan siha u fanmatuka komu hanom CNMI, 2) areklamento para settefikasion Clean Water Act 401 Water Quality Certification, van 3) i nina'halom i U.S. Environmental Protection Agency para toxic criteria para i lina'la halom hanom yan i hinemlo taotao siha.

Kopian i manmapropoponi siha na amendasion gi Water Quality Standards sina manmachuchule' ginen i Depattamenton Hinemlo Pupbliku van Environmental Services. Division of Environmental Quality, gi Dr. Torres Hospital, Saipan, MP 96950. Enteresante siha na petsona ni manmalago' manmama'komento put i manmapropoponi siha na amendasion gi este na regulasion sina mana'halom komento siha gi tinige' guato gi Chief, Division of Environmental Quality, Post Office Box 1304, Old Dr. Torres Hospital, As Terlaje Area, Saipan, MP 96950, sin mas di u trenta (30) dias di i fecha ni ma pupblika este na nutisia gi halom i Rehistran Commonwealth.

9/10/9 / an vale Fecha: DR. JOSE L. CHONG, Direktot Depattamenton Hinemlo Publiku

van Environmental Services

ARONGORONGOL TOWLAP

BWULASIYOOL PUBLIC HEALTH ME ENVIRONMENTAL SERVICES

MWOGHUTUGHUTUL FFEERUL LLIWEL LLOL ALLEGHUL WATER QUALITY EBWE ATOTOOLONG LLOL ALLEGHUL TOWLAP (PUBLIC LAW) YE 1-8 ME ALLEGHUL TOWLAP YE 3-23

Direktoodul Bwulasiyool Public Health me Environmental Services, mellol Commonwealth of the Northern Mariana Islands (CNMI), reel ebwe tabweey aileewal me bwangil Alleghul Towlap (Public Law) ye 1-8 me bwal Alleghul Towlap ye 3-23, nge ekke mangiiy bwe ebwe ayoora lliiwel mellol allegh ye ighila reel CNMI Water Quality Standards. Lliiwel kkaal nge ebwe tabweey mwoghutughutul mille Clean Water Act iye Commonwealth e bwal toolong llol. Mille Water Quality Standards, nge ebwe aghatchu schalul me ngare satil CNMI. Mwoghutugutul yeel nge essobw anngowa schaal kka llol ghal yaali bwe leeliyel ukkur, igha rebwe yaali ngaliir towlap, meigha rebwe sseragh fetal llol (navigation).

Lliiwel kka rebwe feeru reel Water Quality Standards nge e pwal toolong mille antidegradation policy, me ebwe amamaawa clause yeel. Milikka e pwal atotoolong nge: 1) llol mmeschor nge epwal lo ngare bwal schalul CNMI, 2) ffeerul mille ebwe ghasaghas schaal reel Clean Water Act 401 Water Quality Certification, me 3) e pwal toolong U.S. Environmental Protection Agency, reel ammwelel toxics criteria ngali melaweer maal kka relo llol schaal me ghatchu ilighiir aramas bwe rete sumway.

Koopiyal lliiwelil allegh kkaal reel Water Quality Standards, nge emmwel schagh bwe aramas rebwe lo bweibwogh mellol Bwulasiyool Public Health me Environmental Services, Division of Environmental Services, iye lo ighiwe fasul Dr. Torres Hospital, Saipan, MP 96950. Aramas ye e tipali ngare mwuschal, nge emmwel schagh bwe ebwe ischiitiw meta mangemangil, nge aa afanga ngali Chief, Division of Environmental Quality, Post Office Box 1304, Old Dr. Torres Hospital, As Terlaje Area, Saipan, MP 96950, nge essobw alluwlo eliigh (30) ral sangi egha e toowow arongorong yeel mellol Commonwealth Register.

Ral: <u>9/10/4/</u>____

lawah

DR. JOSE L. CHONG, Direktoodul Bwulasiyool Public Health me Environmental Services

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

WATER QUALITY STANDARDS

CONTENTS

- PART 1 AUTHORITY
- PART 2 PURPOSE
- PART 3 ANTI DEGRADATION POLICY
- PART 4 DEFINITIONS
- PART 5 CLASSIFICATION OF WATER USES
 - 5.1 Marine Waters
 - 5.2 Fresh Waters
 - 5.3 Protection of Wetlands
- PART 6 BASIC WATER QUALITY CRITERIA APPLICABLE TO ALL WATERS

PART 7 SPECIFIC WATER QUALITY CRITERIA

- 7.1 Microbiological Requirements
 - 7.2 pH
 - 7.3 Nutrients
 - 7.4 Dissolved Oxygen
 - 7.5 Total Dissolved Solids, Salinity Currents
 - 7.6 Temperature
 - 7.7 Turbidity
 - 7.8 Radioactive Materials
 - 7.9 Oil and Petroleum Products
 - 7.10 Toxic Pollutants
 - 7.11 General Considerations

PART 8 CLASSIFICATION AND ESTABLISHMENT OF WATER USE AREAS

- 8.1 Rota
- 8.2 Tinian and Agiguan
- 8.3 Saipan
- 8.4 Northern Islands
- PART 9 MIXING ZONE IN RECEIVING WATERS

PART 10 WATER QUALITY CERTIFICATION

- 10.1 Application for Water Quality Certification
- 10.2 Public Notification and Public Hearing
- 10.3 Determination of Water Quality Certification
- 10.4 Water Quality Certification-General Provisions
- 10.5 Water Quality Certification-Adoption of New or Revised Water Quality Standards
- PART 11 ENFORCEMENT

- PART 12 SEVERABILITY
- PART 13 CERTIFICATION

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS WATER QUALITY STANDARDS

PART 1 AUTHORITY

These regulations have been promulgated by the Department of Public Health and Environmental Services in accordance with Commonwealth of the Northern Mariana Islands Public Law 3-23, and under the provisions of the **Clean Water Act, P.L. 92-500 as amended: 33 U.S.C. 1251 et seq.** These regulations shall have the force and effect of law and shall be binding on all persons and other legal entities subject to the jurisdiction of the Commonwealth of the Northern Mariana Islands. The Department shall apply these regulations and standards to all marine and fresh water bodies in the Commonwealth.

PART 2 PURPOSE

The purpose of these regulations is to establish standards for water quality for all State waters in order to protect their use and value for propagation of fish and wildlife, recreational purpose, public water supply use, and taking into consideration their use and value for navigation.

PART 3 ANTIDEGRADATION POLICY

It shall be the public policy of the Commonwealth of the Northern Mariana Islands that:

(a) The protection, maintenance, conservation, and improvement of the quality of the waters for the growth and propagation of aquatic life, for marine research and for the conservation of coral reefs and wilderness areas, and for domestic, agricultural, commercial, industrial, recreational and other uses are an historic and legal right of the people of the Northern Mariana Islands.

(b) The achievement of the water quality **standards** of the Commonwealth of the Northern Mariana Islands is in the best interest of the protection of public health and the environment.

(c) The existing uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.

(d) Waters where the quality exceeds the levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water shall be maintained and protected, unless the Commonwealth determines that the lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation to occur the Commonwealth shall assure the following: 1) the lower water quality be fully protective of designated uses, (2) the impacts on water quality and economic and social development be subject to detailed water quality and economic analyses, (3) that inter governmental coordination and public participation be included in any determination, (4) the highest statutory and regulatory requirements be achieved for all new and existing point sources, and (5) that all cost effective and reasonable best management practices for nonpoint source control be employed.

(e) High quality waters which constitute an outstanding Commonwealth resource, such as waters of wildlife refuges and waters of exceptional recreational or ecological significance shall be maintained and protected.

(f) There shall be no **point** or **nonpoint** discharge of sewage or other wastewater into any planned or existing ground or surface source of drinking water.

(g) All sewage, wastewater, and any other matter shall receive a degree of treatment necessary to protect the beneficial uses of the state waters before discharging.

(h) The existing uses in wetlands and the level of water quality necessary to protect those uses shall be protected.

PART 4 DEFINITIONS

"Acute exposure value" - The threshold value at or below which there should be no unacceptable effects to aquatic organisms and their uses if the one-hour concentration does not exceed that value more than once every three years on the average.

"Ambient Conditions" means the existing conditions in surrounding waters not influenced by man.

"Brackish Waters" means waters with dissolved inorganic ions (salinity) greater than 500 ppm (parts per million), but less than 30,000 ppm.

"Chief" means the Chief of the Commonwealth Division of Environmental Quality.

"Chronic exposure value" - The threshold value at or below which there should be no unacceptable effects to aquatic organisms and their uses if the four-day concentration does not exceed that value more than once every three years on the average.

"Coastal Waters" means all waters of a depth less than ten (10) fathoms, or waters up to distance of 1,000 feet off-shore if there is no defined reef areas and if the depth is greater than ten (10) fathoms.

"Commonwealth" means Commonwealth of the Northern Mariana Islands.

"CWA" means the Clean Water Act, P.L. 92-500 as amended: 33 U.S.C. 1251 et seq.

"Department" means the Commonwealth Department of Public Health and Environmental Services.

"DEQ" means the Commonwealth Division of Environmental Quality.

"Director" means the Director of the Commonwealth Department of Public Health and Environmental Services.

"Discharger" means any person who emits any wastewater, substance, or material into the waters of the Commonwealth whether or not such substance causes pollution.

"Fresh Waters" means all waters with dissolved inorganic ions of less than 500 ppm.

"Mixing Zone" means the area or volume of a water body within which effluent(s) shall become physically mixed with the receiving waters through initial dilution. Initial dilution is the process through which the wastewater immediately mixes with the receiving water due to the momentum of the waste discharge and the difference in density between the discharge and the receiving water.

"Oceanic Waters" means all other marine waters outside of the ten (10) fathom depth contour and not less than 1,000 feet offshore. "Receiving Water(s)" means water(s) of the Commonwealth into which wastes or wastewaters are, or may be, discharged.

"State Waters" means all waters, fresh, brackish, or marine including wetlands, around and within the Commonwealth and as further delineated and defined under the Marine Sovereignty Act of 1980 (P.L. 2-7).

"Toxic" means lethal, oncogenic, teratogenic or mutagenic, or otherwise damaging to man or other living organisms.

"Wastewater" means sewage, industrial waste, or other waste, or any combination of these, whether treated or untreated, plus any admixed land runoff.

"Wetlands" means an area which is inundated or saturated by surface or groundwater at a frequency and duration that is sufficient to support, and under normal circumstances does support, vegetation typically adapted for life in saturated soil conditions.

"Zone of Passage" means a continuous water route of the volume, area, and quality necessary to allow passage of freeswimming and drifting organisms with no significant effects produced on their populations.

PART 5 CLASSIFICATION OF WATER USES

5.1 <u>Marine Waters</u>

(a) CLASS AA - It is the objective of this class that these waters remain in their natural pristine state as nearly as possible with an absolute minimum of pollution or alteration of water quality from any human-caused source or actions. To the extent practicable, the wilderness character of such areas shall be protected. No zones of mixing shall be permitted in these waters within a defined reef area (in waters of depth less than ten fathoms), or in waters up to one thousand feet off shore if there is no defined reef area and if the depth is greater than ten fathoms unless otherwise approved by the Chief.

The uses to be protected in this class of waters are the support and propagation of shellfish and other marine life, conservation of coral reefs and wilderness areas, oceanographic research, and aesthetic enjoyment and compatible recreation inclusive of whole body contact and related activities. The classification of any water area as Class AA shall not preclude other uses of such waters compatible with these objectives and in conformance with the criteria applicable to them.

(b) CLASS A - It is the objective of this class of waters that their use for recreational purposes and aesthetic enjoyment be protected.

Any other use shall be permitted as long as it is compatible with the protection and propagation of fish, shellfish, and wildlife, and with recreation in and on these waters of **a limited body contact nature**. Such waters shall be kept clean of solid waste, oil and grease, and shall not act as receiving waters for any effluent which has not received the best degree of treatment of control practicable under existing technology and economic conditions and compatible with standards established for this class.

5.2 Fresh Waters

(a) Class 1 - It is the objective of this class that these waters remain in their natural state as nearly as possible with an absolute minimum of pollution from any human-caused source. To the extent possible, the wilderness character of such areas shall be protected. Waste discharge into these waters is prohibited.

The uses to be protected in this class of water are for domestic water supplies, food processing, the support and propagation of aquatic life, compatible recreation and aesthetic enjoyment including water contact recreation.

(b) Class 2 - It is the objective of this class of waters that their use for recreational purposes, propagation of fish and other aquatic life, and agricultural and industrial water supply not be limited in any way. The uses to be protected in this class of waters are all uses compatible with the protection and propagation of fish and other aquatic life, and with recreation in and on these waters. **Compatible recreation may include limited body contact activities.** Such waters shall not act as receiving waters for any discharge which has not received the best degree of treatment or control practical under technological and economic conditions and compatible with the standards established for this class.

5.3 Protection of Wetlands

Wetlands are waters of the State and are subject to the provisions of this rule. Point or nonpoint sources of pollution shall not cause destruction or impairment of wetlands. All provisions of these regulations apply to all wetlands unless replaced by site specific standards adopted by the Commonwealth and approved by EPA.

PART 6 BASIC WATER QUALITY CRITERIA APPLICABLE TO ALL WATERS

All waters shall be free of substances attributable to domestic, industrial, or other controllable sources of pollutants and shall be capable of supporting desirable aquatic life and be suitable for recreation in and on the water.

This part will be subject to verification by monitoring as may be prescribed by the Director or Chief to assure freedom from any of the following conditions:

(a) Materials that will settle to form objectionable sludge or bottom deposits.

(b) Floating debris, oil, grease, scum, or other floating materials.

(c) Substances in amounts sufficient to produce taste or odor in the water or detectable off flavor in the flesh of fish, or in amounts sufficient to produce objectionable odor, turbidity, or other conditions in the receiving waters.

(d) High temperatures; biocides; pathogenic organisms; toxic, radioactive, corrosive, or other deleterious substances at levels or in combinations sufficient to be toxic or harmful to human health or aquatic life, or in amounts sufficient to interfere with any beneficial use of the water.

(e) Soil particles resulting from erosion on land involved in earth work, such as construction of public works; highways; subdivisions; recreational; commercial, or industrial development; or the cultivation and management of agricultural lands.

(f) Substances or conditions or combinations thereof in concentration which produce undesirable aquatic life.

PART 7 SPECIFIC WATER QUALITY CRITERIA

7.1 <u>Microbiological Requirements</u> Applicable to:

All Waters

AA

1

1

Α

2

2

The Fecal coliform concentration shall not exceed a geometric mean of 200 per one hundred milliters in not less than five samples equally spaced over a thirty-day period nor shall any single sample exceed 400 per one hundred milliters at any time.

The Enterococci concentration shall not exceed a geometric mean of 35 per one hundred milliliters in not less than five samples equally spaced over a thirty-day period.

The Enterococci concentration shall not exceed a geometric mean of 33 per one hundred milliliters in not less than five samples equally spaced over a thirty-day period.

The <u>E. Coli</u> concentration shall not exceed a geometric mean of 125 per one hundred milliliters in not less than five samples equally spaced over a thirty-day period.

The Enterococci concentration shall not exceed a geometric mean of 125 per one hundred milliliters in not less than five samples equally spaced over a thirty-day period.

The Enterococci concentration shall not exceed a geometric mean of 90 per one hundred milliliters in not less than five samples equally spaced over a thirty-day period.

The E. Coli concentration shall not exceed a geometric mean of 300 per one hundred milliliters in not less than five samples equally spaced over a thirty-day period.

Since fecal coliforms and enterococci may originate from environmental sources as well as from human and animal fecal contamination; where these microbiological standards are exceeded, a determination of the impact on public health and the environment may be based upon additional sampling, a sanitary survey of the drainage area contributing run-off to the contaminated water, and special studies of the environmental sources of fecal coliforms and enterococci in the waters of the CNMI. In areas which support shellfish habitat where the shellfish are harvested for human consumption the fecal coliform concentration shall not exceed a geometric mean of 14 per one hundred milliliters in not less than five samples equally spaced over a thirtyday period.

7.2 <u>pH</u>

pH shall not deviate more than 0.5 units A,AA from a value of 8.1.

pH shall not deviate more than 0.5 from 1,2 ambient conditions and shall not be lower than 6.5 nor higher than 8.5.

7.3 <u>Nutrients</u>

Parameter	Concentration Shall Not Exceed (mg/l)	Applicable To
Total Nitrogen	0.4	AA
-	0.75	A,1
	1.50	2
Nitrate-Nitrogen	0.20	АА
•	0.50	A
Total Phosphorus	0.25	AA
-	0.05	A
	0.10	1,2
Ammonia (un-ionized) 0.02	AA, A, 1, 2

7.4 Dissolved Oxygen

Concentration of dissolved oxygen shall not be less than 75% saturation. Where natural conditions cause lower dissolved oxygen levels, controllable water quality factors shall not cause further reductions.

7.5 Total Dissolved Solids, Salinity, Currents

No change in channels, basic geometry or AA,A fresh water influx shall be made which would cause permanent changes in isohaline patterns of more than 10% from the natural conditions or which would otherwise adversely affect the indigenous biota and natural sedimentary patterns.

7.6 <u>Temperature</u>

Water temper	rature shall not vary by more	AA,A,1,2
than 1.5F (0.9C)	from the ambient conditions.	

7.7 <u>Turbidity</u>

Turbidity at any point, as measured by A,2 nephelometric turbidity units (NTU), shall not exceed 0.5 NTU over ambient conditions except when due to natural conditions.

Turbidity values (NTU) at any point shall AA,1 not exceed 1.0 NTU over ambient conditions except when due to natural conditions.

7.8 <u>Radioactive Materials</u>

(a) The concentration of radioactive All waters materials in water shall not exceed 1/30th of the maximum permissible limits established for continuous occupational exposure given in the National Bureau of Standards Handbook No. 69.

(b) No radionuclide or combination of All waters radionuclides shall be present at concentrations greater than those specified by the Commonwealth of the Northern Mariana Islands Drinking Water Regulations and the National Primary Drinking Water Regulations.

(c) The concentration of radioactive All waters materials in fresh, brackish, and marine waters shall not result in the accumulation of radioactivity in plants or animals that would result in a hazard to humans or aquatic life.

7.9 Oil and Petroleum Products

The concentration of oil or petroleum All waters products shall not:

(a) Be detectable as a visible film, sheen, or discoloration of the surface or cause an objectionable odor.

(b) Cause tainting of fish or other aquatic life, be injurious to the indigenous biota or cause objectionable taste in drinking water.

(c) Form an oil deposit on beaches or shoreline or on the bottom of a body of water.

7.10 <u>Toxic Pollutants</u>

In order that the designated uses of State waters be protected, all waters shall be free from toxic pollutants in concentrations that are lethal to, or that produce detrimental physiological responses in human, plant, or animal life. Detrimental responses include, but are not limited to, decreased growth rate and decreased reproductive success of resident or indicator species and/or significant alterations in population or community ecology or receiving water biota.

A "toxic pollutant" is as defined by the CWA, Section 502(13). Criteria for toxic pollutants are given as either a numeric criteria or are determined by multiplying the stated application factor by the concentration determined to be lethal to 50% of the most sensitive indigenous organism after 96 hours of exposure (96 LC 50). The 96 LC 50 values shall be determined by using bioassay procedures consistent with those described in the latest edition of <u>Standard Methods for the Examination of Water and Wastewater</u>.

Inorder to determine compliance with this section, the Chief may require additional studies of indicator organisms which include, but are not limited to, analyses of species diversity, species abundance, reproductive success, population density, and growth anomalies. Additionally, effects on human health due to bioconcentration shall be considered.

Aquatic life and human health numeric criteria for the toxic pollutants included in the CWA, Section 307(a), list of priority pollutants, or any subsequent revision are incorporated by reference into the CNMI, Water Quality Standards. Numeric criteria are listed in Table A, <u>Aquatic Life Water Quality Criteria,</u> <u>Priority Pollutants</u> and Table B, <u>Human Health Water Quality</u> <u>Criteria, Priority Pollutants.</u>

In waters designated for use as a source of public water supply, the human health numeric criteria shall be at least as stringent as the maximum contaminant levels (MCL's) for drinking water established in the CNMI Drinking Water Regulations.

Site specific criteria shall be developed for toxic pollutants for which: numeric water quality criteria have not been established; a species inhabiting a given site may be more or less sensitive than those used in developing the established criteria; the water chemistry (e.g.,pH, hardness, temperature, suspended solids, etc) appears to differ significantly from the laboratory water used in developing the criteria; or the residual toxicity or synergistic (combined) effect of pollutants requires analyses and development of site specific criteria. Site specific criteria for aquatic life and human health shall be derived from the CWA, Section 304(a)(1) water quality criteria or by methods published by the U.S. Environmental Protection Agency as described in (45 Federal Register 79318), November 28, 1980.

In areas where site specific criteria are developed, the Department shall regulate point source discharges by establishing effluent limits which are protective of the designated use of the waters in the area.

7.11 <u>General Considerations</u>

(a) Effects of high temperature, biocides, pathogenic organisms or other deleterious substances at levels or combinations sufficient to interfere with aquatic life or human health, or in amounts sufficient to interfere with the beneficial use of the water shall be evaluated as a minimum by use of a 96-hour bioassay as described in the most recent editions of <u>Standard Methods for</u> the Examination of Water and Wastewater. Survival of test organisms shall not be less than that in controls which utilize appropriate water. Failure to determine presence of toxic substances by this method shall not preclude determinations of excessive levels of toxic substances on the basis of other criteria or methods.

(b) Pollutant discharges shall be controlled so as to protect not only the waters receiving the discharge directly, but also those waters into which the initial receiving waters may flow.

(c) Part 6 (e) shall be met upon showing that the land on which the erosion occurred or is occurring is being managed in accordance with the CNMI Earthmoving and Erosion Control Regulations, Commonwealth Register Vol. 8 No. 6, September 15, 1986, and that a comprehensive conservation program is being actively pursued, or that the discharge has received the best degree of treatment or control, and that the severity of impact of the residual soil reaching the receiving body of water is deemed by the Chief to be acceptable.

(d) The health and life history characteristics of aquatic organisms in waters affected by controllable water quality factors shall not differ significantly from those for the same waters in area unaffected by controllable water quality factors. Also, controllable water quality factors shall not cause a detrimental increase in concentrations of toxic substances found in bottom sediments or aquatic life.

COMMONWEALTH REGISTER VOLUME 13 NO. 09 SEPTEMBER 15, 1991 PAGE 7970

PART 8 CLASSIFICATION AND ESTABLISHMENT OF WATER USE AREAS

8.1 <u>Rota</u>

(a) <u>CLASS AA</u>

All coastal and oceanic waters surrounding Rota except for those waters delineated in CLASS A.

(b) <u>CLASS A</u>

The coastal waters known as East Harbor and West Harbor.

(c) <u>CLASS 1</u>

All fresh surface waters on Rota.

8.2 <u>Tinian and Agiquan</u>

(a) All coastal and oceanic waters surrounding Tinian and Aguigan except for those waters delineated in CLASS A.

(b) <u>CLASS A</u>

The coastal waters known as San Jose Harbor.

(c) <u>CLASS 1</u>

All fresh surface waters on Tinian and Aguigan.

8.3 <u>Saipan</u>

(a) <u>CLASS AA</u>

All coastal and oceanic surrounding Saipan except for those delineated in CLASS A.

(b) <u>CLASS A</u>

The coastal waters from Puntan Muchot to **Saddok As Agatan** and the coastal waters surrounding the Agingan Wastewater Treatment Plant, within a 1,000 foot radius of the outfall.

(c) <u>CLASS 1</u>

All fresh surface waters on Saipan.

8.4 <u>Northern Islands</u> (Farallon de Medinilla, Anatahan, Sariguan, Guguan, Alamagan, Pagan, Agrihan, Asuncion, Maug, Farallon de Pajaros)

COMMONWEALTH REGISTER VOLUME 13 NO. 09 SEPTEMBER 15, 1991 PAGE 7971

(a) <u>CLASS AA</u>

All coastal and oceanic waters surrounding the Northern Islands except for those delineated in CLASS A.

(b) <u>CLASS A</u>

The coastal and oceanic waters surrounding Farallon de Medinilla.

(c) <u>CLASS 1</u>

All fresh surface waters in the Northern Islands.

PART 9 MIXING ZONE IN RECEIVING WATERS

The water quality criteria in these regulations shall apply within a mixing zone unless specific alternative criteria have been approved by the Division of Environmental Quality and concurred upon by the U.S. Environmental Protection Agency. Mixing Zones will not be granted in lieu of reasonable control measures to reduce point source pollutant discharges but will be granted to complement the applicable controls. A limited mixing zone, serving as a zone of initial dilution in the immediate area of a point source of pollution, may be allowed if the conditions set out in this part are met.

9.1 No mixing zone shall be established unless the continuation of the function or operation involved in the discharge by the granting of the mixing zone is in the public interest, and the discharge occurring or proposed to occur does not substantially endanger public health and safety.

9.2 If the mixing zone is established on the grounds that there is no reasonable means known or available for the adequate prevention, control, or abatement of the discharge involved, it shall be allowed only until the necessary means for prevention, control or abatement become practicable, and subject to the taking of any substitute or alternative measures that the Chief may prescribe. No renewal of a mixing zone shall be allowed without a thorough review of known and available means of preventing, controlling, or abating the discharge involved.

9.3 The Chief may issue an approval for the establishment of a mixing zone for a period not to exceed five years.

9.4 An allowable mixing zone shall be defined by the following characteristics: receiving water; discharge location; volume of discharge; specific linear distance; area or volume; mixing velocities and other pertinent hydrologic and physio graphic characteristics, and the maximum concentrations of important constituents determined on a case-by-case basis.

9.5 The following criteria shall be met in determining the location, size, shape, out-fall design and in-zone quality of mixing zones.

(a) Mixing zones shall not intersect any area of the waters in such a manner that the maintenance of aquatic life in the body of water as a whole would be adversely affected.

(b) Mixing zones shall be as small as practicable and shall be limited to a total area or volume that will not cause substantial damage to or impairment of designated water uses or anticipated future uses within the mixing zone or surrounding waters.

(c) The total area or volume of water designated as a mixing zone shall be limited to that area or volume which will not interfere with biological communities or populations of important species to a degree which is damaging to the ecosystem.

(

Ļ _

(d) In a mixing zone an adequate zone of passage shall exist at all times for the movement or drift of aquatic life.

(e) Where two or more mixing zones are in close proximity, they shall be so defined that a continuous zone of passage for aquatic life is available.

(f) mixing zones will not be approved for discharges of toxic pollutants which bio accumulate.

(g) mixing zones shall be free from substances in concentrations or combinations that will cause acute lethality to aquatic life.

(h) The prohibition on acute lethality Part 9.5(g) shall be implemented by requiring that the concentrations of toxic pollutants in the pipe at the point of discharge shall not exceed the acute, aquatic life water quality criteria of Part 7.10 of these regulations. (i) For discharges into freshwater streams and rivers the mixing zone will be limited to not more than 1/4 of the cross sectional area and/or volume of flow of the stream, leaving at least 3/4 free as a Zone of Passage. The mixing zone shall not extend more than 5 stream widths downstream from the point of discharge. Mixing zones will not be allowed in standing bodies of water.

(j) For discharges to marine waters the mixing zone shall be equal in depth to the depth of the water over the diffuser, in width to twice the depth of the water plus the width of the diffuser, and in length to twice the depth of the water plus the length of the diffuser, with the diffuser geographically centered within the mixing zone.

(k) All discharges to marine waters will comply with the Ocean Discharge Criteria promulgated under Section 403 (c) of the CWA.

PART 10 WATER QUALITY CERTIFICATION

A water quality certification is required by the CWA, Section 401 of any applicant for a federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters of the United States. The Division of Environmental Quality shall issue a water quality certification for any proposed activity which: (1) complies with the applicable provisions of the CWA Sections 301, 302, 303, 306, and 307, (2) complies with applicable provisions of the CNMI Water Quality will not interfere with the attainment or Standards, (3) maintenance of the existing or designated use of the state waters, and (4) all appropriate and practicable steps have been taken to minimize potential adverse impacts of the discharge on aquatic life and human health, as determined by the Chief.

10.1 Application For Water Quality Certification

An applicant for certification shall submit a complete description of the discharge involved in the activity for which certification is sought, with a request for certification signed by the applicant. Such a description shall include the following:

(a) The name and address of the applicants;

(b) A description of the facility or activity, and of any discharge into state waters which may result from the conduct of any activity including, but not limited to, the construction or operation of the facility. This description shall include the characteristic of the discharge, and the location or locations at which such discharge may enter state waters.

(c) If applicable, a description of the function and operation of equipment or facilities to control discharges, including specification of the methods of control to be used;

(d) The estimated date or dates on which the activity will begin and end and the date or dates on which the discharge(s) will take place.

(e) If applicable, a description of the methods and means being used or proposed to monitor the quality and characteristics of the discharge and the operation of equipment or facilities employed in the control of the proposed discharge;

(f) The Chief may require the submission of additional information after a certification application has been filed. If a certification application is incomplete or otherwise deficient, processing of the application shall not be completed until such time as the applicant has supplied the missing information or other wise corrected the deficiency. The Chief shall notify the applicant, in writing, within sixty days of the submission of an application, if an application is incomplete or otherwise deficient. A description of the type of additional information necessary to complete the application or correct the deficiency will be included with such a written notice. Failure to provide additional information or to correct a deficiency shall be sufficient grounds for denial of certification; and

(g) The applicant is required to notify the department, in writing, of changes which may affect the application and certification process.

(h) The applicant will be informed, in writing, by the Chief when a certification application is considered complete. The Chief shall act on a request for certification within a period which shall not exceed six months.

(i) Every applicant for water quality certification shall pay a filing fee of \$2000.00. This filing fee shall be submitted with the water quality certification application and shall not be refunded nor applied to any subsequent water quality certification following final action or denial of a water quality certification. Any Federal or CNMI government agency shall be exempt from paying filing fees.

10.2 Public Notification and Public Hearing

DEQ; in accordance with procedures established by the Governors Office, shall issue a public notification upon receipt of an application for a water quality certification. The notice will include the name and address of the applicant, and a brief description of the activity and of the discharge involved in the activity for which certification is being sought. The public comment period shall be for 30 days from the date of the first publication of the notice. The Chief may, upon request, provide the opportunity for public hearing(s) to consider issuance of a water quality certification. The Chief shall inform the applicant, in writing, that such action has been taken. All publication costs related to public notification(s) hearing(s) shall be paid by the applicant to the necessary and appropriate newspaper agency(ies) prior to publication date.

10.3 Determination of Water Quality Certification

(a) The Chief shall make a determination on a Water Quality Certification based upon evaluation of: (1) the application made by the applicant to the licensing or permitting agency and the information contained in such application which is relevant to water quality considerations, (2) the application materials submitted pursuant to part 10.1, (3) comments received during the public comment period, (4) the record of a public hearing held pursuant to part 10.2, and (5) any other information and data that the Chief deems relevant.

(b) DEQ shall not grant a water quality certification for any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters of the United States unless the activity meets all of the provisions of the CWA 404(b)(1) as described in 40 CFR Part 230.

(c) The contents of the Water Quality Certification issued by DEQ shall include: (1) the name and address of the applicant (2) reference to the application materials which were evaluated in making the certification, identified by date received, and federal license and permit application number or code where applicable. (3) a statement that there is reasonable assurance that the activity will be conducted in a manner which will not violate applicable water quality standards, (4) a statement of any conditions which the Chief deems necessary or desirable with respect to the discharge or the activity, and (5) any such other information as the Chief may determine to be appropriate.

COMMONWEALTH REGISTER VOLUME 13 NO. 09 SEPTEMBER 15, 1991 PAGE 7976

(d) If after considering the information submitted pursuant to 10.3(a) the Chief determines that there is reasonable assurance that applicable water quality standards will not be violated and the best practicable methods of control will be applied to a discharge which is the result of any activity including, but not limited to, the construction and operation of facilities, then the Chief shall so certify.

(e) The Chief may modify the certification prior to the issuance of the federal license or permit, after consideration of information presented by the applicant licensing or permitting agency or other government agencies or interested parties.

(f) If the Chief fails or refuses to act on a request for certification within a reasonable period of time (which shall not exceed six months) after receipt of a complete application, then the certification requirements of this section shall be waived with respect to federal applications.

If the discharge in question is the result of one of the activities which receives a nationwide permit for the discharge of dredge and fill materials, thereby fulfilling specific conditions of that permit pursuant to 33 CFR 330.5 and 330.6, then the Chief will determine, on a case-by-case basis, which projects are considered to be minor and non-controversial. Certification requirements of this section shall be waived for minor and noncontroversial activities within six months of the receipt of a completed application.

10.4 Water Quality Certification-General Provisions

(a) Where any facility or activity has received certification pursuant to section 10.3 in connection with the issuance of a license or permit for construction, and where such facility or activity is not required to obtain an operating license or permit, the Chief, prior to the initial operation of such facility or activity, shall be afforded the opportunity to inspect such facility or activity for the purpose of determining if the manner in which such facility or activity will be operated or conducted will violate applicable water quality standards.

(b) If the Chief, after an inspection pursuant to section 10.4 (a) determines that operation of the proposed facility or activity will violate applicable water quality standards, the Chief shall so notify the applicant and the licensing or permitting agency.

-18-

(c) Where a licensing or permitting agency, following a public hearing, suspends a license or permit after receiving the Chief's notice and recommendation pursuant to section 10.3, the applicant may submit evidence to the Chief, that the facility or activity has been modified so as not to violate applicable water quality standards. If the Chief determines that the applicable water quality standards have not been violated, the Chief shall so notify the licensing or permitting agency.

(d) The Chief may, and upon request shall, provide licensing and permitting agencies with determinations, definitions and interpretations to the meaning and content of the CNMI water quality standards. The Chief may, and upon request shall, also advise licensing and permitting agencies as to the status of compliance by dischargers with the conditions and requirements of applicable water quality standards.

10.5 <u>Water Quality Certification-Adoption of New or Revised</u> <u>Water Quality Standards</u>

To the extent permitted by applicable law, all water quality certifications to be issued by DEQ shall require the licensing or permitting authority to include a clause in the license or permit advising the licensee or permittee that the license or permit shall be subject to amendment or modification if and to the extent that existing water quality standards are made more stringent, or new water quality standards are adopted, by DEQ.

Upon adoption or revision of water quality standards, DEQ shall notify the licensing or permitting authority and the licensee or permittee of the revised or newly-enacted water quality standards and shall request the licensing or permitting authority to amend or modify the license or permit, if and to the extent permitted by applicable law, to reflect the applicable water quality standards.

PART 11 ENFORCEMENT

The Department, acting through the Commonwealth Attorney General, is responsible for enforcement of these regulations in consonance with, and in accordance with the applicable laws of the CNMI and in accordance with U.S. P.L. 92-500, known as the "Clean Water Act", and its amendments. The Attorney General will institute legal actions to enjoin a violation, continuing violation or threatened violation of these regulations.

Where the CNMI water quality standards are exceeded in State designated for recreational use, the Director waters in consultation with the Chief shall have the authority to suspend public use of state waters or take action in the Director's discretion to protect the public health, safety and welfare.

PART 12 SEVERABILITY

If any provision of these Regulations or their application is held to be invalid, such invalidity shall not affect any other provision or application that can be used without the invalid section, and to this end the provisions of these Regulations and their various applications are declared to be severable.

PART 13 CERTIFICATION

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

an

Dr. Jose L. Chong Director of the Department of Public Health and Environment

7/18/91 Date

TABLE A

	Fresh Wa	ters	Marine	Waters
Pollutanț	Acuta Ch			Chronic
Pentachlorophenol	20(3)	13(3)	13	7.9
Aldrin	3.0		1.3	
Dieldrin	2.5	0.0019	0.71	0.0019
Chlordahe	2.4	0.0043	0.09	0.004
4,4'-DDT	1.1	0.001	0.13	0.001
alpha-Endosulfan	0.22	0.056	0.034	0.0087
beta-Endosulfan	0.22	0.056	0.034	0.0087
Endrin	0.18	0.0023	0.037	0.0023
Heptachlor	0.52	0.0038	0.053	0.0036
Heptachlor epoxide	0.52	0.0038	0:053	0.0036
gamma-BHC (Lindane)	2	0.08	0.16	-
(Hexachlorocyclohexane-gamm		•••	• • • •	
PCB 1242 (Arochlor 1242)		0.014	-	0.03
PCB-1254 (Arochlor 1254)		0.014	-	0.03
PCB-1221 (Arochlor 1221)		0.014		0.03
PCB-1232 (Arochlor 1232)	-	0.014	-	0.03
PCB-1248 (Arochlor 1248)		0.014	-	0.03
PCB-1260 (Arochlor 1260)	-	0.014	-	0.03
PCB-1016 (Arochlor 1016)		0.014		0.03
Toxaphene	0.73	0.0002	0.21	0.0002
Arsenic	360	190	69	36
Cadmium	3,9(2)	1,1(2)	43	9.3
Chromium (III)	1700(2)	210(2)	-	
Chromium (VI)	16	11	1100	50
Copper	18(2)	12(2)	2.9	2.9
Cyanide (total)	22	5.2	1.0	1.0
Lead	$\frac{1}{82}(2)$	3.2(2)	140	5.6
Mercury	2.4	0.012	2.1	0.025
Nickel	1400(2)	160(2)	75	8.3
Selenium	20	5	300	71
Silver	4.1(2)	• • •	2:3	-
Zinc	120(2)	110(2)	95	86
Tribatyltin	0.44	0.06	0.36	0.01

Aquatic Life Water Quality Criteria (1) Priority Pollutants

(1) THESE CRITERIA APPLY TO ALL SURFACE WATERS. EXCEPT FOR THE VALUES FOR METALS, THE VALUES GIVEN IN THIS TABLE REFER TO THE TOTAL RECOVERABLE (DISSOLVED PLUS SUSPENDED) AMOUNT OF EACH SUBSTANCE. FOR THE AQUATIC LIFE VALUES FOR METALS, THE VALUES REFER TO THE ACID SOLUBLE PORTION WHICH IS DERIVED AS THE FRACTION THAT PASSES THROUGH A .45 UM MEMBRANE FILTER AFTER THE SAMPLE IS ACIDIFIED TO PH 1.5-2.0 WITH NITRIC ACID. ALL CRITERIA ARE LISTED AS MICROGRAMS PER LITER (UG/L).

1

(2) HARDNESS DEPENDENT CRITERIA. VALUE GIVEN IS AN EXAMPLE ONLY AND IS BASED ON A CACO, HARDNESS OF 100 MG/L. CRITERIA FOR EACH CASE MUST BE CALCULATED USING THE APPROPRIATE EQUATIONS IN THE EPA CRITERIA DOCUMENTS.

(3) PH DEPENDENT CRITERIA. VALUE CIVEN IS AN EXAMPLE ONLY AND 19 BASED ON A PH OF 7.8. CRITERIA FOR EACH CASE MUST BE CALCULATED USING THE EQUATION IN THE EPA CRITERIA DOCUMENT.

TABLE B

. •

י .]

(

(

- . .

f .

_...

	Human Health Value		
Pollutant	Fresh Waters(3)	MAELUM WALMER(3)	
Acrolein	320	780	
Acrylonitrile(4) Benzene(4)	0.058	0.65	
Benzene(4)	0.66	40	
Benzidine ⁽⁴⁾	0.00012	0.00053	
Carbon tetrachloride(4)	0.40	6.94	
(Tetrachloromethane)			
Chlorobenzene	488	21000	
(Monochlorobenzene)			
Hexachlorobenzene ⁽⁴⁾	• 0.00072	0.00074	
1,2-Dichloroethane ⁽⁴⁾	0.94	243	
1,1,1-Trichloroethane	200	1030000	
Hexachloroethane ⁽⁴⁾	1.9	8.74	
1,1,2-Trichloroethane ⁽⁴⁾	0.60	41.8	
1,1,2,2-Tetrachloroethane ⁴	0.17	10.7	
Bis(2-chloroethyl) ether ⁽⁴⁾	0.03	1.36	
2,4,6-Trichlorophenol ⁽⁴⁾	1.2	3.6	
Chloroform (HM) ⁽⁴⁾	0.19	15.7	
(Trichloromethane)			
1,2-Dichlorobenzene	400	2600	
1,3-Dichlorobenzene	400	2600	
1,4-Dichlorobenzene	75	2600	
3,3'-Dichlorobenzidine ⁽⁴⁾	0.01	6.02	
1,1-Dichloroethylene ⁽⁴⁾	0.033	1.83	
2,4-Dichiorophenol	93	790	
1,3-Dichloropropylene	93 87	790 1 4 100	
(1,3-Dichloropropene) (cis and trans işomers)			
2,4-Dinitrotoluene ⁽⁴⁾	0.11	9.1	
1,2-Diphenylhydrazine ⁽⁴⁾	0.042	0.56	
Ethylbenzene	1400	3260	

Human Health Water Quality Criteria (1) Priority Pollutants

COMMONWEALTH REGISTER VOLUME 13 NO. 09 SEPTEMBER 15, 1991 PAGE 7982

	Human Health Value		
Pollutant	Fresh Waters(2)	Marine Waters(3	
Fluoranthene	42	54	
Bis(2-chloroisopropyl) ether	34.7	4360	
Methylene chloride (HM)(4)	0.19	15.7	
(Dichloromethane)			
Methyl chloride (HM) ⁽⁴⁾ (Chloromethane)	0.19	15.7	
Methyl bromide (HM)(4) (Bromomethane)	0.19	15.7	
Bromoform (HM)(4)	0.19	15.7	
(Tribromomethane)	0013	12-1	
Dichlorobromomethane (HM)(4)	0.19	15.7	
Chlorodibromomethane (RM)(4)	0.19	15.7	
Chlorodibromomethane (HM)(4) Hexachlorobutadiene(4)	0.45	50	
Hexachlprocyclopentadiene	206	17400	
	200		
Isophorone	5200	520000	
Nitrobenzene	17	1900	
2,4-Dinitrophenol	70	14300	
4,6-Dinitro-o-cresol	13.4	765	
(4,6-pinitro-2-methylphenol)			
N-Nitrosodimethylamine ⁽⁴⁾	0.0014	16	
N-Nitrosodiphenylamine(4)	4.9	16.1	
Pentachlorophenol	1010		
Phenol	3500	4600000	
Bis(2-ethylhexyl)phthalate(4)	15000	50000	
Di-n-butyl phthlate	34000	154000	
Diethyl phthalate	350000	1800000	
Dimethyl phthlate	313000	2 9 00000	
Benzo(a)anthracene (PAH)(4)	0.0028	0.0311	
(1,2-Benzanthracene)			
Benzo(a)pyrene (PAH)(4)	0.0028	0:0311	
(J.4-Benzopyrene)	0.0000	0 0014	
Benzo(b)fluoranthene (PAH)(4)	0.0028	0.0311	
(3,4-Benzofluoranthene)			
Benzo(k)fluoranthene (PAH)(4)	0.0028	0.0311	
(11,12-Benzofluoranthene)	010010	010511	
(11,12-Benzofluoranthene) Chrysene (PAH)(4)	0.0028	0.0311	
Acenaphthylene (PAH)(4)	0.0028	0.0311	
Anthradene (PAH)(4)	0.0028	0.0311	
Benzo(g,h,1)perylene (PAH)(4)	0.0028	0.0311	
(1,12-Benzoperylene)	• • • • • • • •	· - · · · ·	

.

;

٠

COMMONWEALTH REGISTER VOLUME 13 NO. 09 SEPTEMBER 15, 1991 PAGE 7983

•

•

Ì
٦,
1

Fluorene (PAH)(4) 0.0028 0.0311 Phenanthrene (PAH)(4) 0.0028 0.0311 DiLenzo(a,h)anthrogono (FAH)(c) 0.0028 0.0311 Indeno(1,2,3-cd)pyrene (PAH)(c) 0.0028 0.0311 Tetrachloroethylene(4) 0.8 8.85 Toluene 14300 424000 Trichloroethylene(4) 2.7 80.7 Vinyl chloride(4) 2.0 525 (Chloroethylene) 0.000074 0.000070 Dieldrin(4) 0.000074 0.000076 Chloroethylene(4) 0.000074 0.000024 Aldrin(4) 0.000024 0.000024 Dieldrin(4) 0.000024 0.000024 Diolodzane(4) 0.00024 0.000024 4,4'-DDE(4) 0.00024 0.000024 alpha-Endosulfan 74 159 Endoruin 0.0028 0.00029 alpha-Endosulfan 74 159 Endoruin 0.00028 0.00029 alpha-Endosulfan 0.00028 0.00029 Idpa-HE(4) 0.00028 0.00029 Idpa-HE(4)	Pollutant	Human Hoalth Value Fresh Waters(2) Marine Waters(3)	
DiLewiso(a,h)anthracene) 0.0070 0.0311 Indeno[1,2,3,G-Dibensanthracene) 0.0028 0.0311 Pyrene [PAH](4) 0.0028 0.0311 Tetrachloroethylene(4) 0.8 8.85 Toluene 14300 424000 Trichloroethylene(4) 2.7 80.7 Vinyl chloride(1) 0.000074 0.000070 Dieldrin(4) 0.000074 0.000070 Chlordab(4) 0.000071 0.000076 Chlordab(4) 0.000024 0.000024 4,4'-DDP(4) 0.000024 0.000024 4,4'-DDD(4) 0.000024 0.000024 alpha-Endosulfan 74 159 Endosulfan 74 159 Endosulfan 74 159 Endrin aldehyde 0.2	Fluorene (PAH)(4)	0.0028	
(1,2,5,6-Dibensanthracene) 0.0028 0.0311 Indeno(1,2,3,cd)pyrena (PAH)(c) 0.0028 0.0311 Pyrene PAH)(4) 0.0028 0.0311 Tetrachloroethylene(4) 0.8 8.85 Toluene 14300 424000 Trichloroethylene(4) 2.7 80.7 Vinyl chlordaf(4) 2.0 525 (Chloroethylene) 0.000074 0.000070 Dieldrin(4) 0.000074 0.000076 Chlordane(4) 0.000024 0.000024 Aldrin(4) 0.000024 0.000024 Chlordane(4) 0.000024 0.000024 Aldrin(4) 0.000024 0.000024 Aldrin(4) 0.000024 0.000024 Aldrin(4) 0.000024 0.000024 Aldrin(4) 0.000024 0.000024 Aldrin 159 159 Endrin aldesulfan 74 159 Endrin aldehyde 0.2 - Heptachlor(4) 0.00028 0.00029 Iheptachlor(4) 0.0016 0.0055 Heptachlor(4) 0.0019 0.063 </td <td></td> <td></td> <td>0.0311</td>			0.0311
Tetrachloroethylene ⁽⁴⁾ 0.8 8.85 Toluene 14300 424000 Trichloroethylene ⁽⁴⁾ 2.7 80.7 Vinyl chloride ⁽⁴⁾ 2.0 525 (Chloroethylene ⁾ 0.000074 0.000070 Dieldrin ⁽⁴⁾ 0.000074 0.000076 Chloroethylene ⁾ 0.000071 0.000076 Aldrin ⁽⁴⁾ 0.000024 0.000024 Dieldrin ⁽⁴⁾ 0.000024 0.000024 4,4'-DDE ⁽⁴⁾ 0.000024 0.000024 4,4'-DDD ⁽⁴⁾ 0.000024 0.000024 alpha-Endosulfan 74 159 Endrin 0.2 Endrin 0.2 Endrin 0.00028 0.00029 alpha-Endosulfan 74 159 Endrin 0.016 0.055 (Hextchlorcyclohexane-alpha) 0.00028 0.00029 beta-BHC ⁽⁴⁾ 0.019 0.063 (Hextchlorocyclohexane-beta) 0.016 0.055 (Hextchlorocyclohexane-gamma) 0.019 0.00079 PCB 1242 (Arochlor 1242) ⁽⁴⁾ 0.0000	(1,2,5,6-Dibensanthracene)		0.0311
Toluenei 14300 424000 Trichloroethylene(4) 2.7 80.7 Vinyl chloride(4) 2.0 525 (Chloroethylene) 0.000074 0.000070 Dieldrin(4) 0.000071 0.000076 Diodane(4) 0.000046 0.00048 4.4'-DDE(4) 0.000024 0.000024 4.4'-DDE(4) 0.000024 0.000024 4.4'-DDD(4) 0.000024 0.000024 alpha-Endosulfan 74 159 beta-Endosulfan 74 159 Endosulfan sulfate 74 159 Endrin aldehyde 0.2 - Heptachlor (4) 0.00028 0.00029 alpha-BHC(4) 0.00028 0.00029 alpha-BHC(4) 0.016 0.055 (Hexachlorocyclohexane-alpha) 0.016 0.055 beta-BHC(4) 0.00079 0.00079 gamma-BHC (Lindane)(4) 0.00079 0.00079 PCB 1242 (Arochlor 1242)(4) 0.000079 0.00079 PCB-1254 (Arochlor 1242)(4) 0.000079 0.000079 PCB-1242 (Arochlor 1244)(4) <td>Indeno(1.2.3-cd)pyrene (PAH)(c) Pyrene [PAH)(4)</td> <td></td> <td></td>	Indeno(1.2.3-cd)pyrene (PAH)(c) Pyrene [PAH)(4)		
Trichloroethylene(4) 2.7 80.7 Vinyl chloride(4) 2.0 525 (Chloroethylene) 0.000074 0.000070 Dieldrin(4) 0.000074 0.000076 Dieldrin(4) 0.000074 0.000076 Chloroethylene) 0.000074 0.000076 Dieldrin(4) 0.000024 0.000024 4.4'-DDT(4) 0.000024 0.000024 4.4'-DDD(4) 0.000024 0.000024 alpha-Endosulfan 74 159 beta-Endosulfan 74 159 Endrin 0.2 - Endrin aldehyde 0.2 - Heptachlor (4) 0.00028 0.00029 0.0028 0.00029 0.031 (Hexachlorocyclohexane-alpha) 0.016 0.055 (Hexachlorocyclohexane-beta) 0.019 0.063 gamma-BHC (Lindane)(4) 0.000079 0.000079 PCB-1224 (Arochlor 1242)(4) 0.000079 0.000079 PCB-1224 (Arochlor 1242)(4) 0.000079 0.000079 PCB-1224 (Arochlor 1248)(4) 0.000079 0.000079	Tetrachloroethylene ⁽⁴⁾		
Vinyl chlorida ⁽⁴⁾ 2.0 525 (chloridathylene) 0.000074 0.000070 Dieldrin ⁽⁴⁾ 0.000071 0.000070 Dieldrin ⁽⁴⁾ 0.000071 0.000076 Chloridane ⁽⁴⁾ 0.000024 0.000024 4,4'-DDT ⁽⁴⁾ 0.000024 0.000024 4,4'-DDE ⁽⁴⁾ 0.000024 0.000024 4,4'-DDD ⁽⁴⁾ 0.000024 0.000024 alpha-Endosulfan 74 159 Endrin 0.2 - Endrin 0.2 - Endrin 0.2 - Endrin 0.00028 0.00029 alpha-EHC ⁽⁴⁾ 0.00028 0.00029 Heptachlor (4) 0.0016 0.055 (Hexachlorocyclohexane-alpha) 0.019 0.063 beta-BHC ⁽⁴⁾ 0.00079 0.00079 (Hexachlorocyclohexane-gamma) 0.00079 0.00079 PCB 1242 (Arochlor 1242) ⁽⁴⁾ 0.000079 0.000079 PCB-1254 (Arochlor 1242) ⁽⁴⁾ 0.000079 0.000079 PCB-1222 (Arochlor 1232) ⁽⁴⁾ 0.000079 0.000079 PCB-12	Toluene		
(Chlorothylene) Aldrin (4) 0.000074 0.000070 Dieldrin (4) 0.000071 0.000076 Chlordane (4) 0.00046 0.00048 (4'-DDT (4) 0.000024 0.000024 4,4'-DDE (4) 0.000024 0.000024 4,4'-DDE (4) 0.000024 0.000024 alpha-Endosulfan 74 159 beta-Endosulfan sulfate 74 159 Endrin aldehyde 0.2 - Heptachlor (4) 0.00028 0.00029 Heptachlor (4) 0.00028 0.00029 Ichexachlorocyclohexane-alpha) 0.016 0.055 (Hexachlorocyclohexane-beta) 0.019 0.063 gamma-BHC (Lindane) (4) 0.00079 0.00079 PCB 1242 (Arochlor 1242) (4) 0.00079 0.00079 PCB-1254 (Arochlor 1242) (4) 0.00079 0.00079 PCB-1222 (Arochlor 1248) (4) 0.00079 0.00079 PCB-1232 (Arochlor 1248) (4) 0.000079 0.000079 PCB-1232 (Arochlor 1248) (4) 0.000079 0.000079 PCB-1246 (Arochlor 1248) (4) 0.000079 0.00007	Trichloroethylene		-
Dieldrin ⁽⁴⁾ 0.000071 0.000076 Chlordane ⁽⁴⁾ 0.000024 0.000024 4,4'-DDT ⁽⁴⁾ 0.000024 0.000024 4,4'-DDE ⁽⁴⁾ 0.000024 0.000024 4,4'-DDD ⁽⁴⁾ 0.000024 0.000024 4,4'-DDD ⁽⁴⁾ 0.000024 0.000024 alpha-Endosulfan 74 159 beta-Endosulfan sulfate 74 159 Endrin aldehyde 0.2 - Heptachlor ⁽⁴⁾ 0.00028 0.00029 Ihexachlorcyclohexane-alpha) 0.0016 0.0029 beta-BHC ⁽⁴⁾ 0.016 0.055 (Hexachlorcyclohexane-beta) 0.019 0.00079 gamma-BHC (Lindane) ⁽⁴⁾ 0.000079 0.000079 PCB 1242 (Arochlor 1242) ⁽⁴⁾ 0.000079 0.000079 PCB-1254 (Arochlor 1254) ⁽⁴⁾ 0.000079 0.000079 PCB-1232 (Arochlor 1242) ⁽⁴⁾ 0.000079 0.000079 PCB-1248 (Arochlor 1248) ⁽⁴⁾ 0.000079 0.000079 PCB-1260 (Arochlor 1260) ⁽⁴⁾ 0.000079 0.000079 PCB-1260 (Arochlor 1260) ⁽⁴⁾ 0.000079 0.000079	(Chloroethylene)	2.0	525
Chlordahe ⁽⁴⁾ 0.00046 0.00048 4,4'-DDT ⁽⁴⁾ 0.000024 0.000024 4,4'-DDD ⁽⁴⁾ 0.000024 0.000024 4,4'-DDD ⁽⁴⁾ 0.000024 0.000024 alpha-Endosulfan 74 159 beta-Endosulfan 74 159 Endosulfan sulfate 74 159 Endrin 0.2 - Endrin 0.00028 0.00029 alpha-Endocyclohexane-alpha) 0.00028 0.00029 Alpha-EndC ⁽⁴⁾ 0.00028 0.00029 Heptachlor (epoxide ⁽⁴⁾ 0.016 0.055 (Hexachlorocyclohexane-alpha) 0.016 0.055 beta-BHC ⁽⁴⁾ 0.00079 0.00079 gamma-HEC (Lindane) ⁽⁴⁾ 0.000079 0.00079 PCB 1242 (Arochlor 1242) ⁽⁴⁾ 0.000079 0.000079 PCB-1254 (Arochlor 1254) ⁽⁴⁾ 0.000079 0.000079 PCB-1221 (Arochlor 1221) ⁽⁴⁾ 0.000079 0.000079 PCB-1232 (Arochlor 1248) ⁽⁴⁾ 0.000079 0.000079 PCB-1248 (Arochlor 1248) ⁽⁴⁾ 0.000079 0.000079 PCB-1260 (Arochlor 1246) ⁽⁴⁾ </td <td>Aldrin⁽⁴⁾</td> <td>0.000074</td> <td>0.000070</td>	Aldrin ⁽⁴⁾	0.000074	0.000070
4,4'-DDT(4) 0.000024 0.000024 4,4'-DDE(4) 0.000024 0.000024 4,4'-DDE(4) 0.000024 0.000024 alpha-Endosulfan 74 159 beta-Endosulfan 74 159 Endosulfan sulfate 74 159 Endosulfan sulfate 74 159 Endrin 0.2 - Endrin aldehyde 0.2 - Heptachlor (4) 0.00028 0.00029 alpha-HHC(4) 0.00028 0.00029 alpha-HHC(4) 0.016 0.055 (Hexachlorocyclohexane-alpha) 0.016 0.055 beta-SHC(1) 0.019 0.00079 gamma-BHC (Lindane)(4) 0.000079 0.000079 PCB-1254 (Arochlor 1242)(4) 0.000079 0.000079 PCB-1254 (Arochlor 1232)(4) 0.000079 0.000079 PCB-1232 (Arochlor 1232)(4) 0.000079 0.000079 PCB-1232 (Arochlor 1248)(4) 0.000079 0.000079 PCB-1232 (Arochlor 1248)(4) 0.000079 0.000079 PCB-1248 (Arochlor 1246)(4) 0.000079 0.000079 </td <td>Dieldrin(4)</td> <td>-</td> <td></td>	Dieldrin(4)	-	
4,4'-DDE(4) 0.000024 0.000024 alpha-Endosulfan 74 159 beta-Endosulfan 74 159 Endosulfan sulfate 74 159 Endosulfan sulfate 74 159 Endosulfan sulfate 74 159 Endrin 0.2 - Endrin 0.00028 0.00029 Heptachlor (4) 0.00028 0.00029 Heptachlor epoxide(4) 0.0092 0.031 (Hexachlorocyclohexane-alpha) 0.016 0.055 (Hexachlorocyclohexane-beta) 0.019 0.063 gamma-BHC (Lindane)(4) 0.000079 0.000079 PCB 1242 (Arochlor 1242)(4) 0.000079 0.000079 PCB-1254 (Arochlor 1242)(4) 0.000079 0.000079 PCB-1221 (Arochlor 124)(4) 0.000079 0.000079 PCB-1232 (Arochlor 1232)(4) 0.000079 0.000079 PCB-1232 (Arochlor 1248)(4) 0.000079 0.000079 PCB-1248 (Arochlor 1248)(4) 0.000079 0.000079 PCB-1260 (Arochlor 1260)(4) 0.000079 0.000079 PCB-1260 (Arochlor 1260)(4)	Chlordane (*)	-	
4,4'-DDD ⁽⁴⁾ 0.000024 0.000024 alpha-Endosulfan 74 159 beta-Endosulfan 74 159 Endosulfan sulfate 74 159 Endrin 0.2 - Endrin 0.2 - Endrin 0.00028 0.00029 Heptachlor (4) 0.00028 0.00029 alpha-BHC (4) 0.0092 0.031 (Hexachlorocyclohexane-alpha) 0.016 0.055 beta-BHC (4) 0.016 0.055 (Hexachlorocyclohexane-beta) 0.00079 0.000079 gamma-BHC (Lindane) (4) 0.000079 0.000079 PCB 1242 (Arochlor 1242) (4) 0.000079 0.000079 PCB-1254 (Arochlor 1254) (4) 0.000079 0.000079 PCB-1221 (Arochlor 1221) (4) 0.000079 0.000079 PCB-1232 (Arochlor 1232) (4) 0.000079 0.000079 PCB-1232 (Arochlor 1248) (4) 0.000079 0.000079 PCB-1260 (Arochlor 1248) (4) 0.000079 0.000079 PCB-1260 (Arochlor 1260) (4) 0.000079 0.000079 PCB-1260 (Arochlor 1260) (4)	$4, 4 = \mathbf{D}\mathbf{D}\mathbf{T}(4)$		
beta-Endosulfan 74 159 Endosulfan sulfate 74 159 Endosulfan sulfate 74 159 Endrin 0.2 - Endrin 0.2 - Endrin 0.00028 0.00029 Heptachlor(4) 0.00028 0.00029 alpha-BHC(4) 0.0092 0.031 (Hexachlorocyclohexane-alpha) 0.016 0.055 beta-BHC(4) 0.016 0.055 (Hexachlorocyclohexane-beta) 0.019 0.063 gamma-BHC (Lindane)(4) 0.000079 0.000079 PCB 1242 (Arochlor 1242)(4) 0.000079 0.000079 PCB-1254 (Arochlor 1254)(4) 0.000079 0.000079 PCB-1221 (Arochlor 1221)(4) 0.000079 0.000079 PCB-1232 (Arochlor 1232)(4) 0.000079 0.000079 PCB-1248 (Arochlor 1248)(4) 0.000079 0.000079 PCB-1260 (Arochlor 1260)(4)	4,4'-DDD(4)		
Endrin 0.2 - Endrin aldehyde 0.2 Heptachlor(4) 0.00028 0.00029 Heptachlor epoxide(4) 0.00028 0.00029 alpha-BHC(4) 0.0092 0.031 (Hexachlorocyclohexane-alpha) 0.016 0.055 beta-BHC(4) 0.016 0.063 (Hexachlorocyclohexane-beta) 0.019 0.063 (Hexachlorocyclohexane-gamma) 0.019 0.00079 PCB 1242 (Arochlor 1242)(4) 0.000079 0.000079 PCB-1254 (Arochlor 1254)(4) 0.000079 0.000079 PCB-1221 (Arochlor 1221)(4) 0.000079 0.000079 PCB-1232 (Arochlor 1232)(4) 0.000079 0.000079 PCB-1248 (Arochlor 1248)(4) 0.000079 0.000079 PCB-1260 (Arochlor 1260)(4) 0.000079 0.000079 <td>beta-Endosulfan</td> <td>74</td> <td>159</td>	beta-Endosulfan	74	159
Endrin aldehyde 0.2 Heptachlor(4) 0.00028 0.00029 Heptachlor epoxide(4) 0.00028 0.00029 alpha-BHC(4) 0.0092 0.031 (Hexachlorocyclohexane-alpha) 0.016 0.055 beta-BHC(4) 0.016 0.055 (Hexachlorocyclohexane-beta) 0.019 0.063 gamma-BHC (Lindane)(4) 0.000079 0.000079 PCB 1242 (Arochlor 1242)(4) 0.000079 0.000079 PCB-1254 (Arochlor 1254)(4) 0.000079 0.000079 PCB-1221 (Arochlor 1221)(4) 0.000079 0.000079 PCB-1222 (Arochlor 1232)(4) 0.000079 0.000079 PCB-1232 (Arochlor 1232)(4) 0.000079 0.000079 PCB-1248 (Arochlor 1248)(4) 0.000079 0.000079 PCB-1260 (Arochlor 1260)(4) 0.000079 0.000079 PCB-1260 (Arochlor 1260)(4) 0.000079 0.000079 PCB-1260 (Arochlor 1260)(4) 0.000079 0.000079 PCB-1260 (Arochlor 1016)(4) 0.000079 0.000079			159
Heptachlor ⁽⁴⁾ 0.00028 0.00029 Heptachlor epoxide ⁽⁴⁾ 0.00028 0.00029 alpha-BHC ⁽⁴⁾ 0.0092 0.031 (Hexachlorocyclohexane-alpha) 0.016 0.055 beta-BHC ⁽⁴⁾ 0.016 0.055 (Hexachlorocyclohexane-beta) 0.019 0.063 gamma-BHC (Lindane) ⁽⁴⁾ 0.000079 0.000079 gtt chlorocyclohexane-gamma) 0.000079 0.000079 PCB 1242 (Arochlor 1242) ⁽⁴⁾ 0.000079 0.000079 PCB-1254 (Arochlor 1254) ⁽⁴⁾ 0.000079 0.000079 PCB-1221 (Arochlor 1221) ⁽⁴⁾ 0.000079 0.000079 PCB-1232 (Arochlor 1232) ⁽⁴⁾ 0.000079 0.000079 PCB-1248 (Arochlor 1248) ⁽⁴⁾ 0.000079 0.000079 PCB-1260 (Arochlor 1260) ⁽⁴⁾ 0.000079 0.000079 PCB-1260 (Arochlor 1260) ⁽⁴⁾ 0.000079 0.000079 PCB-1260 (Arochlor 1260) ⁽⁴⁾ 0.000079 0.000079 PCB-1016 (Arochlor 1016) ⁽⁴⁾ 0.000079 0.000079			
Heptachlor epoxide (4) 0.00028 0.00029 alpha-BHC (4) 0.0092 0.031 (Hexachlorocyclohexane-alpha) 0.016 0.055 beta-BHC (4) 0.016 0.055 (Hexachlorocyclohexane-beta) 0.019 0.063 gamma-BHC (Lindane) (4) 0.019 0.00079 gamma-BHC (Lindane) (4) 0.000079 0.000079 PCB 1242 (Arochlor 1242) (4) 0.000079 0.000079 PCB-1254 (Arochlor 1254) (4) 0.000079 0.000079 PCB-1221 (Arochlor 1221) (4) 0.000079 0.000079 PCB-1232 (Arochlor 1232) (4) 0.000079 0.000079 PCB-1248 (Arochlor 1248) (4) 0.000079 0.000079 PCB-1260 (Arochlor 1260) (4) 0.000079 0.000079 PCB-1260 (Arochlor 1260) (4) 0.000079 0.000079 PCB-1016 (Arochlor 1016) (4) 0.000079 0.000079	, -	0.2	
Heptachlor epoxide (4) 0.00028 0.00029 alpha-BHC (4) 0.0092 0.031 (Hexachlorocyclohexane-alpha) 0.016 0.055 beta-BHC (4) 0.016 0.055 (Hexachlorocyclohexane-beta) 0.019 0.063 gamma-BHC (Lindane) (4) 0.019 0.00079 gamma-BHC (Lindane) (4) 0.000079 0.000079 PCB 1242 (Arochlor 1242) (4) 0.000079 0.000079 PCB-1254 (Arochlor 1254) (4) 0.000079 0.000079 PCB-1221 (Arochlor 1221) (4) 0.000079 0.000079 PCB-1232 (Arochlor 1232) (4) 0.000079 0.000079 PCB-1248 (Arochlor 1248) (4) 0.000079 0.000079 PCB-1260 (Arochlor 1260) (4) 0.000079 0.000079 PCB-1260 (Arochlor 1260) (4) 0.000079 0.000079 PCB-1016 (Arochlor 1016) (4) 0.000079 0.000079	Heptachlor ⁽⁴⁾		
(Hexachlorocyclohexane-alpha) beta-BHC ⁽⁴⁾ 0.016 0.055 (Hexachlorocyclohexane-beta) 0.019 0.063 gamma-BHC (Lindane) ⁽⁴⁾ 0.000079 0.000079 (Hexachlorocyclohexane-gamma) 0.000079 0.000079 PCB 1242 (Arochlor 1242) ⁽⁴⁾ 0.000079 0.000079 PCB-1254 (Arochlor 1254) ⁽⁴⁾ 0.000079 0.000079 PCB-1221 (Arochlor 1221) ⁽⁴⁾ 0.000079 0.000079 PCB-1232 (Arochlor 1232) ⁽⁴⁾ 0.000079 0.000079 PCB-1232 (Arochlor 1232) ⁽⁴⁾ 0.000079 0.000079 PCB-1248 (Arochlor 1248) ⁽⁴⁾ 0.000079 0.000079 PCB-1260 (Arochlor 1260) ⁽⁴⁾ 0.000079 0.000079 PCB-1016 (Arochlor 1016) ⁽⁴⁾ 0.000079 0.000079	Heptachlor epoxide 4/		
beta-BHC (4) 0.016 0.055 (Hexachlorocyclohexane-beta) 0.019 0.063 (Hexachlorocyclohexane-gamma) 0.000079 0.000079 PCB 1242 (Arochlor 1242)(4) 0.000079 0.000079 PCB-1254 (Arochlor 1254)(4) 0.000079 0.000079 PCB-1221 (Arochlor 1221)(4) 0.000079 0.000079 PCB-1232 (Arochlor 1221)(4) 0.000079 0.000079 PCB-1232 (Arochlor 1232)(4) 0.000079 0.000079 PCB-1248 (Arochlor 1248)(4) 0.000079 0.000079 PCB-1260 (Arochlor 1260)(4) 0.000079 0.000079 PCB-1260 (Arochlor 1260)(4) 0.000079 0.000079 PCB-1016 (Arochlor 1016)(4) 0.000079 0.000079	alpha-BHC'*/ (Hexachlorocyclohexane-alpha)	0.0092	0.031
gamma-BHC (Lindane)(4)0.0190.063(Hexachlorocyclohexane-gamma)0.0000790.000079PCB 1242 (Arochlor 1242)(4)0.0000790.000079PCB-1254 (Arochlor 1254)(4)0.0000790.000079PCB-1221 (Arochlor 1221)(4)0.0000790.000079PCB-1232 (Arochlor 1232)(4)0.0000790.000079PCB-1248 (Arochlor 1248)(4)0.0000790.000079PCB-1260 (Arochlor 1260)(4)0.0000790.000079PCB-1016 (Arochlor 1016)(4)0.0000790.000079	beta-BHC(4)	0.016	0.055
PCB 1242 (Arochlor 1242)(4) 0.000079 0.000079 PCB-1254 (Arochlor 1254)(4) 0.000079 0.000079 PCB-1251 (Arochlor 1221)(4) 0.000079 0.000079 PCB-1232 (Arochlor 1232)(4) 0.000079 0.000079 PCB-1248 (Arochlor 1248)(4) 0.000079 0.000079 PCB-1260 (Arochlor 1260)(4) 0.000079 0.000079 PCB-1260 (Arochlor 1260)(4) 0.000079 0.000079 PCB-1016 (Arochlor 1016)(4) 0.000079 0.000079	gamma-BHC (Lindane)(4)	0.019	0.063
PCB-1254 (Arochlor 1254)(4)0.0000790.000079PCB-1221 (Arochlor 1221)(4)0.0000790.000079PCB-1232 (Arochlor 1232)(4)0.0000790.000079PCB-1248 (Arochlor 1248)(4)0.0000790.000079PCB-1260 (Arochlor 1260)(4)0.0000790.000079PCB-1016 (Arochlor 1016)(4)0.0000790.000079	(Hexachlorocyclohexane-gamma)		
PCB-1221 (Arochlor 1221)(4)0.0000790.000079PCB-1232 (Arochlor 1232)(4)0.0000790.000079PCB-1248 (Arochlor 1248)(4)0.0000790.000079PCB-1260 (Arochlor 1260)(4)0.0000790.000079PCB-1016 (Arochlor 1016)(4)0.0000790.000079			
PCB-1232 (Arochlor 1232)(4)0.0000790.000079PCB-1248 (Arochlor 1248)(4)0.0000790.000079PCB-1260 (Arochlor 1260)(4)0.0000790.000079PCB-1016 (Arochlor 1016)(4)0.0000790.000079	PUB-1254 (Arochior 1254))*/		
PCB-1248 (Arochlor 1248)(4)0.0000790.000079PCB-1260 (Arochlor 1260)(4)0.0000790.000079PCB-1016 (Arochlor 1016)(4)0.0000790.000079	$\frac{1}{2} \frac{1}{2} \frac{1}$	· · ·	· · · · ·
PCB-1260 (Arochlor 1260)(4) 0.000079 0.000079 PCB-1016 (Arochlor 1016)(4) 0.000079 0.000079	$\frac{1}{2} \frac{1}{2} \frac{1}$		
PCB-1016 (Arochlor 1016) ⁽⁴⁾ 0.000079 0.000079	$\frac{1}{240} \left(\frac{1}{4} - \frac{1}{240} \right) \left(\frac{1}{4} - \frac{1}{240} \right) \left(\frac{1}{4} \right)$		
Toxaphene ⁽⁴⁾ 0.00071 0.00073	PCB-1016 (Arochlor 1016)(4)		
	Toxaphene ⁽⁴⁾	0.00071	0.00073

.

ĺ

(

.

	Human Health Value		
Pollutant	Fresh Waters(2)	Marine Waters(3)	
8 mh i monst	145	45000	
Antimony Arsenia(4)	0.002	0.017	
Arbertos	30000 fiborc/1		
Beryllium(4)	0.0075	0.131	
Cadmium	10	-	
Chromium (III)	50	3433000	
Chromium (VI)	50	-	
Cyanide (total)	200	-	
Lead	50	· · · · · · · · · · · · · · · · · · ·	
Mercury	0.144	0.146	
Nickel	13.4	100	
Selenium	10	· -	
Silver	50		
Thallium	13	48	
Dioxin (2,3,7,8-TCDD)(4)	0.00000013	0.00000014	

(1) THE VALUES GIVEN IN THIS TABLE REFER TO THE TOTAL RECOVERABLE (DISSOLVED PLUS SUSPENDED) AMOUNT OF EACH SUBSTANCE. EXCEPT FOR ASBESTOS, ALL CRITERIA ARE LISTED AS MICROGRAMS PER LITER (UG/L).

(2) THE FRESH WATER VALUES APPLY TO ALL SURFACE FRESH WATERS AND ARE BASED ON TWO ROUTES OF EXPOSURE - INGESTION OF CONTAMINATED AQUATIC ORGANISMS AND DRINKING WATER.

(3) THE MARINE WATER VALUES APPLY TO ALL SURFACE MARINE WATERS AND ARE BASED ON ONE ROUTE OF EXPOSURE - INGESTION OF CONTAMINATED AQUATIC ORGANISMS ONLY.

(4) SUBSTANCE CLASSIFIED AS A CARCINOGEN WITH THE VALUE BASED ON AN INCREMENTAL RISK OF ONE ADDITIONAL INSTANCE OF CANCER IN ONE MILLION PERSONS.

PUBLIC NOTICE

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENTAL SERVICES

PROPOSED AMENDMENT TO DRINKING WATER REGULATIONS FOR PUBLIC LAW 1-8 AND PUBLIC LAW 3-23

The Director of the Department of Public Health and Environmental Services, of the Commonwealth of the Northern Mariana Islands (CNMI), in accordance with Public Law 1-8 and Public Law 3-23, is proposing amendments to the existing CNMI Drinking Water Regulations. These changes conform with the requirements imposed on the Commonwealth in the federal Safe Drinking Water Act. These proposed changes restructure the Commonwealth Drinking Water Regulations in order to make the regulations more readable and easier to understand. The proposed amendments also establish additional minimum drinking water standards. These standards set limits on the amounts of various substances sometimes found in drinking water.

The proposed amendments include changes to the sections of the drinking water regulations pertaining to Public Notification and the standard for Fluoride. New drinking water standards are proposed for Trihalomethanes (THMs), and the Volatile Organic Chemicals (VOCs) which include a number of unregulated contaminants.

Copies of the proposed amendments to the Drinking Water Regulations are available and may be obtained from the Department of Public Health and Environmental Services, Division of Environmental Quality, located at Dr. Torres Hospital, Saipan, MP 96950. Anyone interested in commenting on the proposed amendments of the regulations may submit comments in writing to the Chief, Division of Environmental Quality, Post Office Box 1304, Old Dr. Torres Hospital, As Terlaje Area, Saipan, MP 96950, not later than thirty (30) days from the date of publication of this notice in the Commonwealth Register.

Date:

9/3/91

DR. FOSE L. CHONG, Director Department of Public Health and Environmental Services

NOTISIAN PUPBLIKU

DEPATTAMENTON HINEMLON PUBLIKU YAN ENVIRONMENTAL SERVICES

I MANMAPROPOPONI NA AMENDASION GI REGULASION PUT I HANOM SIHA NI MANMAGIGIMEN LAI PUPBLIKU NUMIRU 1-8 YAN 3-23

I Direktot i Depattamenton Hinemlo Pupbliku yan Environmental Services, i Commonwealth of the Northern Mariana Islands (CNMI), sigon gi Lai Pupbliku Numiru 1-8 yan i Lai Pupbliku Numiru 3-23, ha propoponi mama'tinas amendasion gi i eksisiste na regulasion i CNMI put hanom siha ni manmagigimen, osiono i CNMI Drinking Water Regulations. Este siha na tinilaika mangonfotme yan i nisisario siha na kondision ni ma'engganu i Commonwealth gi halom i Safe Drinking Water Act ginen i Gobetnamenton Federat. I manmapropoponi siha na tinilaika para u agon umotganinisa i regulasion ni para u fanlibianu mas ma taitai yan ma komprende. Este siha na amendasion para u establesi lokkue' unos kuanto ta'lo mas na minimum standards para i hanom siha ni manmagigimen. I standards para u establesi i miden i tutat substances ni manmassosodda' gi halom i hanom siha ni manmagigimen.

I manmapropoponi na amendasion ha engkluklusu tinilaika gi i seksiona put nutisian pupbliku yan i standard para i flouride gi regulasion put i hanom siha ni manmagigimen. Guaha nuebo na standards para i hanom siha ni manmagigimen manmapropoponi para Trihalomethanes (THMs), yan i Volatile Organic Chemicals (VOCs) ni ha engkluklusu unos kuantos siha na bakteria ni manai regulasion para pruteksion taotao.

Kopia siha para i manmapropoponi na amendasion gi Regulasion i Hanom siha ni Manmagigimen sina manmachuchule' ginen i Depattamenton Hinemlon Pupbliko yan Environmental Services, Division of Environmental Quality, gi hagas Dr. Torres Hospital, Saipan, MP 96950. Interesante siha na petsona ni manmalago' manmama'tinas komento siha put i manmapropoponi na amendasion sina mana'halom komento siha gi tinige' guato gi Chief, Division of Environmental Quality, Post Office Box 1304, Old Dr. Torres Hospital, As Terlaje Area, Saipan, MP 96950, sin mas di treta (30) dias despues di i fecha ni mapupblika este na nutisia gi halom i Rehistran Commonwealth.

9/10/91 Fecha:

DR. JOSE L. CHONG, Direktot **Depattamenton Hinemlo Publiku**

yan Environmental Services

ARONGORONGOL TOWLAP

BWULASIYOOL PUBLIC HEALTH ME ENVIRONMENTAL SERVICES

MWÓGHÚTÚGHÚTÚL FFÉÉRÚL LLIIWEL LLÓL ALLÉGHÚL DRINKING WATER EBWE ATOTOOLONG LLOL ALLÉGHÚL TOWLAP (PUBLIC LAW) YE 1-8 ME ALLÉGHÚL TOWLAP YE 3-23

Direktoodul Bwulasiyool Public Health me Environmental Services, mellol Commonwealth of the Northern Mariana Islands (CNMI), reel ailééwal me bwángil Alleghúl Towlap (Public Law) ye 1-8 meiye 3-23, nge ekkwe mángiiy bwe ebwe ayoora lliiwel reel Alléghúl schaal kka si ghal úlúmi mellól CNMI. Lliiwel kkaal nge ebwe tabweey mwóghutughutul mille Safe Drinking Water Act, iye e bwal toolong Commonwealth llól. Rebwe liwiliiló ehgús ówutol bwe ebwe méschérágh ngáliir aramas rebwe ghuleey me metaf reel. E pwal toolong mille rebwe fischáli safety kka re ghal tola ngáli iye eyoor igha si ghal schuungi.

Lliiwel kka re bwal kke mangiiy nge e pawal yoor lliwel mellól section we e apasaawow igha re arongaar towlap (Public Notification) me standard-il Fluoride. Allegh ye e ffeeta nge ekke tingor bwe ebwe toolong mille Trihalomethanes (THMs), me Volatile Organic Chemicals (VOCs0 ikka eyoor unregulated contaminants llol.

Koopiyal lliwelil Allégh ye reel Scchall Kka Si ghal úlúmil nge emmwel schagh bwe aramas ebwe ló bweibwogh mellól Bwulasiyool Public Health me Environmental Services, Division of Environmental Quality, iye elo fasúl Dr. Torres Hospital, Saipan, MP 96950. Aramas ye e tipáli nge emmwel schagh bwe ebwee ischiitiw meta mángemángil reel allégh kkaal, nge raa afanga ngáli Chief, Division of Environmental Quality, Post Office Box 1304, Old Dr. Torres Hospital, As Terlaje Area, Saipan, MP 96950, essobw aluuw sangi eliigh (30) rál sángi igha e toowow arongorong yeel mellól Commonwealth Register.

Ral: Alla

Kanken

DR. JOSE L. CHONG, Direktoodul Bwulasiyool Public Health me Environmental Services

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

DRINKING WATER REGULATIONS

CONTENTS

PART 1 GENERAL PROVISIONS 1.1 Authority

- PART 2 PURPOSE
- PART 3 DEFINITIONS

PART 4 SITING AND DESIGN REVIEW REQUIREMENTS

- 4.1 Siting Requirements and Notification of Intent
- Design and Construction Review Requirements 4.2
- 4.3 Emergency Permits

PART 5 DRINKING WATER QUALITY STANDARDS

- Identification of Supplies of Water 5.1
- 5.2 Drinking Water Quality Control
- Microbiological Contaminants 5.3
 - 5.3.1 Microbiological Contaminant Sampling and Analytical Requirement
 - 5.3.2 Maximum Microbiological Contaminant Levels
- 5.4 Turbidity
 - 5.4.1 Maximum Contaminant Level for Turbidity
 - Turbidity Sampling and Analytical Requirements 5.4.2
- Inorganic Chemicals and Physical Characteristics 5.5
 - 5.5.1 Maximum Contaminant Levels for Inorganic Chemicals
 - 5.5.2 Inorganic Chemical Sampling and Analytical Requirements
 - 5.5.3 Special Monitoring for Sodium
 - **5.5.4** Special Monitoring for Corrosivity Characteristics
 - 5.5.5 Prohibition on Use of Lead Pipes, Solder, and Flux 5.5.6 Secondary Maximum Contaminant Levels (SMCLs)
- 5.6 Organic Chemicals other than Total Trihalomethanes (TIMS) and Volatile Organic Chemicals (VOCs)
 - 5.6.1 Maximum Contaminant Levels for Organic Chemicals other than TTHMs and VOCs
 - Organic Chemicals other than TTHMs and VOCs 5.6.2 Sampling and Analytical Requirements
- 5.7 Total Trihalomethanes
 - 5.7.1 Maximum Contaminant Level for Total
 - Trihalomethanes
 - Total Trihalomethanes Sampling and Analytical 5.7.2 Requirements
- **5.8** Volatile Organic Chemicals (VOCs)
 - 5.8.1 Maximum Contaminant Levels for VOCs
 - **5.8.2** Volatile Organic Chemicals Sampling and Analytical Requirements

COMMONWEALTH REGISTER VOLUME 13 NO. 09 SEPTEMBER 15, 1991 PAGE 7989

Unregulated Organic Chemicals - Special Sampling 5.8.3 Requirements

5.8.4 Use of Non-centralized Treatment Devices Radionuclides

- 5.9
 - 5.9.1 Maximum Contaminant Levels for Radionuclides
 - 5.9.2 Radionuclides Sampling and Analytical Requirements
- PART 6 PUBLIC NOTIFICATION
 - 6.1 Maximum Contaminant Level (MCL), Treatment Technique, and Variance and Exemption Schedule Violations
 - Other Violations, Variances, Exemptions 6.2
 - 6.3 Notice of New Billing Units
 - 6.4 General Content of Public Notice
 - 6.5 Mandatory Health Effects Language
 - 6.6 Public Notification for Fluoride
 - 6.7 Public Notification for Unregulated Contaminants
 - 6.8 Public Notification by the Department
- PART 7 APPROVED LABORATORIES, REPORTING, RECORD KEEPING, AND RIGHT OF ENTRY
 - 7.1 Approved Laboratories
 - 7.2 Reporting Requirements
 - 7.3 Record Maintenance
 - 7.4 Right of Entry

PART 8 VARIANCES AND EXEMPTIONS

- 8.1 Variances

 - 8.1.1 Requirements for a Variance
 8.1.2 Variance Request
 8.1.3 Consideration of Variance Request
 - 8.1.4 Disposition of a Variance Request
 - 8.1.5 Public Hearing on Variance, Schedules, and Final Action
- 8.2 Exemptions
 - 8.2.1 Requirements for an Exemption

 - 8.2.2 Exemption Request8.2.3 Consideration of an Exemption Request8.2.4 Disposition of an Exemption Schedule

 - 8.2.5 Public Hearing on Exemption Schedule
 - 8.2.6 Final Schedule
- 8.3 Variances from the Maximum Contaminant Level for Fluoride
- 8.4 Variances and Exemptions from the Maximum Contaminant Levels for Organic Chemicalss

PART 9 SUPPLY OF DRINKING WATER DURING EMERGENCIES

- 9.1 Toxics Contamination
- 9.2 Mechanical Failure and Natural Disaster
- 9.3 Rationing of Water
- PART 10 ENFORCEMENT
 - **10.1** Authority
 - 10.2 Penalties

PART 11 CERTIFICATION

DRINKING WATER REGULATIONS

PART 1 GENERAL PROVISIONS

1.1 Authority and Scope

These regulations have been promulgated by the Department in accordance with the Commonwealth of the Northern Mariana Islands Public Law 1-8. These regulations and technical provisions and specifications to be adopted by the Department from time to time, shall have the force and effect of law and shall be binding on all persons and other legal entities subject to the jurisdiction of the Commonwealth of the Northern Mariana Islands. The Department shall apply these regulations and standards to all public water systems in the Commonwealth.

PART 2 PURPOSE

2.1 The purpose of these regulations and technical provisions and specifications is to establish certain minimum standards and requirements as determined by the Department to be necessary for the public health and safety to insure that public water supply systems are protected against contamination and pollution and do not constitute a health hazard.

PART 3 DEFINITIONS

"Agency" means the U.S. Environmental Protection Agency.

"Agency Regulations" means those regulations promulgated by the U.S. Environmental Protection Agency pursuant to U.S. Public Law 93-523, "The Safe Drinking Water Act".

"Backflow" means the reversed flow of contaminated water or other liquids into the distribution system of a potable water supply.

"Back siphonage" means the reversed flow of liquid caused by a partial vacuum in the potable distribution system.

"Best available Technology" or "BAT" means the best technology, treatment techniques, or other means which the Administrator finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available (taking cost into consideration). For the purposes of setting MCLs for synthetic organic chemicals, any BAT must be at least as effective as granular activated carbon. "Community Water System" means a public water system which serves at least fifteen (15) service connections used by year-round residents, or regularly serves at least twenty-five (25) year-round residents.

"Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

"Cross Connection" means any arrangement of pipes, fittings, fixtures, or devices that connects a nonpotable system to a potable system.

"Department" means the Commonwealth Department of Public Health and Environmental Services.

"Disinfectant" means any oxidant including but not limited to chlorine, chlorine dioxide, chloramines, and ozone added to water in any part of the treatment or distribution process, that is intended to kill or inactivate pathogenic microorganisms.

"Dose Equivalent" means the product of the absorbed dose from ionizing radiation and such factors as account for differences in biological effectiveness due to the type of radiation and its distribution in the body as specified in the International Commission on Radiological Units and Measurements (ICRU).

"Drinking Water Quality Standards" or "Standards" means those primary or secondary drinking water regulations as defined in the CNMI Environmental Protection Act of 1982, or the Environmental Quality Protection Agency Act of the Trust Territory (63 TTC Sections 501-509), whichever is in effect.

"Gross Alpha Particle activity" means the total radioactivity due to alpha particle emission as inferred from measurements on a dry sample.

"Gross Beta Particle Activity" means the total radioactivity due to beta emission as inferred from measurements on a dry sample.

"Halogen" means one of the chemical elements chlorine, bromine or iodine.

"Man-made Beta Particle and Photon Emitters" means all radionuclides emitting beta particles and/or photons listed in Maximum Permissible Body Burdents and Maximum Permissible Concentration of Radionuclides in Air or Water for Occupational Exposure, NBS Handbook 69, except the daughter products of thorium-232, uranium-235 and uranium-238. "Maximum Contaminant Level (MCL)" means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system, except in the case of turbidity, where the maximum permissible level is measured at the point of entry to the distribution system. contaminants added to the water under circumstances controlled by the user, except those resulting from corrosion of piping and plumbing caused by water quality, are excluded from this definition.

"Maximum Total Trihalomethane Potential (MTP)" means the maximum concentration of total trihalomethanes produced in a give water containing a disinfectant residual after 7 days at a temperature of 25 degrees C or above.

"Non-Community Water System" means a public water system that is not a community water system.

"Non-transient non-community water system or "NTNCWS" means a public water system that is not a community water system and that regularly serves at least 25 of the same persons over 8 months per year.

"Performance evaluation sample" means a reference sample provided to a laboratory for the purpose of demonstrating that the laboratory can successfully analyze the sample within limits of performance specified by the Agency. The true value of the concentration of the reference material is unknown to the laboratory at the time of analysis.

"Person" means the Commonwealth, Federal Government, or any agency or institution thereof, municipality, political subdivision, public or private corporation, individual partnership, association, cooperative association, common carrier, or other entity, and includes any officer or governing or managing body of any municipality, political subdivision, public or private corporation, association, or cooperative association.

"Picocurie (pCi)" means that quantity of radioactive material producing 2.22 nuclear transformations per minute.

"Point-of-use treatment device" is a treatment device applied to a single tap used for the purpose of reducing contaminants in drinking water at that one tap.

"Potable Water" means water is of a quality that meets the requirements of these regulations.

"Public Water System" means a system for the provision to the public of water through a pipe or pipes, faucet(s) and/or valve(s)

for human consumption, if such system has at least fifteen (15) service connections, or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes (1) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and, (2) any collections or pre-treatment storage facilities not under such control which are used primarily in connections with such system. A public water system is either a "community water system", a "non-community water system", or a "non-transient noncommunity water system".

"REM" means the unit dose equivalent form ionizing radiation to the total body or any internal organ or organ system. A "Millirem (mrem) " is 1/1000 of a rem.

"Sanitary Survey" means an on-site review of the water source, facilities, equipment, operation and maintenance of public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water.

"Secondary Maximum Contaminant Level (SMCL) means a non enforceable guideline related to taste, odor, or color, as well as certain other non-aesthetic effects, of drinking water.

"Standard Sample" means the aliquot of finished drinking water that is examined for the presence of coliform bacteria.

"Supplier of Water" means any person who owns or operates a public water system.

"Total trihalomethanes" (TTHM) means the sum of the concentration in milligrams per liter of the trihalomethane compounds (trichloromethane [chloroform], dibromochloremethane, bromodichloromethane and tribromomethane [bromoform], rounded to two significant figures.

"Trihalomethane" (TTHM) means one of the family of organic compounds, name ad derivatives of methane, wherein three of the four hydrogen atoms in methane are each substituted by a halogen atom in the molecular structure.

PART 4 SITING AND DESIGN REVIEW REQUIREMENTS

4.1 <u>Siting Requirements and Notification of Intent</u>

Before a person may enter into a financial commitment for or initiate construction of a new public water system or increase the capacity of or modify an existing public water system, that person shall notify the Department and

submit with such notification a conceptual descriptive plan with appropriate sketches detailing proposed location, water source capacity, budget estimates and other data as described in paragraph 4.2 (a). That person shall, to the extent practicable, avoid locating part or all of the new or expanded facility at a site which:

(a) Is subject to a significant risk from earthquakes, floods, fires, or other disasters which could cause a breakdown of the public water system or portion thereof; or,

(b) Except for intake structures, is within the floodplain of a 100-year flood or is lower than any recorded high tide where appropriate records exist; or,

(c) In the case of a roof catchment, where reasonable consideration has not been given to effective typhoonization of buildings, roofs, guttering and other catchment appurtenances.

4.2 Design and Construction Review Requirements

No person shall cause or allow the construction or change of any public water supply, with out approval of final drawings and specifications by the Department. Final drawings and specifications shall be reviewed on the basis that the completed facility will produce water, the quality of which meets the standards prescribed by these regulations. Public water supply installation, change, or addition, shall not include routine maintenance, service pipe connections, hydrants and valves, or replacement of equipment, pipe, and appurtenances with equivalent equipment, pipe, and appurtenances. All work performed on a public water supply shall be in accordance with accepted engineering practices.

(a) Notification of Intent

The notification of intent to construct a new public water supply system or to increase the capacity of an existing public water supply stem as required in paragraph 4.1, shall include the following data and/or information:

(1) Name and address of person who intends to construct or modify public water supply system;

(2) name and address of person who will be the supplier of water to the public;

(3) Location of proposed water source or sources on a 8
 1/2 X 11" portion of topographic map section;

(4) Type of source (spring, stream, well, roof catchment, ground catchment, or other);

(5) Estimated capacity of source in gallons or cubic meters per day during normal rainfall conditions;

(6) Horizontal area of proposed catchment in square meters or square feet;

(7) (i) Type of roof materials, if roof catchment; or,

(ii) Description of topography and nature of vegetation; if ground catchment,

(8) Planned raw water storage capacity or proposed increase in raw water storage capacity;

(9) Description of water treatment proposed;

(10) Number of persons to be supplied now;

(11) Anticipated population of service area ten (10) years from now;

(12) Existing method of sewage disposal and methods expected in the future;

(13) Proposed storage capacity of treated water, if known;

(14) If source is to be a well or wells:

(i) Estimated depth(s)

(ii) Measures to be taken to exclude surface water from well; and,

(iii) Kind of pump(s) to be used, i.e., hand, electric, engine, windmill, etc.

(15) Budget estimate for construction;

(16) Expected source of funds; and,

(17) Other data as may be required by the Department

(b) Review and Action Upon Notice of Intent

The Division of Environmental Quality, as authorized by the Department, shall review a notice of intent to construct or modify a public water supply system for completeness within thirty (30) calendar days from receipt by the Department and either:

(1) Fully or conditionally approve the notice for the preparation of final plans and specifications for the proposed facility;

(2) Notify the proposed constructor that additional information is required;

(3) Deny the proposal to construct giving written appropriate environmental reasons for the denial; or

(4) After any notification is deemed complete by the Department and sixty (60) days have passed without action, the proposed notification is automatically approved and the constructor may proceed with preparation of final drawings and specifications.

(c) Preparation of Final Drawings and Specifications

Preparation of final drawings and specification for a public water supply system shall be based upon accepted engineering practice and shall be directed toward construction of a facility which will produce drinking water the quality of meet the standards prescribed in these The final plans and specifications shall shall which regulations. generally follow the intent expressed in the approved notification. Preparation of final drawings and specifications will be supervised by a person experienced in the construction and operation and maintenance of water supply systems.

(d) Review and Approval of Final Drawings and Specifications

- (1) Final drawings and specifications shall be submitted to the Department for review.
- (2) The Department shall either:
 - (i) Approve the drawings and specifications; or

(ii) Request changes in the drawings and specifications by the constructor.

COMMONWEALTH REGISTER VOLUME 13 NO. 09 SEPTEMBER 15, 1991 PAGE 7997

(3) The action prescribed in paragraph (2) shall be completed within forty-five (45) working days from the time the drawings and specifications are received by the Department. After any requested changes as requested under paragraph (2) (ii) have been made, the Department shall approve or disapprove within five (5) working days of receipt of the documents.

4.3 Emergency Permits

Whenever emergencies affecting the safety or adequacy of a public water supply requires modifications or additions, the Department shall be notified. The Department may delegate its responsibility under this paragraph to the Mayor of each municipality. Delegation must be in writing. The Mayor may issue emergency

construction permits by telephone or other message with whatever special conditions he deems necessary for the proper safeguarding of the health of the water consumers. Plans and specifications covering the work as constructed under the emergency permit must be submitted to the Department as soon as reasonably possible. Modifications required by the Department after review of the submission shall be made promptly. The Department shall confirm in writing with ten (10) days of issuance, the Mayor's granting of an emergency permit.

(a) Emergency Permit Revocations

Violation of any permit conditions or these regulations, as amended, shall be cause for revocation of any permit previously issued.

(b) Duration of Emergency Permits

Duration of emergency permits will be at the discretion of the Department and specified in the emergency permit.

PART 5 DRINKING WATER QUALITY STANDARDS

This part of the regulations establishes the drinking water quality standards and the requirements for self-monitoring by the supplier of water.

Permissible analytical techniques are specified herein. With the written permission of the Department, concurred on b the Administration of the U.S. Environmental Protection Agency, alternative analytical techniques may be employed. An alternative technique shall be acceptable only if it is substantially equivalent to the prescribed test in both precision and accuracy as it relates to the determination of compliance with any maximum contaminant level. The use of the alternative analytical technique shall not decrease the frequency of monitoring required by this part.

5.1 Identification of Suppliers of Water

In cases where, for various reasons, ownership and/or operational responsibilities are not clearly defined for public water systems, the Governor shall identify the supplier(s) of water for purposes of these regulations.

5.2 Drinking Water Quality Control

It is the responsibility of the supplier of water to assure a quality of water supply that equals or surpasses the drinking water quality standards of the Department. This includes assurance by the supplier that users do not contaminate the public supply by the use of faulty plumbing which allows back flow, back siphonage, or cross connection into the drinking water distribution system.

5.3 <u>Microbiological</u>

5.3.1 Microbiological Sampling and Analytical Requirements

(a) The standard sample for the coliform test shall consist of:

(1) For the membrane filter technique, not less than 100 milliliters.

(2) For the 5-tube most probable number (MPN) procedure (fermentation tube method), five (5) times the standard portion. The standard portion is either 10 milliliters or 100 milliliters.

(b) Suppliers of community water systems and noncommunity water systems shall analyze water for coliform bacteria density in accordance with the analytical recommendations set forth in the latest edition of "Standard Methods for the Examination of Water and Wastewater", American Public Health Association, or the latest edition approved by the Agency, except that a standard sample as defined above must be used.

(c) Samples shall be taken at points which are representative of the conditions within the distribution system.

(d) The frequency of microbiological sampling shall be as follows:

(1) The suppliers of water for a community water system shall taken coliform density samples for prompt analysis at regular time intervals, and in number proportionate to the population served by the system. In no event shall the frequency of sampling and analysis be less than as set forth below:

Minimum Number of Samples per Month

25	i to	1,000			
1,001	to.	2,500			
2,501	L to	3,300			
3,301	L to	4,100			
4,101	L to	4,900			
4,901	L to	5,800			
5,801	L to	6,700			
6,700) to	7,600			
6,700) to	7,600			
7,601	L to	8,500			
8,503	L to	9,400			
9,403	L to	10,300			
10,30	L to	11,100			
11,10	l to	12,000			
12,003	l to	12,900			
12,903	l to	13,700			
		14,600			
		15,500			
		16,300			
		17,200			
		18,100			
•		18,900			
		20,700			
		21,500			
		22,300			
22,30	l to	23,200			
		24,000			
		24,900			
24,90	1 to	25,000			
25,00	1 to	28,000			
28,00	1 to	33,000			
		37,000			
37,00		41,000			
41,00		46,000			
46,00	1 to	50,000			
5 0, 00	1 to	54,000			

Population Served

Based upon a history of no coliform bacteria contamination and upon a sanitary survey by the Department showing the water system to be supplied solely by a protected ground water source and free of sanitary defects, a community water system serving not more than 1,000 person, with written permission from the Department, may reduce the sampling frequency, except that in no case shall it be reduced to less than one per quarter.

> (2) The supplier of water for a non-community water system shall sample and test for coliform bacteria in each calendar quarter during which the system provides water to the public. Such sampling and testing shall be completed by the effective date of these regulations. If the Department, on the basis of a sanitary survey, determines that some other frequency is more appropriate, that frequency shall be the frequency required under these regulations. Such frequency shall be confirmed or changed on the basis of subsequent surveys.

5.3.2 <u>Maximum Microbiological Contaminant Levels</u>

The maximum contaminant levels for coliform bacteria, applicable to community water systems and non-community water systems, are as follows:

(a) When the membrane filter technique is used, the number of coliform bacteria shall not exceed any of the following:

(1) One per 100 milliliters as the arithmetic mean of all samples examined per month;

(2) Four per 100 milliliters in more than one sample when less than 20 or more are examined per month; or,

(3) Four per 100 milliliters in more than five percent of the samples when 20 or more are examined per month;

(b) When the fermentation tube method and 10 milliliter standard portions are used, coliform bacteria shall not be present in any of the following:

(1) More than 10 percent of the portions in any month;

(2) Three or more portions in more than one sample when less than 20 samples are examined per month; or,

(3) Three or more portions in more than five percent of the samples when 20 or more samples are examined per month;

(c) When the fermentation tube method and 100 milliliters standard portions are used, coliform bacteria shall not be present in any of the following:

(1) More than 60 percent of the portions in any month;

(2) Five portions in more than one sample when less than five samples are examined per month; or,

(3) Five portions in more than 20 percent of the samples when five or more samples are examined per month;

(d) For Community or non-community systems that are required to sample at a rate of less than four (4) per month, compliance with (paragraphs 5.3.2 (a) (1), 5.3.2 (b) (1), or 5.3.2 (c) (2) above, shall be based upon sampling during a 3month period, except at the discretion of the Department compliance may be based upon sampling during a one-month period.

(e) (1) When the coliform bacteria in a single sample exceed four (4) per 100 milliliters (paragraph 5.3.1 (a), at least two (2) consecutive daily check samples shall be collected and examined from the same sampling point. Additional check samples shall be collected daily, or at a frequency established by the Department until the results obtained from at least two (2) consecutive check samples show less than one coliform per 100 milliliters.

(2) When coliform bacteria occur in three (3) or more 10ml portions of a single sample using the fermentation tube method (paragraph 5.3.2 (b) (1), at least two (2) consecutive daily check samples shall be collected and examined from the same sampling point. Additional check samples shall be collected daily, or at a frequency established by the Department until the results obtained from the least two (2) consecutive check samples show no positive tubes.

(3) When coliform bacteria occur in all five (5) of the 100 ml portions of a single sample (paragraph 5.3.2 (c), at least two (2) daily check samples shall be collected and examined from the same sampling point. Additional check samples shall be collected daily, or at a frequency established by the Department until the results obtained from at least two (2) consecutive check samples show no positive tubes.

-12-

(f) The location at which the check samples were taken pursuant to paragraphs 5.3.2 (e) (1), 5.3.2 (e) (2), or 5.3.2 (e) (3), shall not be eliminated from future sampling without the approval of the approval of the Department. The results from all coliform bacterial analyses performed pursuant to this Part, except those obtained from check sampling and special purpose samples, shall be used to determine compliance with the maximum contaminant level for coliform bacteria as established hereinbefore under subparagraphs 5.3.2 (a), 5.3.2 (b), and 5.3.2 (c), under the heading "Maximum Microbiological Contaminant Levels". Check samples shall not be included in calculating the total number of samples taken each month to determine compliance as hereinbefore stated and/or tabulated.

(g) When the presence of coliform bacteria in water taken from a particular sampling point has been successively confirmed by any check sample procedure as directed in paragraphs 5.3.2 (e) (1), 5.3.2 (e) (2), or 5.3.2 (e) (3), the supplier of water shall report to the Department within fortyeight (48) hours of such determination.

(h) When a maximum contaminant level set forth in paragraph 5.3.2 (a), 5.3.2 (b), or 5.3.2 (c), is exceeded, the supplier of water shall report to the Department and notify the public as prescribed in paragraphs 6.1 and 6.2.

(i) Special purpose samples, such as those taken to determine whether disinfection practices following pipe placement, replacement, or repair have been sufficient, shall not be used to determine compliance with paragraphs 5.3.2 (a), 5.3.2 (d), or 5.3.2 (e).

(j) A supplier of water of a community water system or a noncommunity water system may, with the approval of the Department and based upon a sanitary survey, substitute the use of chlorine residual monitoring for not more than 75 percent of the samples required to be taken by paragraph 5.3.1 (d) of this regulations, provided that the supplier of water takes chlorine residual samples at points which are representative of the conditions within the distribution system at the frequency of at least four (4) for each substituted microbiological samples.

There shall be at least daily determination of chlorine residual. When the supplier of water exercises the option provided in paragraph 5.3.2 (i) of this section, he shall maintain no less than 0.2mg/1 free chlorine throughout the public water distribution

-13-

system. When a particular sampling point has been shown to have a free chlorine residual less than 0.2mg/1, the water at that location shall be retested as soon as practicable and in any event, within one (1) hour. If the original analysis is confirmed, this fact shall be reported to the Department within forty-eight (48) hours of such determination. Also, if the analysis is confirmed, a sample for coliform bacteria analysis must be collected from the sampling point as soon as practicable , preferable within one (1) hour, but in no case more than twelve (12) hours, and the results of such analysis reported to the Department within forty-eight (48) hours after the results are known to the supplier of water. Analysis for residual chlorine shall be in accordance with the Ferrous Titrimetric DPD or the colorimetric DPD method as provided in the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, or the EPA approved edition. Compliance with the maximum contaminant levels for coliform bacteria shall be determined on the monthly mean or quarterly mean basis specifies as aforementioned, including those samples taken as a result of failure to maintain required chlorine residual level. The Department may withdraw its approval of the use of chlorine residual substitution at any time.

5.4 <u>Turbidity</u>

5.4.1 <u>Maximum Contaminant Levels for Turbidity</u>

The maximum contaminant levels for turbidity are applicable to both community water systems and noncommunity water systems using surface water sources in whole or in part. The maximum contaminant levels for turbidity in drinking water, measured at a representative entry points(s) to the distribution system, are:

(a) One turbidity unit (TU) as determined by a monthly average pursuant to sampling and analytical methods described hereinafter, except that five (5) or fewer turbidity units may be allowed if the supplier of water can demonstrate to the Department that that higher turbidity does not do any of the following:

(1) Interfere with disinfection;

(2) Prevent maintenance of an effective disinfectant agent throughout the distribution system; or

(3) Interfere with microbiological determinations;

(b) Five (5) turbidity units based upon an average of two (2) consecutive days pursuant to turbidity sampling and analytical methods described hereinafter.

-14-

5.4.2 <u>Turbidity Sampling and Analytical Requirements</u>

(a) The requirements of this paragraph and paragraph 5.4.1 shall apply only to public water systems which use water obtained in whole or in part from surface sources.

(b) Samples shall be taken by suppliers of water for both community water systems and non-community water systems at a representative entry point(s) to the water distribution system at least once per day, for the purpose of making turbidity measurements to determine compliance with paragraph 5.4.1 above. The measurement shall be made by the Nephelometric Method in accordance with the recommendations set forth in the latest edition of "Standard Methods for the Examination of Water and Wastewater", American Public Health Association, or the EPA approved edition, or "Methods for Chemical Analysis of Water and Wastes", pp. 295-298, Environmental Protection Agency, Office Technology Transfer, Washington, D>C. 20460, 1974.

(c) If the result of turbidity analysis indicates that the maximum allowable limit has been exceeded, the sampling and measurement shall be confirmed by re-sampling as soon as practicable and preferable within one (1) hour, but in no case more than three (3) hours. If the repeat sample confirms that the maximum allowable limit has been exceeded, the supplier of water shall report to the Department within forty-eight (48) hours of the final determination. The repeat sample shall be the sample used for the purpose of calculating the monthly average. If the monthly average of two (2) samples taken on consecutive days exceeds 5NTU, the supplier of water shall report to the Department and notify the public as directed in paragraphs 6.1 and 6.2 hereinafter.

(d) Sampling for non-community water systems shall begin immediately upon the effective date of these regulations.

5.5 Inorganic Chemicals and Physical Characteristics

5.5.1 <u>Maximum Contaminant Levels for Inorganic Chemicals</u>

(a) The maximum contaminant level for nitrate is applicable to both community and non-community water systems. The levels for other inorganic chemicals apply only to community water systems.

(b) The following are the maximum contaminant levels for inorganic chemicals:

Contaminant

Arsenic	0.05
Barium	1
Cadmium	0.010
Chromium	0.05
Lead	0.05
Mercury	0.002
Nitrate (as N)	10
Selenium	0.01
Silver	0.05

(c) The maximum contaminant level for fluoride is 4.0 milligrams per liter. The secondary maximum contaminant level for fluoride is 2.0 milligrams per liter.

5.5.2 Inorganic Chemical Sampling and Analytical Requirements

(a) Analyses for the purpose of complying with paragraphs 5.5.1 above, are required as follows:

(1) Analyses for all community water systems utilizing surface water shall be repeated at, at least, yearly intervals, Initial sampling and analyses shall be completed by the effective date of these regulations.

(2) Analyses for all community water systems utilizing only ground water sources shall be repeated at, at least, threeyear intervals. Initial sampling and analyses shall be completed by the effective date of these regulations.

(3) For non-community water systems, whether supplied by surface or ground water sources, sampling and analyses for nitrate shall be completed as soon as possible and in no event later than the effective date of these regulations. These analyses shall be repeated in intervals of three (3) years or as otherwise needed as determined by the Department.

(b) If the result of an analysis made pursuant to paragraph (a) indicates that the level of any contaminant listed in paragraphs 5.5.1 (b) or (c) exceeds the maximum contaminant level., the supplier of water shall report to the Department within seven (7) days and initiate three (3) additional analyses at the same sampling point within one (1) month.

(c) When the average of four (4) analysis made pursuant to paragraph 5.5.2 (b) of this section, rounded to the same number of significant figures as the maximum contaminant level for the substance in question, exceeds the maximum contaminant level, the supplier of water shall notify the Department and the public pursuant to paragraphs 6.1 and 6.2 which prescribe reporting and public notice. Monitoring after public notification shall be at a frequency designated by the notification shall be at a frequency designated by the Department and shall continue until the maximum contaminant level has not been exceeded in two (2) successive samples or until a monitoring schedule as a condition to a variance, exemption or enforcement action shall become effective.

(d) The provisions of paragraphs (b) and (c) of this section not withstanding, compliance with the maximum contaminant level for nitrate shall be determined on the basis of the mean of two analysis. When a level exceeding the maximum contaminant level for nitrate is found, a second analysis shall be initiated within twenty-four (24) hours, and if the mean of the two analysis exceeds the maximum contaminant level, the supplier of water shall report his findings to the Board and notify the public pursuant to paragraphs 6.1 and 6.2, which prescribed reporting and public notice.

(e) For the initial analysis required by paragraph 5.5.2 (a) (1), (2), or (3) of this section, data for surface waters acquired since within one year prior to the effective date of these regulations, may be substituted at the discretion of the Department.

(f) Analysis conducted to determine compliance with the maximum contaminant levels prescribed in paragraphs 5.5.1 (a), (b), and (c) shall be as prescribed by Agency regulations, 40 CFR 141.23 (f). Analysis to determine contaminant levels of chloride, total dissolve solids, color, taste and odor will be conducted according to methods prescribed in the latest edition of "Standard Methods for the Examination of Water and Wastewater" by the American Public Health Association or the EPA approved edition.

-17-

(g) In addition to complying with the requirement of paragraphs (a) through (f) of this section, community water systems monitoring for fluoride must comply with the requirements of these paragraphs:

(1) Where the community water system draws water from one source, the system shall take one sample at the entry point to the distribution system.

(2) Where the community water system draws water from more than one source, the system must sample each source at the entry points to the distribution system.

(3) If the community water system draws water from more than one source and sources are combined before distribution, the system must sample at an entry point to the distribution system during periods representative of the maximum fluoride levels occurring under normal operating conditions.

(4) The Department may alter the frequencies for fluoride monitoring as set out in paragraph (a) of this section to increase or decrease such frequency considering the following factors:

(i) Reported concentrations from previously required monitoring,

(ii) The degree of variation in reported concentration and,

(iii) Other factors which may affect fluoride concentrations such as changes in pumping rates in ground water supplies or significant changes in the system's configuration, operating procedures, source of water, and changes in stream flows.

(5) Monitoring may be decreased from the frequencies specified in paragraph (a) of this section upon application in writing by water systems if the Department determines that the system is unlikely to exceed the MCL, considering the factors listed in paragraph 5.5.2 (g) (4). Such determination shall be made in writing and set for the basis for the determination. A copy of the determination shall be provided to the Agency. In no case shall monitoring be reduced to less than one sample every 10 years. For systems monitoring once every 10 years, the Department shall review the monitoring results every ten years to determine whether more frequent monitoring is necessary. (6) Analyses for fluoride under this section shall only be used for determining compliance if conducted by laboratories that have analyzed Performance Evaluation samples to within 10% of the reference value at fluoride concentrations from 1.0mg/1 to 10.0mg/1, within the last 12 months.

(7) Compliance with the MCL shall be determined based on each sampling point. If any sampling pint is determined to be out of compliance, the system is deemed to be out of compliance.

5.5.3 <u>Special Monitoring for Sodium</u>

(a) Suppliers of water for community public water systems shall collect and analyze one sample per plant at the entry point of the distribution system for the determination of sodium concentration levels; samples must be collected and analyzed annually for systems utilizing surface water sources in whole or in part, and at least every three years for systems utilizing solely ground water sources. The minimum number of samples required to be taken by the system shall be based on the number of treatment plants used by the system, except that multiple wells drawing raw water from a single aquifer may, with the Department's approval, be considered one treatment plant for determining the minimum number of samples. the supplier of water may be required by the Department to collect and analyze samples for sodium more frequently in locations where the sodium content is variable.

(b) The supplier of water shall report to the Department the results of the analyses for sodium within the first 10 days of the month following the month in which the sample results were received or within the first 10 days following the end of whichever of these is first. If more than annual sampling is required the supplier shall report the average sodium concentration with 10 days of the month following the month in which the analytical results of the last sample used for the annual average was received.

(c) The Department shall notify appropriate local and state public health officials of the sodium levels by written notice by direct mail within three months. A copy of each notice required to be provided by this paragraph shall be sent to EPA within 10 days of its issuance.

(d) Analyses for sodium shall be performed by the flame photometric method in accordance with the procedures described in "Standard Methods for the Examination of Water and Wastewater", 14th Edition, pp. 250-253; or by Method 273.1. Atomic Absorption-Direct Aspiration or Method 273.2. Atomic Absorption-Graphite Furnace, in "Method for Chemical Analysis of Water and Waste", EMSL, Cincinnati, EPA 1979; or by Method D1428-64 (a) in Annual Book of ASTM Standards, part 31, Water.

5.5.4 <u>Special Monitoring for Corrosivity Characteristics</u>

(a) Suppliers of water for community public water systems shall collect samples from a representative entry point to the water distribution system for the purpose of analysis to determine the corrosivity characteristics of the water.

(1) The supplier shall collect two samples per plant for analysis for each plant using surface water sources wholly or in part of more if required by the Department, one during mid-winter and one during mid-summer. The supplier of the water shall collect one sample per plant for analysis for each plant using ground water sources or more if required by the Department. The minimum number of samples required to be taken by the system shall be based on the number of treatment plants used by the system, except that multiple wells drawings raw water from a single aquifer may, with the Department approval, be considered one treatment plant for determining the minimum number of samples.

(2) Determination of the corrosivity characteristics of the water shall include measurement of pH, calcium hardness, alkalinity, temperature, total dissolved solids (total filtrable residue), chloride, sulfate and calculation of the Langelier Index in accordance with paragraph (c) below.

The determination of corrosivity characteristics shall only include one round of sampling (two samples per plant for surface water and one sample per plant for ground water sources). In certain cases, the Aggressive of the Langelier Index; the supplier shall request in writing to the Department and the Department will make this determination.

(b) The supplier of water shall report to the Department the results of the analyses for the corrosivity characteristics within the first 10 days of the month following the month in which the sample results were received. If more frequent sampling is required by the Department, the supplier can accumulate the data and shall report each value within 10 days of the month following the month in which the analytical results of the 1st sample was received. (c) Analyses conducted to determine the corrosivity of the water shall be made in accordance with the procedures described in 40 CFR 141.42(c).

(d) Community water supply systems shall identify whether the following construction materials are present in their distribution system and report to the Department.

(1) Lead from piping, solder, caulking, interior lining of distribution mains, alloys and home plumbing.

(2) Copper from piping and alloys, service lines, and home plumbing.

(3) Galvanized piping, service lines, and home plumbing.

(4) Ferrous piping materials such as cast iron and steel.

(5) Asbestos cement pipe.

(6) Vinyl lined asbestos cement pipe.

(7) Coal tar lined pipes and tanks.

5.5.5 <u>Prohibition on Use of Lead Pipes, Solder, and Flux</u>

All plumbing used in the installation or repair of any public water system or in any plumbing in a residential or non-residential facility providing water for human consumption which is connected to a public water system shall be lead free.

(a) Lead free is any solder or flux containing not more than
 0.2 percent lead and pipes and fittings containing not more than
 8.0 percent lead;

(b) All deliveries of public water systems must both identify and provide notice to persons who may be affected by lead contamination of their drinking water;

(1) Where the contamination results from lead used in the construction materials of the public water distribution system and plumbing; or

(2) Where the corrosivity of the water is sufficient to cause leaching of lead, notice must state in plain language both in English and Chamorro and explanation of the potential sources of lead in drinking water, the potential adverse health effects, reasonable methods available to mitigate lead in drinking water, the mitigation steps the supplier is taking to eliminate lead in drinking water, and the necessity to seek an alternative water supply.

5.5.6. <u>Secondary Maximum Contaminant Levels (SMCLs)</u>

The SMCLs are non-enforceable and set limits for contaminants in drinking water which may affect the aesthetic qualities and the public's acceptance of drinking water (e.g. taste and odor).

ContaminantLevelColor15 Color unitsColoride250 Milligrams per literOdor3 Threshold odor numberTotal Dissolved Solids (TDS)500 Milligrams per literFluoride2 Milligrams per liter

5.6 <u>Organic Chemicals Other Than Total Trihalomethanes (TTHMs) and</u> <u>Volatile Organic Chemicals (VOCs)</u>

5.6.1 <u>Maximum Contaminant Levels for Organic Chemicals other</u> <u>TTHMs and VOCs</u>

> The following are the maximum contaminant levels for organic chemicals other than TTHMs and VOCs. These standards only to community water systems. Compliance with the maximum contaminant levels for organic chemicals other than TTHMs and VOCs is calculated pursuant to paragraph 5.6.2

<u>Contaminant</u>

Level <u>Milligrams Per Liter</u>

(a) Chlorinated hydrocarbons:

Endrin (1,2,3,4,10, 10-hexachloro-6 7-epoxy-1,4,4a,5,6,7,8,81-octahydro-1 4-endo, endo-5, 8-dimethano naphthalene).... 0.0002

-22-

Methoxychlor (1,1,1-Trichloro-2, 2-bis [pmethoxyphenyl-etane]	0.1
Toxaphene (C H Cl -Technical chlorinated	
camphene, 67-69 percent chlorine	0.005
<pre>(b) Chlorophenoxys: 2,4-D (2,4-Dichlorophenoxy acetic acid)</pre>	0.1
2,4,5-T, P Silvex (2,4,5-Trichlorophenoxy proplonic acid)	0.01

5.6.2 <u>Organic Chemicals other than TTHMs and VOCs Sampling and</u> <u>Analytical Requirements</u>

An analysis of substances for the purpose of determining compliance with paragraph 5.6.1 above, shall be made as follows:

(a) For all community water systems utilizing surface water sources, initial sampling and analysis shall be completed by the effective date of these regulations. Samples analyzed shall be collected during the period of the year designated by the Department as the period when contamination by pesticides is most likely to occur. These analyses shall be repeated at intervals specified by the Department but in no event less frequently than at three-year intervals.

(b) For community water systems utilizing only ground water sources, analysis shall be completed by those systems specified by the Department.

(c) If the result of an analysis made pursuant to paragraph (a) of this section indicates that the level of any contaminant listed in paragraph 5.6.1 exceeds the maximum contaminant level, the supplier of water shall report to the Department within seven days and initiate three additional analysis within one month.

(d) When the average of four (4) analyses made pursuant to paragraph (c) of this section, rounded to the same number of significant figures as the maximum contaminant level for the substance in question, exceeds the maximum contaminant level, the supplier of water shall report to the Department and give notice to the public pursuant to paragraphs 6.1 and 6.2 which prescribe such reporting and public notice. Monitoring after public notification shall be at a frequency designated by the

-23-

Department and shall continue until the maximum contaminant level has not been exceeded in two (2) successive samples or until a monitoring schedule as a condition to a variance, exemption or enforcement action shall become effective.

For the initial analysis required by paragraph 5.6.2 (1) (e) and (2) of this section, data for surface water acquired within one year and data for ground water acquired within three years prior to the effective date of these regulations may be substituted at the discretion of the Department.

(f) Analysis made to determine compliance with paragraph 5.6.1 (a) and (b) shall be made in accordance with procedures prescribed by Agency regulations, 40 CFR 141.24 (e) and (f).

5.7 Total Trihalomethanes (TTHMs)

5.7.1 Maximum contaminant Level for Total Trihalomethanes

The maximum contaminant level for total trihalomethanes applies only to community water systems which serve a population of 10,000 or more individuals and which add disinfectant (oxidant) to the water in any part of the drinking water treatment process.

Compliance with the maximum contaminant level for total trihalomethanes is calculated pursuant to paragraph

5.7.2.

Contaminant

Level Milligrams per Liter

Total trihalomethanes (the sum of the concentrations of bromodichloromethane, dibromochloromethane, tribromomethane (bromoform) and trichloromethane (chloroform).... 0.10

5.7.2 Total Trihalomethanes Sampling and Analytical Requirements

> Initial sampling to determine compliance with paragraph 5.7.1 shall commence immediately upon the effective date of these regulations and analyses shall be completed within one year from the effective date of the regulations. Analyses for the purpose of complying with paragraph 5.7.1 above, are required as follows:

5.7.2

The minimum number of samples required to be taken (a) by the system shall be based on the number of treatment plants used by the system, except that multiply wells drawing raw water from a single aquifer may, with Department's approval be considered one treatment plant for determining the minimum number of samples. **A**11 samples taken within an established frequency shall be For all community water collected 24-hours period. systems utilizing surface water sources in whole or in part, and for all community water systems utilizing only ground water sources that have not been determined by the state to qualify for the monitoring requirements of paragraph 5.7.2 (c), analyses for total trihalomethanes shall be performed at quarterly intervals on at least four water samples for each treatment plant used by the system. At least 25 percent of the samples shall be taken at locations within the distribution system reflecting the maximum residence time of the water in the The remaining 75 percent shall be taken at system. representative locations in the representative locations in the distribution system, taking into account number of persons served, different sources of water and different treatment methods employed. The results of all analyses per quarter shall be arithmetically averaged and reported to the Department within 30 days of the system's receipt of such results.

All samples collected shall be used in the computation of analytical results the average, unless the are invalidated for technical reasons. Sampling and analyses shall be conducted in accordance with the methods listed in paragraph 5.7.2 (e) in the system. The system's monitoring frequency may only be reduced upon a written determination by the Department that, based upon the data submitted by the system, the system is a maximum TTHM potential of less than 0.10 mg/1 and that, based upon a assessment of the local conditions of the system, the system is not likely to approach or exceed for total The results of all analyses shall be reported to TTHMs. the Department within 30 days of the system's receipt of All sample collected shall be used for such results. determining whether the system must comply with the monitoring requirements of paragraph 5.7.2 (a) unless the analytical results are invalidated for technical reasons. Sampling and analyses shall be conducted in accordance with the methods listed in paragraph 5.7.2 (e). If at any time during which the reduced monitoring frequency prescribed under this paragraph applies, the results from any analysis taken by the system for maximum TTHM potential are equal to or greater than 0.10 mg/a, and such results are confirmed by at least one check sample taken promptly after such results are received, the system shall immediately begin monitoring in accordance with the requirements of paragraph 5.7.2 (a) and such monitoring shall continue for at least one year before the frequency may be reduced again. In the event of any significant change to the system's raw water or treatment program, the system shall immediately analyze an additional sample for maximum TTHM potential taken at a point in the distribution system reflecting maximum residence time of the water in the system for the purpose of determining whether the system must comply with the monitoring requirements of paragraph 5.7.2 (a). At the option of the monitoring frequencies may and should be increased above the minimum in those cases where this is necessary to detect variation of TTHM levels within the distribution system.

Upon the written request of a community water (b) system, the monitoring frequency required by paragraph 5.7.2 (a) may be reduced by the Department to a minimum of one sample analyzed for TTHMs per quarter taken at a point in the distribution system reflecting the maximum residence time of the water in the system, upon a written determination by the Department that the data from at least 1 year of monitoring in accordance with paragraph 5.7.2 (a) and local conditions demonstrate that total trihalomethane concentrations will be consistently below the maximum contaminant level. If at nay time during which the reduced monitoring frequency prescribed under this paragraph applies, the results from any analysis exceed 0.10 mg/1 of TTHMs and such results are confirmed by at least one check sample taken promptly after such results are received or if the system makes any significant change to its source of water or treatment program, the system shall immediately begin monitoring in accordance with the requirements of paragraph 5.7.2 (a) which monitoring shall continue for at least 1 year before the frequency may be reduced again. At the option of the Department, a system's monitoring frequency. may and should be increased above the minimum in those cases where it is necessary to detect variations of TTHM levels within the distribution system.

5.7.2 (c) Upon written request to the Department, a community water system utilizing only ground water sources may seek to have the monitoring frequency required by paragraph 5.7.2 (a) reduced to a minimum of one sample for maximum TTHM potential per year for each treatment plant used by the system taken at a point in the distribution system reflecting maximum residence time of the water in the

-26-

COMMONWEALTH REGISTER VOLUME 13 NO. 09 SEPTEMBER 15, 1991 PAGE 8016

5.7.2

system. The system shall submit to the Department the results of a least one sample analyzed for maximum TTHM potential for each treatment plant used by the system taken at a point in the distribution system reflecting the maximum residence time of the water.

Compliance with paragraph 5.7.1 shall be determined (d) based on a running annual average of quarterly samples collected by the system as prescribed in paragraphs 5.7.2 (a) and 5.7.2 (b). If the average of samples covering any 12 month period exceeds the Maximum Contaminant Level, the supplier of water shall report to the Department and notify the public pursuant to paragraphs 6.1 and 6.2. monitoring after public notification shall be at a frequency designated by the Department and shall continue until a monitoring schedule as a condition to a variance, exemption or enforcement action shall become effective.

Sampling and analyses made pursuant to 5.7.1 and (e) 5.7.2 shall be conducted by one of the following approved methods:

> "The Analysis of Trihalomethanes in Drinking Waters by the Purge and Trap Method", Method 501.1, EMSL, EPA Cincinnati, Ohio.

> "The Analysis of Trihalomethanes in Drinking Water by Liquid/Liquid Extraction," Method 502.1, EMSL, EPA Cincinnati, Ohio.

Samples for TTHM shall be dechlorinated upon collection to prevent further production of Trihalomethanes, according to the procedures described in the two methods. Samples for maximum TTHM potentia should not be dechlorinated, and should be held for seven days at 25 degrees C (or above) prior to analysis, according to the procedures described in the above two methods.

5.7.2 Before a community water system (f) makes any significant modifications to its existing treatment process for the purpose of achieving compliance with paragraph 5.7.2 (c), such system must submit and obtain Department approval of a detailed plan setting forth its proposed modification and those safeguards that it will implement to ensure that the bacteriological quality of the drinking water served by such system will not be adversely affected by such modification. Each system shall comply with the provisions set forth in the Department approved plan. At a minimum, a Department approved plan shall require the system modifying its disinfection practice to:

COMMONWEALTH REGISTER VOLUME 13 NO. 09 SEPTEMBER 15, 1991 PAGE 8017

5.7.2

5.7.2

(1) Evaluate the water system for sanitary defects and evaluate the source water for biological quality;

(2) Evaluate its existing treatment practices and consider improvements that will minimize disinfectant demand and optimize finished water quality throughout the distribution system;

(3) Provide baseline water quality survey data of the distribution system. Such data should include the results from monitoring for coliform and fecal coliform bacteria, fecal streptococci, standard plate counts at 35 degrees C and 20 degrees C, phosphate, ammonia nitrogen and total organic carbon. Virus studies should be required where source waters are heavily contaminated with sewage effluent;

(4) Conduct additional monitoring to assure continued maintenance of optimal biological quality in finished water, for example, when chloramines are introduced as disinfectants or when pre-chlorination is being discontinued. Additional monitoring should also be required by the State for chlorate, chlorite and chlorine dioxide when chlorine dioxide is used. Standard plate count analyses should also be required by the State as appropriate before and after any modifications;

(5) Consider inclusion in the plan of provisions to maintain an active disinfectant residual throughout the distribution system at all times during and after the modification;

5.8 Volatile Organic Chemicals (VOCs)

5.8.1 Maximum Contaminant Levels for VOCs

(a) The following maximum contaminant levels for volatile organic chemicals apply to community water systems and nontransient non-community water systems. Compliance with the maximum contaminant levels for volatile organic chemicals is calculated pursuant to paragraph 5.8.2.

<u>Contaminant</u>	Level <u>Milligrams per Liter</u>
Benzene	0.005
Vinyl Chloride	0.002
Carbon Tetrachloride	0.005
1, 2-Dichloroethane	0.005

Trichloroethylene	0.005
1, 1-Dichloroethylene	0.007
1,1, 1-Trichloroethane	0.20
para-Dichlorobenzene	0.075

(b) The Department identifies the following as the best technology, treatment techniques, or other means generally available for achieving compliance with the maximum contaminant levels for volatile organic chemicals: central treatment using packed tower aeration; central treatment using granular activated carbon for all these chemical except vinyl chloride.

5.8.2. <u>Volatile Organic Chemicals Sampling and Analytical</u> <u>Requirements</u>

Initial sampling to determine compliance with paragraph 5.8.1 shall commence immediately upon the effective date of these regulations and analyses shall be completed within one year from the effective date of these regulations. Analyses for the purpose of complying with paragraph 5.8.1 above, are required as follows:

(a) Ground-water systems shall sample at points of entry to the distribution system representative of each well after any application of treatment. Sampling must be conducted at the same locations(s) or more representative location(s) every three months for one year except as provided in paragraph 5.8.2 (h) (1).

(b) Surface water systems shall sample at points in the distribution system representative of each source or at entry points to the distribution system after any application of treatment. Surface water systems must sample each source every three months except as provided in paragraph 5,8.2 (h) (2). Sampling must be conducted at the same location or a more representative location each quarter.

(c) If the system draws water from more than one source and sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions.

(d) All community water systems and non-transient, noncommunity water systems serving more than 10,000 people shall analyze all distribution or entry-point samples, as appropriate, representing all source waters beginning no later than January 1, 1988. All community water systems and non-transient non-community water systems serving from 3,300 to 10,000 people shall analyze all distribution or entry-point samples, as required in this paragraph 5.8.2, representing source waters no later than January 1, 1989. All other community and non-transient, non-community water systems shall analyze distribution or entry-point samples, as required in paragraph 5.8.2, representing all source waters beginning no later than January 1, 1991.

(e) The Department or EPA may require confirmation samples for positive or negative results. If a confirmation sample(s) is required by EPA or the Department, then the sample results(s) should be averaged with the first sampling result and used for compliance determination in accordance with paragraph 5.8.2 (i). The Department has the discretion to delete results of obvious sampling errors from this calculation.

(f) Analysis for vinyl chloride is required only for ground water systems that have detected one or more of the following two-carbon organic compounds: Trichloroethylene, tetrachloroethylene, 1,2dichloroethane, 1,1,1-trichloroethane, cis-1,2dichloroethylene, trans-1,2-dichloroethylene, or 1,1dichloroethylene. The analysis for vinyl chloride is required at each distribution or entry point at which one or more of the two-carbon organic compounds were If the first analysis does not detect vinyl found. chloride, the Department may reduce the frequency of vinyl chloride monitoring to once every three years for that sample locatio or other sample locations which are more representative of the same source. Surface water systems may be required to analyze for vinyl chloride at the discretion of the Department.

(g) A State or Individual public water systems may choose to composite up to five samples from one or more public water systems. Compositing of samples is to be done in the laboratory by the procedures listed below. Samples must be analyzed within fourteen days of collection. If any organic contaminant listed in 5.8.1 (a) VOC is detected in the original composite sample, a sample from each source that made up the composite sample must be reanalyzed individually with fourteen days from sampling. The sample for reanalysis can not be the original sample but can be a duplicate sample. Tf duplicates of the original samples are not available, new samples must be taken from each source used in the original composite and analyzed for VOCs. Reanalysis must be accomplished within fourteen days of the second sample. To composite samples, the following procedure must be followed:

(1) Compositing samples prior to GC analysis.

(i) Add 5 ml or equal larger amounts of each sample (up to 5 samples are allowed) to a 25 ml glass syringe. Special precautions must be made to maintain zero headspace in the syringe.

(ii) The samples must be cooled at 4 degrees C during this step to minimize volatilization losses.

(iii) Mix well and draw out a 5 ml aliquot for analysis.

(iv) Follow sample introduction, purging, and desorption steps described in the method.

(v) If less than five samples are used for compositing, a proportionately smaller syringe may be used.

(2) Compositing samples prior to GC/MS analysis.

(i) Inject 5 ml or equal larger amounts of each aqueous sample (up to 5 samples are allowed) into a 25 ml purging device using the sample introduction technique described in the method.

(ii) The total volume of the sample in the purging device must be 25 ml.

(iii) Purge and desorb as described in the method.

(h) The Department may reduce the monitoring frequency specified in paragraphs 5.8.2 (a) and 5.8.2 (b), as explained in this paragraph:

(1) The monitoring frequency for ground water systems is as follows:

(i) When VOCs are not detected in the first sample (or any subsequent samples that may be taken) and the system is not vulnerable as defined in paragraph 5.8.2 (h) (4) monitoring may be reduced to one sample and must be repeated every 5 years.

(ii) When VOCs are not detected in the first sample (or any subsequent sample that may be taken) and the system is vulnerable as defined in paragraph 5.8.2 (h) (4), monitoring (i.e., one sample) must be repeated every 3 years for systems > 500 connections. Monitoring (i.e., one sample) must be repeated every 5 years for system < 500 connections.

(iii) If VOCs are detected in the first sample (or any subsequent sample that may be taken), regardless of vulnerability, monitoring must be repeated every 3 months, as required under paragraph 5.8.2 (a).

(2) The repeat monitoring frequency for surface water systems is as follows:

(i) When VOCs are not detected in the first year of quarterly sampling (or any other subsequent sample that may be taken) and the system is not vulnerable as defined in paragraph 5.8.2 (h) (4), monitoring is only required at Department discretion.

(ii) When VOCs are not detected in the first year of quarterly sampling (or any other subsequent sample that may be taken) and the system is vulnerable as defined in paragraph 5.8.2 (h) (4), monitoring must be repeated every three years (for systems> 500 connections). Monitoring must be repeated every five years (for systems < 500 connection).</p>

(iii) When VOCs are detected in the first year of quarterly sampling (or any other subsequent sample that may be taken), regardless of vulnerability, monitoring must be repeated every three months, as required under paragraph 5.8.2 (b) of this section.

(3) The Department may reduce the frequency of monitoring to once per year for a ground water system or surface water system detecting VOCs at levels consistently less than the MCL for three consecutive years.

(4) Vulnerability of each public water system shall be determined by the State based upon an assessment of the following factors:

(i) Previous monitoring results.

(ii) Number of persons served by public water system.

(iii) Proximity of a smaller system to a larger system.

(iv) Proximity to commercial or industrial use, disposal, or storage of Volatile Synthetic Organic Chemicals.

(v) Protection of the water source.

(5) A system is deemed to be vulnerable for a period of three years after any positive measurement of one or more contaminants listed in paragraph 5.9.1 or paragraph 5.8.1 except for trihalomethanes or other demonstrated disinfection by-products.

(i) Compliance with paragraph 5.8.1 shall be determined based on the results of running annual average of guarterly sampling for each sampling location. If one location's average is greater than the MCL, then the system shall be deemed to be out of compliance. If a public water system has a distribution system separable from other parts of the distribution system with no interconnections, only that part of the system that exceeds any MCL as specified in paragraph 5.8.1 will be deemed out of compliance. States may reduce the public notice requirement to that portion of the system which is out of compliance. If any one sample result would cause the annual average to be exceeded, then the system shall be deemed to be out of compliance immediately. For systems that only take one sample per location because no VOCs were detected, compliance shall be based on that one sample.

(j) Analysis under this paragraph shall be conducted using the following EPA methods or their equivalent as approved by EPA. These methods are contained in "Methods for the Determination of Organic Compounds in Finished Drinking Water and Raw Source Water," September 1986, available from Environmental and Support Laboratory (EMSL), EPA, Cincinnati, OH 45268 or the Department.

(1) Method 502.1, "Volatile Halogenated Organic Chemicals in Water by Purge and Trap Gas Chromatography."

(2) Method 503.1, "Volatile Aromatic and Unsaturated Organic Compounds in Water by Purge and Trap Gas Chromatography."

(3) Method 524.1, "Volatile Organic Compounds in Water by Purge and Trap Gas Chromatography/Mass Spectrometry."

(4) Method 524.2, "Volatile Organic Compounds in Water by Purge and Trap Capillary Column Gas Chromatography/Mass Spectrometry."

(5) Method 502.2, "Volatile Organic Compounds in Water by Purge and Trap Capillary Gas Chromatography with Photoionization and Electrolytic Conductivity Detectors in Series."

(k) Analysis under this section shall only be conducted by laboratories that have received conditional approved by EPA or the Department according to the following conditions:

(1) To receive conditional approval to conduct analyses for benzene, vinyl chloride, carbon tetrachloride, 1,2dichloroethane, 1,1,1-trichloroethane, and paradichlorobenzene, the laboratory must:

(i) Analyze Performance Evaluation samples which include these substances provided by EPA Environmental Monitoring and Support Laboratory or equivalent samples provided by the Department.

Achieve the quantitative acceptance limits under (**ii**) paragraphs 5.8.2 (k) (1) (iii) and 5.8.2 (k) (1) (iv) of this section for at least six of the seven subject organic chemicals.

(iii) Achieve quantitative results on the analyses performed under 5.8.2 (k) (1) (i) that are within +20 percent of the actual amount of the substances in the Performance Evaluation sample when the actual amount is greater than or equal to 0.010 mg/1.

(iv) Achieve quantitative results on the analyses performed under 5.8.2 (k) (1) (i) that are within ±40 percent of the actual amount of the substances in the Performance Evaluation sample when the active amount is less than 0.010 mg/1.

Achieve a method detection limit of 0.0005 mg/1, (v) according to the procedures in Appendix B of Part 136 of the Agency Regulations.

To receive conditional approval for vinyl chloride, the (2) laboratory must:

(i) Analyze Performance Evaluation samples provided by EPA Environmental Monitoring and Support Laboratory or equivalent samples provided by the State.

(ii) Achieve quantitative results on the analyses performed under 5.8.2 (k) (1) (i) that are within \pm 40 percent of the actual amount of vinyl chloride in the Performance Evaluation sample.

Achieve a method detection limit of 0.0005 mg/1, (iii) according to the procedures in Appendix B of Part 136.

(iv) Receive approval or be currently approved by EPA or the State under 5.8.2 (k) (1) (i).

The Department has the authority to allow the use of (1) monitoring data collected after January 1, 1983, for purposes of monitoring compliance. If the data is consistent with the other requirements in 5.8.2, the Department may use that data to represent the initial monitoring if the system is determined by the Department not to be vulnerable under the requirements of 5.8.2 (h) (4).

(m) The Department may increase required monitoring where necessary to detect variations within the system.

(n) The Department has the authority to determine compliance or initiate enforcement action based upon analytical results and other information compiled by their sanctioned representatives and agencies.

(o) Each approved laboratory must determine the method detection limit (MDL), as defined in Appendix B to Part 136 of the Agency Regulations, at which it is capable of detecting VOCs. The acceptable MDL is 0.0005 mg/l. This concentration is the detection level for purposes of paragraphs 5.8.2 (e),(f),(g), and (h).

5.8.3 <u>Unregulated_Organic Chemicals - Special Sampling</u> <u>Requirements</u>

5.8.3 (a) List of Unregulated Organic Chemicals

All community and non-transient, non-community water systems shall monitor for the following contaminants except as provided in paragraph 5.8.3 (b) (5):

Chloroform; Bromodichloromethane: Chlorodibromomethane; Bromoform: trans-1,2-Dichloroethylene; Chlorobenzene; m-Dichlorobenzene; Dichloromethane; cis-1,2-Dichloroethylene; o-Dichlorobenzene; Dibromomethane; 1,1-Dichloropropene; Tetrachloroethylene; Toluene; p-Xylene; o-Xylene; m-Xylene; 1,1-Dichloroethane; 1,2-Dichloropropane; 1,1,2,2-Tetrachloroethane; Ethylbenzene; 1,3-Dichloropropane; Styrene; Chloromethane;

Bromomethane; 1,2,3-Trichloropropane; 1,1,1,2-Tetrachloroethane; Chloroethane; 1,1,2-Trichloroethane; 2,2-Dichloropropane; o-Chlorotoluene; p-Chlorotoluene; Bromobenzene; 1,3-Dichloropropene; Ethylene dibromide (EDB); 1,2-Dibromo-3-chloropropane (DBCP)

Monitoring for the following contaminants is required at the discretion of the Department:

1,2,4-Trimethylbenzene; 1,2,4-Trichlorobenzene; 1,2,3-Trichlorobenzene; n-Propylbenzene; n-Butylbenzene; Napthalene; Hexachlorobutadiene; 1,3,5-Trimethylbenzene; p-Isopropyltoluene; Isopropylbenzene; Tert-butylbenzene; Sec-butylbenzen; Fluorotrichloromethane; Dichlorodifluoromethane;

5.8.3 (b) Unregulated Organic Chemicals Sampling and Analytical Requirements

(1) All community and non-transient, non-community water systems shall monitor for the contaminants listed in paragraph 5.8.3 (a) by dated specified in Table 1:

Number of persons served	Monitoring to begin no later than		
Over 10,000 3,300 to 10,000 Less than 3,300			

TABLE 1 - MONITORING SCHEDULE BY SYSTEM SIZE

-36-

(2) Surface water systems shall sample at points in the distribution system representative of each water source or at entry points to the distribution system after any application of treatment. The minimum number of samples is one year of quarterly samples per water source.

(3) Ground water systems shall sample at points of entry to the distribution system representative of each well after any application of treatment. The minimum number of samples is one sample per entry point to the distribution system.

(4) The Department may require confirmation samples for positive or negative results.

(5) Community water systems and non-transient non-community water systems must monitor for EDB and DBCP only if the Department determines they are vulnerable to contamination by either or both of these substances. For the purpose of this paragraph, a vulnerable system is defined as a system which is potentially contaminated by EDB and DBCP, including surface water systems where these two compounds are applied, manufactured, stored, disposed of, or shipped up-stream, and for ground water systems in areas where the compounds are applied, manufactured, stored, disposed of, or shipped in the ground water recharge basin, or for ground water systems that are in proximity to under ground storage tanks that contain leaded gasoline.

(6) Public water systems may use monitoring data collected any time after January 1, 1983 to meet the requirements for unregulated monitoring, provided that the monitoring program was consistent with the requirements of 5.9.2.

(7) Instead of performing the monitoring required by this section, a community water system or non-transient noncommunity water system serving fewer than 150 service connections may send a letter to the Department stating that the system is available for sampling. This letter must be sent to the Department no later than January 1, 1991. The system shall not send such samples to the Department, unless requested to do so by the Department.

(8) All community and non-transient, non-community water systems shall repeat the monitoring required in 5.8.3 no less frequently than every five years from the dates specified in 5.8.3 (a).

(9) States or public water systems may composite up to five samples when monitoring for substances in 5.8.3.

(10) Analyses under this section shall be conducted using the recommended EPA methods as follows, or their equivalent as determined by EPA: 502.1, "Volatile Halogenated Organic Compounds in Water by Purge and Trap Gas Chromatography," 503.1, "Volatile Aromatic and Unsaturated Organic Compounds in Water by Purge and Trap Gas Chromatography," 524.1, "Volatile Organic Compounds in Water By Purge and Trap Gas Chromatography/Mass Spectrometry," 524.2, "Volatile Organic Compounds in Water by

Purge and Trap Capillary Column Gas Chromatography/Mass Spectrometry, or 502.2, "Volatile Organic Compounds in Water by Purge and Trap Gas Chromatography with Photoionization and Electrolytic Conductivity Detectors in Series." These methods are contained in "Methods for the Determination of Organic Compounds in Finished Drinking Water and Raw Source Water," September 1986, available from Environmental Monitoring and Support Laboratory (EMSL), EPA, Cincinnati, Ohio 45268. Analysis of 1,2-dibromo-3-chloropropane (DBCP) and 1,2dibromoethane (EDB) shall be conducted by Method 504, "Measurement of 1,2-Dibromoethane (EDB) and 1,2-Dibromo-3chloropropane (DBCP) in Drinking Water by Microextraction and Gas Chromatography," September 1986, available from EMSL, Cincinnati, Ohio 45268 or the State.

(11) Anaylsis under this section shall only be conducted by laboratories approved under 5.8.2 (k). In addition to the requirements of 5.8.2 (k) each laboratory analyzing for EDB and DBCP must achieve a method detection limit for EDB and DBCP of 0.00002 mg/1, according to the procedures in Appendix B of Part 136 of the Agency Regulations.

5.8.4 Use of Non-Centralized Treatment Devices

(a) Public water systems may use point-of-entry devices to comply with maximum contaminant levels only if they meet the requirements of this section.

(1) It is the responsibility of the public water system to operate and maintain the point-of-entry treatment system.

(2) The public water system must develop and obtain Department's approval for a monitoring plan before point-ofentry devices are installed for compliance. Under the plan approved by the Department, point-of-entry devices must provide health protection equivalent to central water treatment. "Equivalent" means that the water would meet all Primary and Secondary Drinking Water Standards and would be of acceptable quality similar to water distributed by a well-operated central treatment plant. In addition to the VOCs, monitoring must include physical measurements and observations such as total flow treated and mechanical condition of the treatment equipment.

(3) Effective technology must be properly applied under a plan approved by the Department and the microbiological safety of the water must be maintained.

(i) The Department must require adequate certification of performance, field testing, and, if not included in the certification process, a rigorous engineering design review of the point-of-entry devices.

(ii) The design and application of the point-of-entry devices must consider the tendency for increase in heterotrophic bacterial concentrations in water treated with activated carbon. It may be necessary to use frequent backwashing, post-contractor disinfection, and Heterotrophic Plate Count monitoring to ensure that the microbiological safety of the water is not compromised.

(4) All consumers shall be protected. Every building connected to the system must have a point-of-entry device installed, maintained, and adequately monitored. The Department must be assured that every building is subject to treatment and monitoring and that the rights and responsibilities of the public water system customer convey with title upon sale of property if they meet the requirements of this section.

(b) Public water systems shall not use bottled water or pointof-use devices to achieve compliance with an MCL. Bottled water or point-of-use devices may be used on a temporary basis to avoid an unreasonable risk to health.

(1) The Department requires and must approve a monitoring program for bottled water. The public water system must develop and put in place a monitoring program that provides reasonable assurances that the bottled water meets all MCLs. The public water system must monitor a representative sample of the bottled water for all contaminants regulated under 5.8.1 the first quarter that it supplies the bottled water to the public, and annually thereafter. Results of the monitoring program shall be provided to the Department annually.

(2) The public water system must receive a certification from the bottled water company that the bottled water supplied has been taken from an "approved source" as defined in 21 CFR 129.3 (a); the bottled water company has conducted monitoring in accordance with 21 CFR 129.80 (q) (1) through (3); and the bottled water does not exceed any MCLs or quality limits as set out in 21 CFR 103.35, 110, and 129. The public water system shall provide the certification to the Department the first quarter after it supplies bottled water and annually thereafter.

(3) The public water system is fully responsible for the provision of sufficient quantities of bottled water to every person supplied by the public water system, via door-to-door bottled water delivery.

5.9 Radionuclides

5.9.1 Maximum Contaminant Levels for Radionuclides

The following maximum contaminant levels for radionuclides apply to community water systems:

(a) <u>Contaminant</u>

Level pico-Curies per liter

(b) The average annual concentration of beta particle and photon radioactivity from man-made radionuclides in drinking water shall not produce an annual dose equivalent to the total body or any internal organ greater than 4 millirem/year.

(c) Except for the radionuclides listed in Table A, the concentration of man-made radionuclides causing 4 mrem total total body or organ dose equivalent shall be calculated on the basis of a 2 liter per day drinking water intake using the 168hour data listed in "Maximum Permissible Body Burdens and Maximum Permissible Exposure", NBS Handbook 69, as amended August 1963, U.S. Department of Commerce. If two (2) or more radionuclides are present, the sum of their annual dose equivalent to the total body or to any organ shall not exceed 4 millirem/year.

-40-

TABLE A -- Average Annual Concentrations Assumed to Produce a Total Body or Organ Dose of 4 mrem/year.

Radionuclide

<u>Critical Organ</u>

<u>pCi Per Liter</u>

Tritium	
Strontium	

Total Body Bone Marrow

20,000

5.9.2 Radionuclides Sampling and Analytical Requirements

(a) Monitoring requirements for gross alpha particle activity, radium-226 and radium-228.

(1) Initial Sampling to determine compliance with paragraph 5.9.1 shall commence immediately upon the effective date of these regulations and the analysis shall be completed within one (1) year from the effective date of these regulations. Compliance shall be based on the analysis of an annual composite of four (4) samples obtained at quarterly intervals.

(i) A gross alpha particle activity measurement may be substituted for the required radium-226 and radium-228 analysis, provided that the measured gross alpha particle activity does not exceed 5 pCi/1 at a confidence level of 95 percent (1.65 o, where o is the standard deviation of the net counting rate of the sample). In localities where radium-228 may be present in drinking water, analysis for radium-226 and/or radium-228 shall be made when gross alpha particle exceeds 2 pCi/1.

(ii) When the gross alpha particle activity exceeds 5 pCi/1, the same or equivalent sample shall be analyzed for radium-226. If the concentration of radium-226 exceeds 3 pCi/, the same or an equivalent sample shall be analyzed for radium-228.

(2) For the initial analysis required by paragraph 5.9.2 (a) (1), data acquired within one year prior to the effective date of the regulations, may be substituted at the discretion of the Department.

(3) Suppliers of water shall monitor at least once every four (4) years following the procedure required by paragraph 5.9.2 (a) (1). At the discretion of the Department, when an annual record taken in conformance with paragraph 5.9.2 (a) (1) has established that the average annual concentration is less than half the maximum contaminant levels established by paragraph 5.9.1 analysis of a single sample may be substituted for the quarterly sampling procedure required by paragraph 5.9.2 (a) (1).

(i) More frequent monitoring shall be conducted when ordered by the Department in the vicinity of mining or other operations which may contribute alpha particle radioactivity to either surface or ground water sources of drinking water.

(ii) A supplier of water shall monitor in conformance with paragraph 5.9.2 (a) (1) within one (1) year of the introduction of a new water source for a community water system. More frequent monitoring shall be conducted when ordered by the Department in the event of possible contamination or when changes in the distribution system or treatment processing occur which may increase the concentration of radioactivity in finished water.

(iii) A community water system using two (2) or more sources having different concentrations of radioactivity shall monitor source water in addition to water from freeflowing tap, when ordered by the Department.

(4) If the average annual maximum contaminant level for gross alpha particle activity or total radium as set forth in paragraph 5.9.1 is exceeded, the supplier of a community water system shall give notice to the Department and notify the public as required by paragraphs 6.1 and 6.2. Monitoring at quarterly intervals shall be continued until the annual average concentration no longer exceeds maximum contaminant level or until a monitoring schedule as a condition to a variance, exemption or enforcement action shall become effective.

(b) Monitoring Requirements for Man-made Radioactivity in Community Water Systems:

(1) By the effective date of this regulation, systems using surface water sources as may be designated by the Department shall be monitored for compliance with paragraphs 5.9.1 (b) and (c) by analysis of a composite of four (4) consecutive quarterly samples or analysis of four (4) quarterly samples. Compliance with paragraph 5.9.1 (b) and (c) maybe assumed without further analysis if the average annual concentration of gross beta particle activity is less than 50 pCi/1 and if the average annual concentrations of tritium and strontium-90 are less than those listed in Table A, provided that if both radionuclides are present, the sum of their annual dose equivalent to bone marrow shall not exceed 4 millirem/year.

(i) If the gross beta particle activity exceeds 50 pCi/1, an analysis of the sample must be performed to identify the major radioactivity constituents present and the appropriate organ and total body doses shall be calculated to determine compliance with paragraph 5.9.1 (b) and (c).

(ii) Suppliers of water shall conduct additional monitoring, as ordered by the Department to determine the concentration of man-made radioactivity in principal watersheds designated by the Department.

(iii) At the discretion of the Department, suppliers of water utilizing only ground water may be required to monitor for man-made radioactivity.

(2) For the initial analysis required by paragraph 5.9.2 (a) (1) data acquired within one year prior to the effective date of these regulations, may be substituted at the discretion of the Department.

(3) After the initial analysis required by paragraph 5.9.2
(a) (1), suppliers of water shall monitor at least every four
(4) years following the procedure in paragraph 5.9.2 (a) (1).

(4) The supplier of any community water system designated by the Department as utilizing waters contaminated by effluents from nuclear facilities shall immediately initiate quarterly monitoring for gross beta particle and iodine-131 radioactivity and annual monitoring for strontium-90 and tritium.

(i) Quarterly monitoring for gross beta particle activity shall be based on the analysis of monthly samples or the analysis of a composite of three (3) monthly samples. The former is recommended, if the gross beta particle activity in a sample exceeds 15 pCi/1, the same or an equivalent sample shall be analyzed for strontium-89 and cesium-134. If the gross beta particle activity exceeds 50 pCi/1, an analysis of the sample must be performed to identify the major radioactive constituents present and the appropriate organ and total body doses shall be calculated to determine compliance with the paragraph 5.9.1 (b) and (c).

(ii) For iodine-131, a composite of five (5) consecutive daily samples shall be analyzed once each quarter. As ordered by the Department, more frequent monitoring shall be conducted when iodine-131 is identified in the finished water.

(iii) Annual monitoring for strontium-90 and tritium shall be conducted by means of the analysis of a composite of four
(4) consecutive quarterly samples or analysis of four (4) quarterly samples. The latter procedure is recommended.

(iv) The Department may allow the substitution of environmental surveillance data taken in conjunction with a nuclear facility for direct monitoring of man-made radioactivity by the supplier of water where the Department determines such data is applicable to a particular community water system.

(5) If the average annual maximum contaminant level for manmade radioactivity set forth in paragraph 5.9.1 is exceeded, the operator of a community water system shall give notice to the Department pursuant to paragraph 5.8.2 and to the public as required by paragraph 5.8.3. Monitoring at monthly intervals shall be continued until the concentration no longer exceeds the maximum contaminant levels or until a monitoring schedule as a condition to a variance, exemption or enforcement action shall become effective.

(c) Analyses made to determine compliance with paragraph 5.9.1 shall be made in accordance with procedures prescribed by Agency Regulations, 40 CFR 141.25, 141.26.

Part 6 PUBLIC NOTIFICATION

(

6.1 <u>Maximum Contaminant Level (MCL), Treatment Technique, and</u> <u>Variance and Exemption Schedule Violations.</u>

The owner or operator of a public water system which fails to comply with an applicable MCL or treatment technique established by these regulations or which fails to comply with the requirements of any schedule prescribed shall notify persons served by the system a follows:

(a) Except as provided in 6.1 (c), the owner or operator of a public water system must give notice:

1. By publication of not less than three (3) consecutive days in at least one daily newspaper with CNMI distribution in the area served by the system as soon as possible, but in no case later than 14 days after the violation or failure. If the area served by a public water system is not served by a daily newspaper of general circulation, notice shall instead be given by publication in a bi-weekly or weekly newspaper of general circulation for a three week period or until the violation is corrected; and/or

2. By mail delivery (by direct mail or with the water bill) or hand delivery not later than 45 days after the violation or failure. The Department may waive mail or hand delivery if it determines that the owner or operator of the public water system has corrected the violation or failure within 45 days period; and

3. For violations of MCLs of contaminants that may pose an acute risk to human health, by furnishing a copy of the notice

to the radio and television stations serving the area served by the public water system as soon as possible but in no case later than 72 hours after the violation. Any violation specified by the Division as posing an acute risk to human health or any violation of the nitrate MCL specified in 5.5.1 and determined according to 5.5.2 constitute acute violations.

(b) Except as provided in paragraph 6.1 following the initial notice given under 6.1 (a), the owner or operator of the public water system must give notice at least once every three months by mail delivery (by direct mail or with the water bill) or by hand delivery, for as long as the violation or failure exists.

(c) (1) In lieu of the requirements in 6.1 (a) and (b), the owner or operator of the community water system in an area that is not served by a daily, bi-weekly or weekly newspaper of CNMI circulation must give notice within 14 days after the violation or failure by hand delivery or by continous posting in conspicuous places within the area served by the system, such as the Mayor's Office and Post Office(s). Notice by hand delivery or posting must begin as soon as possible, but no later than 72 hours after the violation or failure for acute violations (as defined in paragraph 6.1 (a) (3) or 14 days after the violation or failure (for any violation). Posting must continue for as long as the violation or failure exists. Notice by hand delivery must be repeated at least every three months for as long as the violation or failure exists.

(2) In lieu of the requirements in 6.1 (a) and (b), the owner or operator of a non-community water system may give notice within 14 days after the violation or failure by hand delivery or by continuous posting in conspicuous places within the area served by the system. Notice by hand delivery or posting must begin as soon as possible, but no later than 72 hours after the violation or failure for acute violations (as defined in paragraph 6.1 (a) (3) or 14 days after the violation or failure (for any violation). Posting must continue for as long as violation or failure exists. Notice by hand delivery must be repeated at least every three months for as long as violation or failure exists.

6.2 Other Violations, Variances, Exemptions

The owner or operator of a public water system which fails to perform the monitoring required by PART 5, fails to comply with a testing procedures established by these regulations, is subject to a variance granted by these regulations or is subject to an exemption under these regulations, shall notify persons served by the system as follows: (a) Except as provided in 6.2 (c) or (d), the owner or operator of a public water systems must give notice within three months of the violation or granting of a variance or exemption by publication in a daily newspaper of general CNMI circulation in the area served by the system. If the area served by a public water system is not served by a public newspaper of CNMI circulation, notice shall instead be given by publication in a bi-weekly or weekly newspaper of CNMI circulation serving the area.

(b) Except as provided in paragraph 6.2 (c) or (d), following the initial notice given under paragraph 6.2 (a), the owner or operator of the public water system must give notice at least once every three months by mail delivery (by direct mail or with the water bill) or by hand delivery, for as long as the violation exists. Repeat notice of the existence of a variance or exemption must be given every three months for as long as the variance or exemption remains in effect.

- (c) 1. In lieu of the requirement 6.2 (a) and (b), the owner or operator of a community water system in an area that is not served by a daily, bi-weekly or weekly newspaper of CNMI circulation must give notice, within three months of the violation or granting of the variance or exemption, by hand delivery or by continuous posting in conspicuous places with the area served by the system. Posting must continue for as long as the violation exists or a variance or exemption remains in effect. Notice by hand delivery must be repeated at least every three months for as long as the violation exists or a variance or exemption remains in effect.
 - 2. In lieu of the requirements of paragraphs 6.2 (a) and (c), the owner or operator of a non-community water system

may give notice, within three months of the violation or the granting of a variance or exemption by hand delivery or by continuous posting in conspicuous places within the area served by the system. Posting must continue for as long as the violation exists, or a variance or exemption remains in effect. Notice by hand delivery must be repeated at least every three months for as long as the violation exists or a variance or exemption remains in effect.

(d) In lieu of the requirements of 6.2 (a), (b) and (c), the owner or operator of a public water system at the discretion of the Department may provide less frequent notice for minor monitoring violations as define by the Department Chief, if the U.S. EPA has approved the Department's Chief's application for a program revision. Notice of such violations must be given not less frequently than annually.

6.3 Notice of New Billing Units

The owner or operator of a community water system must give a copy for any outstanding violation of any maximum contaminant level, or any treatment technique or any variance or exemption schedule to all new billing units or new hookups prior to or at the time service begins.

6.4 General Content of Public Notice

Each notice required under PART 6 must provide a clear and readily understandable explanation of the violation, any potential adverse health effects, the population risk, the steps that the public water system is taking to correct such violation, the necessity for seeking alternative water supplies if any, and any preventive measures the consumer should take until the violation is corrected. Each notice shall be conspicuous and shall not contain unduly technical language, unduly small print, or similar problems that frustrate the purpose of the notice. Each notice shall include the telephone number of the owner, operator, or designee of the public water system as a source of additional information concerning the notice. Where appropriate, the notice shall be multilingual, including the local vernacular(s).

6.5 <u>Mandatory Health Effects Language</u>

When providing the information on potential adverse health effects required in 6.1 (a) (3) in notices of violation of maximum contaminant levels or treatment technique requirements, or notices of the granting or the continued existence of exemptions or variances, notices of failure to comply with a variance of exemption schedule, the owner or operator of a public water system shall include language specified below for each contaminant. (If language for a particular contaminant is not specified below at the time notice is required, this paragraph does not apply).

(a) Trichloroethylene

The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that trichloroethylene is a health concern at certain levels of exposure. This chemical is a common metal cleaning and dry cleaning fluid. It generally gets into drinking water by improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set forth enforceable standards for trichloroethylene at 0.005 parts per million (ppm) to reduce risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(b) Carbon tetrachloride

e.

The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that carbon tetrachloride is a health concern at certain levels of exposure. This chemical was once a popular household cleaning fluid. It generally gets into drinking water by improper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set forth enforceable standards for carbon tetrachloride at 0.005 parts per million (ppm) to reduce risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(c) 1,2-Dichloroethane

The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 1,2-Dichloroethane is a health concern at certain levels of exposure. This chemical is used as a cleaning fluid for fats, oil, waxes, and resins. It generally gets into the drinking water by imporper waste disposal. This chemical has been shown to cause cancer in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set forth enforceable standards for 1,2-Dichloroethane at 0.005 parts per million (ppm) to reduce risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(d) Vinyl Chloride

The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that vinyl chloride is a health concern at certain levels of exposure. This

chemical is used in industry and is found in drinking water as result of the breakdown of related solvents. The solvents are used as cleaners and degreaser of metals and generally gets into the drinking water by improper disposal. This chemical has been associated with significantly increased risks of cancer among certain industrial workers who were exposed to relatively large amounts of this chemical during their working careers. chemicals that cause cancer among exposed industrial workers and in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set forth enforceable standards for vinyl chloride at 0.002 parts per million (ppm) to reduce risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(e) Benzene

The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that benzene is health concern at certain levels of exposure. This chemical is used as a solvent and degreaser of metals. It is also a major component of gasoline. Drinking water contamination generally results from leaking underground gasoline and petroleum tanks or improper waste disposal.

This chemicals has been associated with significantly increased risks of leukemia among certain industrial workers who were exposed to relatively large amount of this chemical during their working careers. This chemical has also been shown to cause cancer in laboratory animals when the animals are exposed at high level over their lifetimes. Chemicals that cause increased risk of cancer among industrial workers and in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set forth enforceable standards for Benzene at 0.005 parts per million (ppm) to reduce risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(f) 1,1-Dichloroethylene

The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 1,1-Dichloroethylene is a health concern at certain levels of exposure. This chemical is used in industry and is found in drinking water as a result of the breakdown of related solvents. The solvents are used as cleaners and degreasers of metals and generally get into the drinking water by improper waste disposal. This chemical has been shown to cause liver and kidney damage in laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Chemicals that cause cancer in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set forth enforceable standards for 1,1-Dichloroethylene at 0.007 parts per million (ppm) to reduce risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(g) Para-dichlorobenzene

The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that paradichlorobenzene is a health concern at certain levels of exposure. This chemical is a component of deodorizer, moth balls, and pesticides. It generally gets into drinking water by improper waste disposal. This chemical has been shown to cause liver and kidney damage in laboratory animals such as rats and mice when the animals are exposed to high levels over their lifetimes.

Chemicals that cause concer in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set forth enforceable standards for para-dichlorobenzene at 0.075 parts per million (ppm) to reduce risk of cancer or other adverse health effects which have been observed in laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

(h) 1,1,1-Trichloroethane.

The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that 1,1,1trichloroethane is a health concern at certain levels of exposure. This chemical is used as a cleaner and degreaser of metals. It generally gets into drinking water by improper waste disposal. This chemcial has been shown to damage the liver, nervous system, and circulatory system of laboratory animals such as rats and mice when the animals are exposed at high levels over their lifetimes. Some industrial workers who were exposed to relatively large amounts of this chemcial during their working careers also suffered damage to the liver, nervous system, and circulatory system. Chemicals that cause increased risk of cancer among industrial workers and in laboratory animals also may increase the risk of cancer in humans who are exposed at lower levels over long periods of time. EPA has set forth enforceable standards for 1,1,1-trichloroethane at 0.2 parts per million (ppm) to reduce risk of cancer or other adverse health effects which have been observed in humans and laboratory animals. Drinking water which meets this standard is associated with little to none of this risk and should be considered safe.

6.6 Public Notification for Fluoride

(:

(a) Community water systems that exceed the secondary maximum contaminant level for fluoride as determined by the last single sample taken in accordance with the requirements of section 5.5.2
(g) shall give public notice to all billing units annually, all new billing units at the time service begins, and the Department.

(b) The publication to be used by systems which exceed the notices of variances and exemptions from the maximum contaminant level for fluoride, and notices of failures to comply with the maximum contaminant level for fluoride shall include the language specified in the Agency Regulations 40 code of Federal Regulations part 143.5 (b), FR Doc. 87-24331, filed October 27, 1987, (and no future editions) in corporated herein by reference and on file with the Department.

In addition, the public notice shall include a description of any steps which the community water system is taking to come into compliance.

6.7 <u>Public Notification for Unregulated Contaminants</u>

(a) The requirements of this section only apply to the contaminants listed in 5.8.3.

(b) The owner or operator of a community water system or noncommunity water system who is required to monitor under 5.8.3 shall send a copy of the results of such monitoring within 30 days of receipt and any public notice under paragraph (d) of this section to the Department.

(c) The Department shall furnish the following information to the Agency for each sample analyzed under 5.8.3:

- (1) Results of all analytical methods, including negatives;
- (2) Name and address of the system that supplied the sample;
- (3) Contaminant(s);
- (4) Analytical method(s) used;
- (5) Date of sample;
- (6) Date of analysis.

(d) The owner or operator shall notify persons served by the system of the availability of the results of sampling conducted under 5.8.3 by including a notice in the first set of water bills issued by the system after the receipt of the results or written

-51-

notice within three months. The notice shall identify a person and supply the telephone number to contact for information on the monitoring results. For surface water systems, public notification is required only after the first quarter's monitoring and must include a statement that additional monitoring will be conducted for three more quarters with the results available upon request.

6.8 Public Notification By the Department

The Department may give notice to the public required by this part on behalf of the owner or operator of the public water system if the Department complies with the requirements of this part. However, the owner or operator of the public water system remains legally responsible for ensuring that the requirements of this part are met.

PART 7 <u>APPROVED LABORATORIES, REPORTING, RECORD KEEPING,</u> <u>AND RIGHT OF ENTRY</u>

7.1 <u>Certified Laboratories:</u> For the purpose of determining compliance with the maximum contaminant levels set forth in Part 5 hereinbefore, samples may be considered only, if they have been analyzed by a laboratory certified by the Department, or EPA except that measurements for chlorine residual may be performed by any person acceptable to the Department.

7.2 <u>Reporting Requirements:</u>

(a) Except where a shorter period is specified in these regulations the supplier of water shall report to the Department the results of any test measurement or analysis required by these regulations within (1) the first ten days following the month in which the result is received, or (2) the first ten days following the end of the required monitoring period as stipulated by the Department which ever of these is shortest.

(b) The supplier of water shall report to the Department within forty-eight (48) hours failure to comply with any primary drinking water regulation (including failure to comply with monitoring requirements) set forth in this regulation.

(c) The supplier of water is not required to report analytical results to the Department in cases where a laboratory performs the analysis and reports the results to the Department office which would normally receive such notification from the supplier.

-52-

7.3 Record Maintenance: Any owner or operator of a public water system subject to the provisions of this part shall retain on its premises or at a convenient location near its premises the following records:

(a) Records of bacteriological analyses made pursuant to this part shall be kept for not less than five (5) years. Records of chemical analyses made pursuant to this part shall be kept for not less than ten (10) years. Actual laboratory reports may be kept, or data may be transferred to tabular summaries, provided that the following information is included:

- The date, place, and time of sampling, and the name of (1) the person who collected the sample;
- (2) Identification of the sample as to whether it was a routine distribution system sample, check sample, raw or process water sample or other special purpose sample;
- (3) Date of analysis;
- Laboratory and person responsible for performing (4) analysis;
- The analytical technique/method used; and, (5)
- The results of the analysis; (6)

(b) Records of action taken by the system to correct violations of primary drinking water regulations shall be kept for a period not less than three (3) years after the last action taken with respect to the particular violation involved.

Copies of any written reports, summaries or (C) communication relating to sanitary surveys of the system conducted by the system itself, by a private consultant, or by any local, Commonwealth, or Federal Agency, shall be kept for a period not less than ten (10) years after completion of the sanitary surveys involved.

(d) Records concerning a variance or exemption granted to the system shall be kept for a period ending not less than five (5) years following the expiration of such variance or exemption.

For uniformity of reporting, the Department may (e) prescribe forms on which specific records shall be kept. 7.4 <u>Right of Entry</u>: Members of the Department may at any time enter upon and inspect public water systems, take water samples, and perform tests upon water quality, whether or not the Department has evidence that the system is in violation of any applicable legal requirement.

PART 8 VARIANCES AND EXEMPTIONS

The Department may issue variances and exemptions from the requirements of primary drinking water regulations under conditions and in a manner which are not less stringent than those which may be granted under Sections 1415 and 1416 of U.S. P.L. 93-523.

8.1 Variances

8.1.1 Requirements for a Variance

(a) The Department may grant one (1) or more variances to any public water system within the CNMI from any applicable maximum contaminant level prescribed in these regulations upon a finding that:

(1) Because of the characteristics of the raw water sources which are reasonably available to the system, the system cannot meet the requirements respecting the maximum contaminant levels of such drinking water regulations despite application of the best technology, treatment techniques, or other methods, which the Administrator of EPA finds are generally available (taking costs into consideration); and,

(2) The granting of a variance will not result in an unreasonable risk to the health of persons served by the system.

(3) At the time that the variance is granted the Department shall prescribe a schedule for;

(i) Compliance (including increments of progress) by the public water system with each contaminant level requirement with respect to which the variance was granted, and

(ii) Implementation by the public water system of such control measures as the Department may require for each contaminant, subject to such contaminant level requirement, during the period ending on the date of compliance which such requirement is required.

(b) The Department may grant one (1) or more variances to any public water system within the CNMI from any requirement of a

specified treatment technique of the regulations upon a finding that the public water system applying for the variance has demonstrated that such treatment technique is not necessary to protect the health of persons because of the nature of the raw source of such system.

(c) Any variance granted pursuant to 8.1.1 (a) shall be conditioned upon compliance by the public water system with the schedule prescribed by the Department in 8.1.1 (a) (3). The requirements of each schedule prescribed pursuant to 8.1.1 (a) (3) shall be enforceable by the Department under Commonwealth law. Any requirement of a schedule on which a variance granted under 8.1.1 (a) (3) as conditioned may be enforced under Section 1414 of U.S. P.L. 93-523 as if such regulation was part of a national primary drinking water regulation.

(d) Any schedule prescribe pursuant to 8.1.1 (a) (3) for a public water system granted a variance shall require compliance by the system with each contaminant level requirement with respect to which the variance was granted as expeditiously as practicable (as the Commonwealth may reasonable determine).

8.1.2 <u>Variance Request:</u> A supplier of water may request the granting of a variance submitting such in writing to the Department. Suppliers of water may submit a joint request for variances when they seek similar variances under similar circumstances. Any written request for a variance or variances shall include the following information:

(a) The nature and duration of variance requested;

(b) Relevant analytical results of water quality sampling of the system, including results of relevant tests conducted pursuant to the requirements of these regulations; and,

(c) For any request made under paragraph 8.1.1 (a);

(1) Explanation in full and evidence of the best available treatment technology and techniques;

(2) Economic and legal factors relevant to ability to comply;

(3) Analytical results of raw water quality relevant to the variance request; and,

(4) A proposed compliance schedule, including the date each step toward compliance will be achieved. Such schedule shall include as a minimum the following dates;

(i) Date by which arrangement for alternative raw water source or improvement of existing raw water source will be completed.

-55-

(ii) Date of initiation of the connection of the alternative raw water source or improvement of existing raw water source.

(iii) Date by which final compliance is to be achieved.

(5) A plan for the provision of safe drinking water in the case of an excessive rise in the contaminant level for which the variance is requested.

(6) A plan for interim control measures during the effective period of variance.

(d) For any request made under paragraph 8.1.1 (b), a statement that the system will perform monitoring and other reasonable requirements prescribed by the Department as a condition to the variance.

(e) Other information, if any, believed to be pertinent by the applicant.

(f) Such other information as the Department may require.

8.1.3 Consideration of Variance Request

(a) The Department shall act on any variance request submitted pursuant to paragraph 8.1.2 within ninety (90) days of receipt of the request.

(b) In its consideration of whether the public water system is unable to comply with a contaminant level required by these regulations because of the nature of the raw water source, the Department shall consider such factors as the following:

(1) The availability and effectiveness of treatment methods for the contaminant for which the variance is requested.

(2) Cost and other economic consideration such as implementing treatment, improving the quality of the source water or using an alternative source.

(c) In its consideration of whether a public water system should be granted a variance to a required treatment technique because such treatment is unnecessary to protect the public health, the Department shall consider such factors as the following:

(1) Quality of the water source including water quality data and pertinent sources of pollution.

(2) Source protection measures employed by the public water system.

8.1.4 Disposition of a Variance Request

(a) If the Department decides to deny the application for a variance, it shall notify the applicant of its intention to issue a denial. Such notice shall include a statement of reasons for the proposed denial, and shall offer the applicant an opportunity to present, within thirty (30) days of receipt of the notice, additional information or argument to the Department. The Department shall make a final determination on the request within thirty (30) days after receiving any additional information or argument is submitted by the applicant, the application shall be denied.

(b) If the Department proposes to grant a variance request submitted pursuant to paragraph 8.1.2, it shall notify the applicant of its decision in writing. Such notice shall identify the variance, the facility covered, and shall specify the period of time for which the variance will be effective.

(1) For the type of variance specified in paragraph 8.1.1 (a), such notice shall provide that the variance will be terminated when the system comes into compliance with the applicable regulation, and may be terminated upon finding by the Department that the system has failed to comply with any requirements of a final schedule pursuant to the terms and conditions of the variance.

(2) For the type of variance specified in paragraph 8.1.1 (a), such notice shall provide that the variance may be terminated at any time upon a finding that the nature of the raw water is such that the specified treatment technique for which the variance was granted is necessary to protect the health of persons or upon a finding that the public water system has failed to comply with monitoring and other requirements prescribed by the Department as a condition of the granted of the variance.

(C) For a variance specified in paragraph 8.1.1 (a) (1), the Department shall propose a schedule for:

(1) Compliance (including increments of progress) by the public water system with each contaminant level requirement covered by the variance; and,

(2) Implementation by the public water system of such control measures as the Department may require for each contaminant covered by the variance.

(d) The proposed schedule for compliance shall specify dates by which steps towards compliance are to be taken, including at the minimum, where applicable:

(1) Date by which final compliance is to be achieved.

(

(2) Date of initiation of the connection for the alternative raw water source or improvement of the existing raw water source; and,

(3) Date by which final compliance is to be achieved.

(e) The proposed schedule may, if the public water system has no access to an alternative raw water source, and can effect or anticipate no adequate improvement of the existing raw water source, specify an indefinite time period for compliance until a new and effective treatment technology is developed at which a new compliance schedule shall be prescribed by the Department.

(f) The proposed schedule for implementation of interim control measures during the period of variance shall specify intermim treatment techniques, methods and equipment and dates by which steps towards meeting the interim control measures are to be met.

(g) The schedule shall be prescribed by the Department at the time of the granting of the variance, subsequent to provision of opportunity for hearing pursuant to paragraph 8.1.5.

8.1.5 Public Hearing on Variance and Schedules and Final Action

(a) Before a variance or a schedule pursuant to paragraph 8.1.4 may take effect, the Department shall provide notice and opportunity for public hearing on the variance or schedule. A notice given pursuant to the preceeding sentence may cover more than one (1) such variance or schedule and a hearing held pursuant to such notice shall include each of the variances covered by the notice.

(b) Public notice of a proposed variance or schedule and opportunity for public hearing on such shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed variance. The public notice shall be posted at the principal post office which serves the area of the public water system and shall be announced over the radio or television station serving the area of the public water supply system. Requests for hearing may be submitted by any interested person. Frivolous insubstantial requests for hearing may be denied by the Department. Requests must be submitted to the Department within thirty (30) days after issuance of the public notice mentioned above.

Hearing requests shall include the following information:

(1) The name, address and telephone number of the individual, organization, or other entity requesting a hearing;

(2) A brief statement of the interest of the person making the request in the proposed variance or schedule and of information that the requesting person intends to submit a such hearing; and,

(3) The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of responsible official of the organization or other entity.

(c) The Department shall give notice in a manner set forth in paragraph (b) of this section of any hearing to be held pursuant to a request submitted by any interested person or Department motion. Notice of the hearing shall also be sent to the person requesting the hearing, if any. Notice of the hearing shall include a statement of the purpose, information regarding the time and location for the hearing, and the address and telephone number of an office at which interested persons may obtain further information concerning the hearing. The hearing location specified in the public notice shall be within an involved district. Notice of the hearing shall be given not less than fifteen (15) days before the time schedule for the hearing.

(d) A hearing conducted pursuant to paragraph (c) of this section shall be conducted before the Department. The Department shall have the authority to call witnesses, receive written and oral testimony, compel necessary attendance through subpoena, and take such action as may be necessary to assure the fair and efficient conduct of the hearing.

(e) <u>Final Action</u>: Within thirty (30) days after termination of the public hearing process prescribed above, the Department shall, taking into consideration information obtained during the hearing and other relevant information, grant, deny, or grant as modified a proposed variance or schedule. The variance or schedule shall become effective after notice of opportunity for hearing is given pursuant to paragraph 8.1.5 (b) if no timely request for hearing is submitted and the Department does not hold a public hearing on its own motion.

8.1.6 <u>Alternative Treatment Techniques</u>: The Department may grant a variance from any treatment technique requirement of these regulations to a supplier of water, upon a showing from any person that an alternative treatment technique not included in such requirement is at least as efficient in lovering the level of the contaminant with respect to which such requirement was prescribed. A variance under this paragraph shall be conditioned on the use of the alternative treatment technique which is the basis of the variance.

8.2 Exemptions

8.2.1 <u>Requirements for an Exemption:</u> The Department may exempt any public water system from any requirement respecting a maximum contaminant level or any treatment technique requirement, or from both, of these regulations upon a finding that:

(a) Due to compelling factors (which may include economic factors), the public water system is unable to comply with such contaminant level or treatment technique requirement;

(b) The public water system was in operation on the effective date of such contamination level or treatment technique requirement; and,

(c) The granting of the exemption will not result in an unreasonable risk to health.

(d) Each exemption granted a public water system by the Department shall be conditioned by the Department upon compliance by the public water system with the schedule prescribed by the Department pursuant to 8.2.1 (d). The requirement of each schedule prescribed by the Department pursuant to 8.2.1 (d) shall be enforceable by the Department under Commonwealth Law. Any requirement of a schedule on which an exemption granted under 8.2.1 is conditioned may be enforced under Section 1414 of U.S. P.L. 93-523 as if such requirement was part of a national primary drinking water regulation.

(e) A schedule prescribed pursuant to 8.2.1 (d) for a public water system granted an exemption under 8.2.1 (a)-(b) shall require compliance by the system with each contaminant level and treatment technique with respect to which the exemption was granted.

8.2.2 <u>Exemption Request:</u>

A supplier of water may request the granting of an exemption pursuant to this subpart for a public water system by submitting a request for exemption in writing to the Department. Suppliers of water may submit a joint request for exemptions when they seek similar exemptions under similar circumstances. Any written request for an exemption shall include the following information:

(a) The nature and duration of exemption requested;

(b) Relevant analytical results of water quality sampling of the system, including results of relevant tests conducted pursuant to the requirements of these regulations;

(c) Explanation of the compelling factors such as time or economic factors which prevent such system from achieving compliance;

(d) Other information, if any, believed by the applicant to be pertinent to the application;

(e) A proposed compliance schedule, including the date when each step toward compliance will be achieved; or,

(f) Such other information as the Department may require.

8.2.3 Consideration of an Exemption Request

(a) The Department shall act on any exemption request submitted pursuant to paragraph 8.2.2 within ninety (90) days of receipt of the request.

(b) In its consideration of whether the public water system is unable to comply due to compelling factors, the Department shall consider such factors as the following:

(1) Construction, installation, or modification of treatment equipment or systems;

(2) The time needed to put into operation a new treatment facility to replace an existing system which is not in compliance; and,

(3) Economic feasibility of compliance

8.2.4 Disposition of an Exemption Request

(a) If the Department decides to deny the application for an exemption, it shall notify the applicant of its intention to issue a denial. Such notice shall offer the applicant an opportunity to present, within thirty (30) days after receiving such notice, additional information or argument. If no additional information or argument is submitted by the applicant, the application shall be denied.

(b) If the Department grants an exemption request, it shall notify the applicant of its decision in writing. Such notice shall identify the facility covered, and shall specify the termination date of the exemption. Such notice shall provide that the exemption will be terminated when the system comes into compliance with the applicable regulation, and may be terminated upon finding by the Department that the system has failed to comply with any requirements of a final schedule issued pursuant to paragraph 8.2.6. (c) The Department shall propose a schedule for:

(1) Compliance (including increments of progress) by the public water system with each contaminant level requirement and treatment requirement covered by the exemption.

(2) Implementation by the public water system of such control measures as the Department may require for each contaminant covered by the exemption.

(d) The schedule shall be prescribed by the Department within one (1) year after the granting of the exemption, subsequent to provision of opportunity for hearing pursuant to paragraph 8.2.5.

8.2.5 Public Hearings on Exemption Schedules

(a) Before a schedule proposed by the Department pursuant to paragraph 8.2.4 (d) may take effect, the Department shall provide notice and opportunity for public hearing on the schedule. A notice given pursuant to the proceeding sentence may cover the proposal of more than one such schedule and a hearing held pursuant to such notice shall include each of the schedules covered by the notice.

(b) Public notice of a proposed exemption and opportunity for public hearing on an exemption schedule shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed schedule. The public notice shall be posted at the principal post office which serves the area of the public water supply system and shall be announced over the radio or television station serving the area of the public water supply system. Requests for hearing may be submitted by any interested person. Frivolous or insubstantial requests for hearing may be denied by the Department. Requests may be submitted to the Department within thirty (30) days after issuance date of the public notices mentioned above. Hearing requests shall include the following information:

(1) The name, address and telephone number of the individual, organization or other entity requesting a hearing;

(2) A brief statement of the interest of the person making the request in the proposed schedule and of information that the requesting person intends to submit at such hearing; and,

(3) The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

(c) The Department shall give notice in the manner set forth in paragraph (b) of this section of any hearing to be held pursuant to a request by an interested person or on the Department's motion.

Notice of the hearing shall also be sent to the person requesting the hearing, if any. Notice of the hearing shall include a statement of the purpose, information regarding the time and location for the hearing, and the address and telephone number of an office at which interested persons may obtain further information concerning the hearing. The hearing location specified in the public notice shall be given not less than five (5) days prior to the time scheduled for the hearing.

(d) A hearing convened pursuant to paragraph (c) of this section shall be conducted before the Department. The Department shall have the authority to call witnesses, receive written and oral testimony and take such action as may be necessary to assure the efficent and fair conduct of the hearing.

8.2.6 Final Schedule

(a) Within thirty (30) days after the termination of the public hearing pursuant to paragraph 8.2.5, the Department shall take into consideration information obtained during such hearing, revise the proposed schedule as necessary and prescribe the final schedule for compliance and interim measures for the public water supply system granted and exemption under paragraph 8.2.3.

(1) Drinking water standards pursuant to Part 5 of these regulations by no later than the effective date of this regulation; and,

(2) These regulations as they may be revised.

(b) If the public water system has entered into an enforceable agreement to become part of a regional public water system as determined by the Department, such schedule shall require compliance by the water system with each contaminant level and treatment technique requirement prescribed by:

(1) Drinking water standards prescribed in Part 5 of these regulations by no later than the effective date of this regulation; and,

(2) These regulations as they may be revised not later than nine (9) years after their revision.

8.3 Variances from the Maximum Contaminant Level for Fluoride

1. Sales

-63-

(a) The Agency identifies the following as the best technology, treatment techniques or other means generally available for achieving compliance with the Maximum Contaminant Level for fluoride.

(1) Activated alumina absorption, centrally applied.

(

(2) Reverse osmosis, centrally applied, the Department requires a community water system to install and/or use any treatment method identified 8.3 as a condition for granting a variance unless the Department determines that such treatment method identified 8.3 as a condition for granting a variance is not available and effective for fluoride control for the system. A treatment method shall not be considered to be "available and effective" for an individual system if the treatment method would not be technically appropriate and technically feasible for that system. If, upon application by a system for a variance, the Department determines that none of the treatment methods identified in 8.3 are available and effective for the system, that system shall be entitled to a variance under the provisions of Section 1415 (a) (1) (A) of the Safe Drinking Water Act. The Department's determination as to the availability and effectiveness of such treatment methods shall be based upon studies by the system treatment methods shall be upon studies by the system and other relevant information. If a system submits information to demonstrate that a treatment method is not available and effective for fluoride control for that system, the Department shall make a finding whether this information supports a decision that such treatment method is not available and effective for that system before requiring installation and/or use of such treatment method.

(b) Pursuant to 8.1, the Department shall issue a schedule of compliance that may require the system being granted the variance to examine the following treatment methods:

(1) To determine the probability that any of these methods will significantly reduce the level of fluoride for that system, and

(2) If such probability exists, to determine whether any of these methods are technically feasible and economically reasonable, and that the fluoride reductions obtained will be commensurate with the costs incurred with the installation and use of such treatment methods for that system:

- (i) Modification of lime softening
- (ii) Alum Coagulation
- (iii) Electrodialysis
- (iv) Anion exchange resins
- (v) Well field management
- (vi) Alternate source
- (vii) Regionalization

(c) If the Department determines that a treatment method identified in 8.3 or other treatment method is technically feasible, economically reasonable, and will achieve fluoride reductions commensurate with the costs incurred with the installation and/or use of such treatment for the system, the Department shall require the system to install and/or use that treatment method in connection with a compliance schedule issued under the provisions of Section 1415(a) (1) (A) of the Safe Drinking Water Act. The Department's determination shall be based upon studies by the system and other relevant information.

8.4 Variances and Exemptions from the Maximum Contaminant Levels for Organic Chemicals

(a) The agency identifies the following as the best technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant levels for synthetic organic chemicals: Removal using packed tower aeration; removal using granular activated carbon (except for vinyl chloride).

(b) The Department shall require community water systems and non-transient non-community water systems to install and/or use any treatment method identified in 8.4 as a condition for granting a variance except as provided in paragraph (c) of this section. If, after the system's installation of the treatment method, the system cannot meet the MCL, the system shall be eligible for a variance under the provisions of section 1415(a) (1) (A) of the Safe Drinking Water Act.

(c) If a system can demonstrate through comprehensive engineering assessments, which may include pilot plant studies, that the treatment methods identified in 8.4 would only achieve a minimum reduction in contaminants, the Department may issue a schedule of compliance that requires the system being granted the variance to examine other treatment methods as a condition of obtaining the variance.

(d) If the Department determines that a treatment method identified in paragraph (c) of this section is technically feasible, the Department may require the system to install and/or use that treatment method in connection with a compliance schedule issued under the provisions of Part 8 of these regulations. The Departments determination shall be based upon studies by the system and other relevant information.

(e) The Department may require a public water system to use bottle water or point-of-use devices or other means as a condition of granting a variance or an exemption from the requirements of 5.8.1 to avoid an unreasonable risk to health.

(f) Public water systems that use bottled water as a condition for receiving a variance or an exemption from the requirements of 5.8.1 must meet the following requirements in either paragraph (f) (1) or (f) (2) of this section in addition to requirements in paragraph (f) (3) of this section:

(1) The Department requires and must approve a monitoring program for bottled water. The public water system must develop and put in place a monitoring program that provides reasonable assurances that the bottled water meets all MCLs. The public water system must monitor a representative sample of the bottled water for all contaminants regulated under 5.8.1 the first quarter that it supplies the bottled water to the public, and annually thereafter. Results of the monitoring program shall be provided to the Department annually.

(2) The public water system must receive a certification from the bottled water company that the bottled water supplied has been taken from an "approved source" as defined in 21 CFR 129.3(a); the bottled water company has conducted monitoring in accordance with 21 CFR 129.80(g) (1) through (3); and the bottled water does not exceed any MCLs or quality limits as set out in 21 CFR 102.35, 110, and 129. The public water system shall provide the certification to the Department the first quarter after it supplies bottled water and annually thereafter.

(3) The public water system is fully responsible for the provision of sufficient quantities of bottled water to every person supplied by the public water system, via door-to-door bottled water delivery.

(g) Public water systems that use point-of-use devices as a condition for obtaining a variance or an exemption from the regulations for volatile organic chemicals must meet the following requirements:

(1) It is the responsibility of the public water system to operate and maintain the point-of-use treatment system.

(2) The public water system must develop a monitoring plan and obtain Department's approval for the plan before pointof-use devices are installed for compliance. This monitoring plan must provide health protection equivalent to a monitoring plan for central water treatment.

(3) Effective technology must be properly applied under a plan approved by the Department and the microbiological safety of the water must be maintained.

(4) The Department must require adequate certification of performance, field testing, and, if not included in the certification process, a rigorous engineering design review of the point-of-use devices.

(5) The design and application of the point-of-use devices must consider the tendency for an increase in heterotrophic bacteria concentrations in water treated with activated carbon. It may be necessary to use frequent backwashing, post-contractor disinfection, and Heterotrophic Plate Count monitoring to ensure that the microbiological safety of the water is not compromised.

(6) All consumers shall be protected. Every building connected to the system must have a point-of-use device installed, maintained, and adequately monitored. The Department must be assured that every building is subject to treatment and monitoring, and that the rights and responsibilities of the public water system customer convey with title upon sale of property.

PART 9 SUPPLY OF DRINKING WATER DURING EMERGENCIES

Three (3) types of emergencies are recognized with respect to water supply systems:

9.1 <u>Toxics Contamination</u>

Non-potability by reason of the presence of toxic or other substances in the supply which cannot be removed by existing treatment methods and which, if ingested, might be injurious to the health of consumers. Presence of such substances which might be identified by such parameters as odor, taste, color, chemical tests, the presence of extensive fish kills in the water source, or by other evidence.

(a) In this case, the supplier of water will immediately close off the supply to distribution, notify the Department and the water consumers by the quickest available means of communication. The supplier will also:

-67-

(1) Deliver disinfected water from other supply remains contaminated or the number of days between the time of contamination and time the Department declares the water supply potable again.

9.2 Mechanical Failure and/or Major Natural Disaster

Non-potability by reason of the inactivation of the system due to major mechanical failure, typhoon, earthquakes, or similar disaster.

(a) In this case, the supplier will notify the Department and the water consumers by the quickest available means of communication. The supplier will also:

(1) Deliver disinfected water from suitable sources to such public consumers as hospitals, clinics, and similar institutions. The water so delivered shall be disinfected to the satisfaction of the Department.

(2) Advise consumers as to where potable water from the plant or system may be obtained if such is obtainable.

(3) If potable water is not available from the system, the supplier will advise the consumers by the fastest available media where other water sources may be found in the immediate vicinity. Supplier will also recommend disinfection as prescribed in paragraph 9.1 (a) (4). The supplier shall keep on hand sufficient disinfectant (sodium or calcium hypochlorite) for use of consumers during emergency who may not have access to such disinfectants.

(b) The Office of the Mayor for each municipality in this type of emergency will:

(1) Notify the Department of the emergency; and,

(2) Supervise the operation hereinbefore described under paragraph 9.1 (b).

9.3 Rationing of Water

Non-potability of water supply by reason of the necessity to ration water by emptying mains and distribution lines daily or more frequently:

(a) In this type of emergency, the system is assumed suitable source to such public consumers as hospitals, clinics, and similar institutions. The water so delivered shall be disinfected to the satisfaction of the Department. (1) Take appropriate steps under the supervision of the Department to properly identify the nature and source of the pollutant.

(2) Advise individual consumers to find other emergency sources of water until notified by the Department that the public water supply is potable.

(3) Advise individual consumers to disinfect their emergency water supply by either boiling at a rolling boil for one (1) minute or more, or adding one (1) teaspoon of near 5% strength sodium hypochlorite solution (Clorox, Purex, etc.) to five (5) gallons of clear odorless water, stir and letting it set thirty (30) minutes before using, or as may be prescribed by the Department.

(b) In this type of emergency, the Office of the Mayor of each municipality is the local authorized representative of the Department. It will, in case of this type of emergency:

(1) Notify the Department of the emergency;

(2) Supervise the operations described in paragraph (1); and,

(3) Document circumstances surrounding the contamination including its cause and identification of any person(s) implicated in such contamination.

(c) Person(s) who, either willfully or by negligence, contaminate public water supplies with toxic or poisonous materials which are not removable by normal treatment methods in use by the system, are subject to criminal prosecution as well as the penalty prescribed under paragraph 10.2 of these regulations. The fine under paragraph 10.2 shall be for the number of days the public water to be contaminated by infiltration of surface waters and the supply does not, therefore, meet the standards established by Part 5 of these regulations. The Department and the public shall, therefore, be notified by the supplier as prescribed in Part 6 during the entire period of emergency rationing.

(d) The Department will supervise the action prescribed in paragraph 9.3 (a).

PART 10 ENFORCEMENT

10.1 Authority

The Department, acting through the Commonwealth Attorney General, is responsible for enforcement of these regulations

in consonance with, and in accordance with the applicable laws of the CNMI and in accordance with U.S. P.L. 93-523, known as the "Safe Drinking Water Act". The Attorney General will institute legal actions to enjoin a violation, continuing violation or threatened violation of these regulations.

10.2 Penalties

(a) Any person who violates any provision of these regulations or any certificates, standard or order issued by the Department or any agency charged with responsibilities pursuant to these shall be subject to a civil penalty not to exceed one thousand dollars (\$1,000) for each day of each such violation.

Upon request of the Department, the Commonwealth Attorney (b) General shall petition the Commonwealth Trial Court or the United States District Court for the Northern Mariana Islands for a judgement assessing damages arising from a violation of these regulations or of any certification, certification condition, standard, or order of the Department or any agency charged with responsibilities pursuant to these regulations. In determining such damages, if any, the court having jurisdiction of the matter shall consider the magnitude of harm caused by the violation, the length of time during which the violation has occurred and any corrective or ameliorative action or circumstances on the part of the person or persons against whom the damages are to be assessed.

Any person who willfully or negligently violates any (C) provision of these regulations, or of any certification, certification condition, standard or order of the Department or any agency charged with responsibilities pursuant to these regulations, shall be subject to criminal prosecution and upon conviction shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than twenty-five thousand dollars (\$25,000.00) for each violation or by imprisonment not exceeding three (3) months, or both. Upon subsequent convictions for violations of these regulation any such person. shall be punished by a fine of not less than five hundred dollars (\$500.00) nor more than fifty thousand dollars (\$50,000.00) for each day of violation or by imprisonment not exceeding six (6) months, or both.

(d) All sums received as fines pursuant to this section and all permit fees collected pursuant to these regulations shall be paid to the treasurer of the Commonwealth for credit to the general fund of the Commonwealth.

- 70-

PART 11 CERTIFICATION

The undersigned hereby certifies that these regulations have been officially promulgated and adopted as final regulations pursuant to the authority contained in the Commonwealth of the Northern Marianas Public Law 1-8.

9/17 DATE:

DR(JOSE L. CHONG, Director Department of Public Health and Environmental Serivces

- 71 -