

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
SAIPAN MARIANA ISLANDS

VOLUME 16 NUMBER 11



NOVEMBER 15, 1994

COMMONWEALTH

REGISTER

**COMMONWEALTH REGISTER
VOLUME 16 NUMBER 11
NOVEMBER 15, 1994**

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Commonwealth of the Northern Mariana Islands
OFFICE OF EMERGENCY MANAGEMENT
Saipan, MP 96950

Tel. 322-9274
322-9529
322-9572
Fax: 322-3598
Cable Address:
728726
EMO SPN 726

TROPICAL STORM ORCHID (28W)

EMERGENCY DECLARATION NO. 94-01 DATE: 09/20/94

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operation Plan

WHEREAS, the Acting Governor of the Commonwealth of the Northern Mariana Islands declared readiness **TROPICAL STORM CONDITION I** for the island of **ROTA** and **TROPICAL STORM CONDITION II** for the islands of **SAIPAN** and **TINIAN** effective **2:00 A.M., SEPTEMBER 20, 1994**; and WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Acting Governor, it is directed that the operational portions of the CNMI Emergency Operation Plan be executed, effective **2:00 A.M., SEPTEMBER 20, 1994**, on the islands of **ROTA, SAIPAN** and **TINIAN**, continuing so long as required by the emergency situation.

A handwritten signature in black ink that reads "Jesus C. Borja".

JESUS C. BORJA
Acting Governor
Commonwealth of the Northern
Mariana Islands



Commonwealth of the Northern Mariana Islands
OFFICE OF EMERGENCY MANAGEMENT
Saipan, MP 96950

Tel. 322-9274
322-9529
322-9572
Fax: 322-3598
Cable Address:
728726
EMO SPN 726

TROPICAL STORM ORCHID (28W)

EMERGENCY DECLARATION NO. 94-02


DATE: 09/20/94

SUBJECT: Execution of the Commonwealth of the Northern
Mariana Islands' Emergency Operation Plan

WHEREAS, the Acting Governor of the Commonwealth of the Northern Mariana Islands has **DOWNGRADED TROPICAL STORM CONDITION I** to **TROPICAL STORM CONDITION II** for the island of **ROTA** and **DOWNGRADED TROPICAL STORM CONDITION II** to **TROPICAL STORM CONDITION III** for the islands of **SAIPAN** and **TINIAN** effective **6:00 A.M., SEPTEMBER 20, 1994**; and

WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Acting Governor, it is directed that the operational portions of the CNMI Emergency Operation Plan be executed, effective **6:00 A.M., SEPTEMBER 20, 1994**, on the islands of **ROTA, SAIPAN** and **TINIAN**, continuing so long as required by the emergency situation.


JESUS C. BORJA
Acting Governor
Commonwealth of the Northern
Mariana Islands



Commonwealth of the Northern Mariana Islands
OFFICE OF EMERGENCY MANAGEMENT
Saipan, MP 96950

Tel. 322-9274
322-9529
322-9572
Fax: 322-3598
Cable Address:
728726
EMO SPN 726

TROPICAL STORM ORCHID (28W)


EMERGENCY DECLARATION NO. 94-03 DATE: 09/20/94

SUBJECT: Termination of the Commonwealth of the Northern Mariana Islands' Operational Portions of the EOP

WHEREAS, the Acting Governor of the Commonwealth of the Northern Mariana Islands has **DECLARED** an "**ALL CLEAR CONDITION**" for the island of **ROTA** effective **1:00 P.M., SEPTEMBER 20, 1994**; and

WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan (EOP), the declaration automatically terminates the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Acting Governor, it is directed that the operational portions of the CNMI Emergency Operation Plan be terminated **1:00 P.M., SEPTEMBER 20, 1994**, on the island of **ROTA**.


JESUS C. BORJA
Acting Governor
Commonwealth of the Northern
Mariana Islands



Commonwealth of the Northern Mariana Islands
OFFICE OF EMERGENCY MANAGEMENT
Saipan, MP 96950

Tel. 322-9274
322-9529
322-9572
Fax: 322-3598
Cable Address:
728726
EMO SPN 726

TROPICAL STORM ORCHID (28W)

EMERGENCY DECLARATION NO. 94-04 DATE: 09/20/94

SUBJECT: Termination of the Commonwealth of the Northern Mariana Islands' Operational Portions of the EOP

WHEREAS, the Acting Governor of the Commonwealth of the Northern Mariana Islands has **DECLARED** an **"ALL CLEAR CONDITION"** for the islands of **SAIPAN** and **TINIAN** effective **5:00 P.M., SEPTEMBER 20, 1994**; and

WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan (EOP), the declaration automatically terminates the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Acting Governor, it is directed that the operational portions of the CNMI Emergency Operation Plan be terminated, effective **5:00 P.M., SEPTEMBER 20, 1994**, on the islands of **SAIPAN** and **TINIAN**.

JESUS C. BORJA
Acting Governor
Commonwealth of the Northern
Mariana Islands



Commonwealth of the Northern Mariana Islands
Office of the Governor
Capitol Hill, Saipan MP/USA 96950



U. S.

Phone: (670) 322-5091/2/3

Telefax: (670) 322-5096/99

TROPICAL STORM VERNE (33W)

EMERGENCY DECLARATION NO. 94-05

DATE: 10/20/94

SUBJECT: Execution of the Commonwealth of the Northern
Mariana Islands' Emergency Operation Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands declared readiness **TROPICAL STORM CONDITION II** for the islands of **SAIPAN, TINIAN, ROTA** and **ANATAHAN** effective **6:30 P.M., OCTOBER 18, 1994**; and

WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that the operational portions of the CNMI Emergency Operation Plan be executed, effective **6:30 P.M., OCTOBER 18, 1994**, on the islands of **SAIPAN, TINIAN, ROTA**, and **ANATAHAN**, continuing so long as required by the emergency situation.

FROILAN C. TENORIO
Governor
Commonwealth of the Northern
Mariana Islands



Commonwealth of the Northern Mariana Islands
Office of the Governor
Capitol Hill, Saipan MP/USA 96950



U. S.

Phone: (670) 322-5091/2/3
Telefax: (670) 322-5096/99

TROPICAL STORM VERNE (33W)

EMERGENCY DECLARATION NO. 94-06

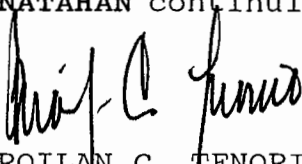
DATE: 10/20/94

SUBJECT: Execution of the Commonwealth of the Northern
Mariana Islands' Emergency Operation Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands has **UPGRADE TROPICAL STORM CONDITION II** to **TROPICAL STORM CONDITION I** for the islands of **SAIPAN, TINIAN** and **ANATAHAN** effective **12:00 A.M., OCTOBER 19, 1994**; and

WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration maintains the execution the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that the operational portions of the CNMI Emergency Operation Plan be maintained in execution, effective **12:00 A.M., OCTOBER 19, 1994**, on the islands of **SAIPAN, TINIAN** and **ANATAHAN** continuing so long as required by the emergency situation.


FROILAN C. TENORIO
Governor

Commonwealth of the Northern
Mariana Islands



Commonwealth of the Northern Mariana Islands
Office of the Governor
Capitol Hill, Saipan MP/USA 96950



Phone: (670) 322-5091/2/3
Telefax: (670) 322-5096/99

TROPICAL STORM VERNE (33W)

EMERGENCY DECLARATION NO. 94-07 DATE: 10/20/94

SUBJECT: Execution of the Commonwealth of the Northern
Mariana Islands' Emergency Operation Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands has declared an "ALL CLEAR CONDITION" for the islands of SAIPAN, TINIAN, ROTA and ANATAHAN effective 12:00 P.M., OCTOBER 19, 1994; and

WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically terminates the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that the operational portions of the CNMI Emergency Operation Plan be terminated, effective 12:00 P.M., OCTOBER 19, 1994, on the islands of SAIPAN, TINIAN, ROTA and ANATAHAN.

FROILAN C. TENORIO
Governor
Commonwealth of the Northern
Mariana Islands



Commonwealth of the Northern Mariana Islands
Office of the Governor
Capitol Hill, Saipan MP/USA 96950



U. S.

Phone: (670) 322-5091/2/3
Telefax: (670) 322-5096/99

SUPER TYPHOON WILDA (35W)

EMERGENCY DECLARATION NO. 94-08 DATE: 10/24/94

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operation Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands declared readiness **TYPHOON CONDITION II** for the island of **ANATAHAN** effective **7:00 A.M., OCTOBER 24, 1994**; and

WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that the operational portions of the CNMI Emergency Operation Plan be executed, effective **7:00 A.M., OCTOBER 24, 1994**, on the island of **ANATAHAN**, continuing so long as required by the emergency situation.

FROILAN C. TENORIO
Governor
Commonwealth of the Northern Mariana Islands



Commonwealth of the Northern Mariana Islands
Office of the Governor
 Capitol Hill, Saipan MP/USA 96950



Phone: (670) 322-5091/2/3
 Telefax: (670) 322-5096/99

SUPER TYPHOON WILDA (35W)

EMERGENCY DECLARATION NO. 94-09 DATE: 10/26/94

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operation Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands declared readiness **TYPHOON CONDITION II** to for the islands of **SAIPAN** and **TINIAN** and maintained **TYPHOON CONDITION II** for the island of **ANATAHAN** effective **1:00 P.M., OCTOBER 24, 1994**; and

WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration maintains the execution the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that the operational portions of the CNMI Emergency Operation Plan be maintained in execution, effective **1:00 P.M., OCTOBER 24, 1994**, on the islands of **SAIPAN, TINIAN** and **ANATAHAN** continuing so long as required by the emergency situation.

FROILAN C. TENORIO
 Governor
 Commonwealth of the Northern Mariana Islands



Commonwealth of the Northern Mariana Islands
Office of the Governor
Capitol Hill, Saipan MP/USA 96950



Phone: (670) 322-5091/2/3
Telefax: (670) 322-5096/99

SUPER TYPHOON WILDA (35W)

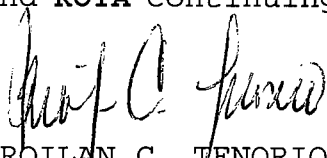
EMERGENCY DECLARATION NO. 94-10 DATE: 10/26/94

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operation Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands has **UPGRADE TYPHOON CONDITION II** to **TYPHOON CONDITION I** for the islands of **SAIPAN, TINIAN** and **ANATAHAN** and declared **TYPHOON CONDITION II** for the island of **ROTA** effective **7:30 A.M., OCTOBER 25, 1994**; and

WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration maintains the execution the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that the operational portions of the CNMI Emergency Operation Plan be maintained in execution, effective **7:30 A.M., OCTOBER 25, 1994**, on the islands of **SAIPAN, TINIAN, ANATAHAN** and **ROTA** continuing so long as required by the emergency situation.


FROILAN C. TENORIO
Governor
Commonwealth of the Northern Mariana Islands



Commonwealth of the Northern Mariana Islands
Office of the Governor
Capitol Hill, Saipan MP/USA 96950



Phone: (670) 322-5091/2/3
Telefax: (670) 322-5096/99

SUPER TYPHOON WILDA (35W)

EMERGENCY DECLARATION NO. 94-11 DATE: 10/26/94

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operation Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands has UPGRADE TYPHOON CONDITION II to TYPHOON CONDITION I for the island of ROTA effective 10:30 A.M., OCTOBER 25, 1994; and

WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration maintains the execution the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that the operational portions of the CNMI Emergency Operation Plan be maintained in execution, effective 10:30 A.M., OCTOBER 25, 1994, on the island of ROTA continuing so long as required by the emergency situation.

Froilan C. Tenorio
Governor
Commonwealth of the Northern Mariana Islands



Commonwealth of the Northern Mariana Islands
Office of the Governor
Capitol Hill, Saipan MP/USA 96950



Phone: (670) 322-5091/2/3
Telefax: (670) 322-5096/99

SUPER TYPHOON WILDA (35W)

EMERGENCY DECLARATION NO. 94-12 DATE: 10/26/94

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operation Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands has DOWNGRADED TYPHOON CONDITION I to TYPHOON CONDITION II for the islands of SAIPAN, TINIAN, ROTA and ANATAHAN as of 6:30 A.M., OCTOBER 25, 1994; and

WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration maintains the execution the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that the operational portions of the CNMI Emergency Operation Plan be maintained in execution, effective 6:30 A.M., OCTOBER 26, 1994, on the islands of SAIPAN, TINIAN, ROTA and ANATAHAN continuing so long as required by the emergency situation.

Froilan C. Tenorio
Governor
Commonwealth of the Northern Mariana Islands



Commonwealth of the Northern Mariana Islands
Office of the Governor
Capitol Hill, Saipan MP/USA 96950



U. S.

Phone: (670) 322-5091/2/3

Telefax: (670) 322-5096/99

SUPER TYPHOON WILDA (35W)

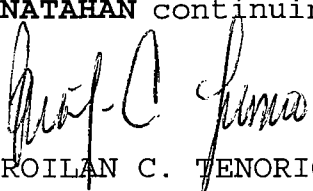
EMERGENCY DECLARATION NO. 94-13 DATE: 10/26/94

SUBJECT: Execution of the Commonwealth of the Northern
Mariana Islands' Emergency Operation Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands has declared an "ALL CLEAR CONDITION" for the islands of SAIPAN, TINIAN, ROTA and ANATAHAN as of 2:30 P.M., OCTOBER 26, 1994; and

WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration maintains the execution the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that the operational portions of the CNMI Emergency Operation Plan be terminated, effective 2:30 P.M., OCTOBER 26, 1994, on the islands of SAIPAN, TINIAN, ROTA and ANATAHAN continuing so long as required by the emergency situation.


FROILAN C. TENORIO
Governor
Commonwealth of the Northern
Mariana Islands



Commonwealth of the Northern Mariana Islands
OFFICE OF EMERGENCY MANAGEMENT
Saipan, MP 96950

Tel. 322-9274
322-9529
322-9572
Fax: 322-3598
Cable Address:
728726
EMO SPN 726

TYPHOON ZELDA (37W)

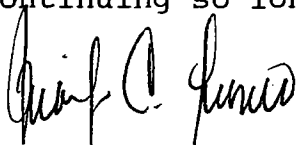
EMERGENCY DECLARATION NO. 94-14 DATE: 11/03/94

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operation Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands declared readiness **TYPHOON CONDITION II** for the islands of **SAIPAN, TINIAN** and **ROTA** effective **12:30 A.M., NOVEMBER 03, 1994**; and

WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration automatically puts into execution the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that the operational portions of the CNMI Emergency Operation Plan be executed, effective **12:30 A.M., NOVEMBER 03, 1994**, on the islands of **SAIPAN, TINIAN** and **ROTA**, continuing so long as required by the emergency situation.


FROILAN C. TENORIO
Governor
Commonwealth of the Northern Mariana Islands



Commonwealth of the Northern Mariana Islands
OFFICE OF EMERGENCY MANAGEMENT
Saipan, MP 96950

TYPHOON ZELDA (37W)

Tel. 322-9274
322-9529
322-9572
Fax: 322-3598
Cable Address:
728726
EMO SPN 726

EMERGENCY DECLARATION NO. 94-15

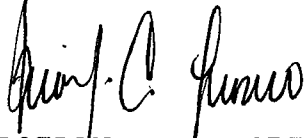
DATE: 11/03/94

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operation Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands has **UPGRADED TYPHOON CONDITION II** to **TYPHOON CONDITION I** for the islands of **SAIPAN, TINIAN, ROTA** and **ANATAHAN** effective **6:30 A.M., NOVEMBER 03, 1994**; and

WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration maintains in execution the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that the operational portions of the CNMI Emergency Operation Plan be maintained in execution, effective **6:30 A.M., NOVEMBER 03, 1994**, on the islands of **SAIPAN, TINIAN, ROTA** and **ANATAHAN** continuing so long as required by the emergency situation.


FROILAN C. TENORIO
Governor

Commonwealth of the Northern Mariana Islands



Commonwealth of the Northern Mariana Islands
OFFICE OF EMERGENCY MANAGEMENT
Saipan, MP 96950

Tel. 322-9274
322-9529
322-9572
Fax: 322-3598
Cable Address:
728726
EMO SPN 726

TYPHOON ZELDA (37W)

EMERGENCY DECLARATION NO. 94-16

DATE: 11/03/94

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operation Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands has **DOWNGRADED TYPHOON CONDITION I** to **TYPHOON CONDITION III** for the island of **ROTA** effective **12:30 P.M., NOVEMBER 03, 1994**; and WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration maintains in execution the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that the operational portions of the CNMI Emergency Operation Plan be maintained in execution, effective **12:30 P.M., NOVEMBER 03, 1994**, on the islands of **ROTA** continuing so long as required by the emergency situation.

A handwritten signature in cursive script, appearing to read "Froilan C. Tenorio".

FROILAN C. TENORIO
Governor
Commonwealth of the Northern
Mariana Islands



Commonwealth of the Northern Mariana Islands
OFFICE OF EMERGENCY MANAGEMENT
Saipan, MP 96950

Tel. 322-9274
322-9529
322-9572
Fax: 322-3598
Cable Address:
728726
EMO SPN 726

TYPHOON ZELDA (37W)

EMERGENCY DECLARATION NO. 94-17 DATE: 11/03/94

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operation Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands has **DOWNGRADED TYPHOON CONDITION I** to **TYPHOON CONDITION III** for the islands of **SAIPAN** and **TINIAN**, effective **6:30 P.M., NOVEMBER 03, 1994**; and

WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration maintains in execution the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that the operational portions of the CNMI Emergency Operation Plan be maintained in execution, effective **6:30 A.M., NOVEMBER 03, 1994**, on the islands of **SAIPAN** and **TINIAN** continuing so long as required by the emergency situation.

A handwritten signature in black ink, appearing to read "Froilan C. Tenorio".

FROILAN C. TENORIO
Governor
Commonwealth of the Northern Mariana Islands



Commonwealth of the Northern Mariana Islands
OFFICE OF EMERGENCY MANAGEMENT
Saipan, MP 96950

Tel. 322-9274
322-9529
322-9572
Fax: 322-3598
Cable Address:
728726
EMO SPN 726

TYPHOON ZELDA (37W)

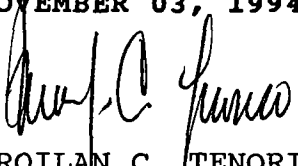
EMERGENCY DECLARATION NO. 94-18 DATE: 11/03/94

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operation Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands has declared an "ALL CLEAR CONDITION" for the island of ROTA effective 6:30 P.M., NOVEMBER 03, 1994; and

WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration terminates the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that the operational portions of the CNMI Emergency Operation Plan be terminated, effective 6:30 P.M., NOVEMBER 03, 1994, on the island of ROTA.


FROILAN C. TENORIO
Governor
Commonwealth of the Northern Mariana Islands



Commonwealth of the Northern Mariana Islands
OFFICE OF EMERGENCY MANAGEMENT
Saipan, MP 96950

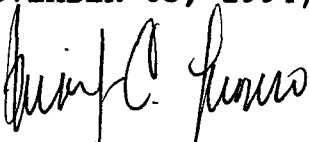
Tel. 322-9274
322-9529
322-9572
Fax: 322-3598
Cable Address:
728726
EMO SPN 726

TYPHOON ZELDA (37W)

EMERGENCY DECLARATION NO. 94-19 DATE: 11/03/94

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operation Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands has declared an "ALL CLEAR CONDITION" for the islands of SAIPAN and TINIAN effective 9:30 P.M., NOVEMBER 03, 1994; and
WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration terminates the operational portions of the Plan;
NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that the operational portions of the CNMI Emergency Operation Plan be terminated, effective 9:30 P.M., NOVEMBER 03, 1994, on the island of SAIPAN and TINIAN.


FROILAN C. TENORIO
Governor
Commonwealth of the Northern Mariana Islands



Commonwealth of the Northern Mariana Islands
OFFICE OF EMERGENCY MANAGEMENT
Saipan, MP 96950

Tel. 322-9274
322-9529
322-9572
Fax: 322-3598
Cable Address:
728726
EMO SPN 726

TYPHOON ZELDA (37W)

EMERGENCY DECLARATION NO. 94-20

DATE: 11/03/94

SUBJECT: Execution of the Commonwealth of the Northern
Mariana Islands' Emergency Operation Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands has **DOWNGRADED TYPHOON CONDITION I** to **TYPHOON CONDITION II** for the island of **ANATAHAN**, effective **9:30 P.M., NOVEMBER 03, 1994**; and

WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration maintains in execution the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that the operational portions of the CNMI Emergency Operation Plan be maintained in execution, effective **9:30 A.M., NOVEMBER 03, 1994**, on the island of **ANATAHAN** continuing so long as required by the emergency situation.

FROILAN C. TENORIO
Governor
Commonwealth of the Northern
Mariana Islands



Commonwealth of the Northern Mariana Islands
OFFICE OF EMERGENCY MANAGEMENT

Saipan, MP 96950

Tel. 322-9274

322-9529

322-9572

Fax: 322-3598

Cable Address:

728726

EMO SPN 726

TYPHOON ZELDA (37W)

EMERGENCY DECLARATION NO. 94-21

DATE: 11/04/94

SUBJECT: Execution of the Commonwealth of the Northern Mariana Islands' Emergency Operation Plan

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands has declared an "ALL CLEAR CONDITION" for the island of ANATAHAN effective 6:00 A.M., NOVEMBER 04, 1994; and

WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operations Plan, the declaration terminates the operational portions of the Plan;

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that the operational portions of the CNMI Emergency Operation Plan be terminated, effective 6:00 A.M., NOVEMBER 04, 1994, on the island of ANATAHAN.

A handwritten signature in cursive script, appearing to read "Froilan C. Tenorio".

FROILAN C. TENORIO
Governor
Commonwealth of the Northern Mariana Islands

PUBLIC NOTICE

ADJUSTMENT TO "WORK INCENTIVE: 30 PERCENT LOCAL SHARE"
FOR THE
NUTRITION ASSISTANCE PROGRAM GUIDELINES
DEPARTMENT OF COMMUNITY & CULTURAL AFFAIRS

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


This matter relates to the NAP Memorandum of Understanding procedures in the area of:

Section 15: Work Incentive: 30 percent Local Share

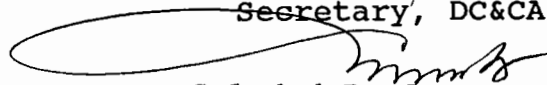
The effective date for the change is October 1, 1994.

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, JTV Building, As Lito Road, Saipan, MP 96950.

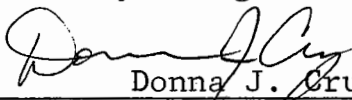
Date: 11-7-94


THOMAS A. TEBUTEB
Secretary, DC&CA

Date: 11/7/94


Soledad B. Sasamoto
Filed by: Registrar of Corp.

Date: 11/7/94


Donna J. Cruz
Received by: Governor's Off.

NUTISIAN PUBLEKU

TINULAIKA GI MANERAN "POT CHOCHU': 30 PUT CENTU NA PARA
PRUDUKTUN TANO'TA"
I PRUGRAMAN AYUDON NEGKANNO'
DEPATTAMENTON Y KOMUNIDAT YAN KUTTURA

I Sekretarion i Depattamenton Community and Cultural Affairs a amenda i regulasion ni ginebebetna i ma'atministran Prugraman Ayudon Nengkanno' gi halom i Sangkattan na Islan Marianas.

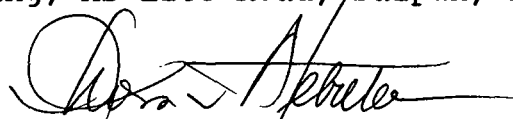
Este siha na tinulaika para i NAP Memorandum of Understanding sasangan i areglo siha yan taimanu ma'aplika'na gi sigiente siha na patte:

Section 15: Work Incentive: 30 percent Local Share

I fecha ni para u efektibu este na tinulaika para Oktobre 1, 1994.

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, JTV Building, As Lito Road, Saipan, MP 96950.

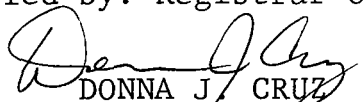
FECHA: 11/7/94


THOMAS A. TEBUTEB

Date: 11/7/94


SOLEDAD B. SASAMOTO
Filed by: Registrar of Corp.

Date: 11/7/94


DONNA J. CRUZ
Received by: Governor's Office

15. WORK INCENTIVE: 30 PERCENT LOCAL SHARE

The CNMI Program shall have as its primary objective the goal of providing nutritional assistance in an effort to meet the basic R.D.A. Thrifty Food Plan needs for those individuals determined eligible for the Nutrition Assistance Program.

In addition, the Program shall be designed to provide work incentives, develop CNMI self-sufficiency, and stimulate economic development and food production in the Northern Mariana Islands.

Thirty percent (30%) of all food purchased with coupons under the Program shall be local commodities obtained, grown, fished, raised, or otherwise produced in the CNMI.

Program issuance shall be designed by the CNMI, utilizing specially earmarked coupons restricted to the purchase of locally-produced food and fish products, in order to ensure thirty percent (30%) purchase of CNMI commodities.

In addition to earmarked coupon issuance for the purpose of restricting 30 percent of food purchases to local commodities, the CNMI shall allow for purchase by coupons of nonfood items aimed at increasing the production of local foods. These nonfood purchases shall include fishing equipment (limited to nets, spears, knives, fish lines, fish hooks, fishing rods, harpoons, diving masks or goggles, fishing reels and underwater flash-lights) and garden supplies (limited to seeds, plant cuttings, fertilizer, hoes, rakes, shovels and sickles).

BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDED POLICIES

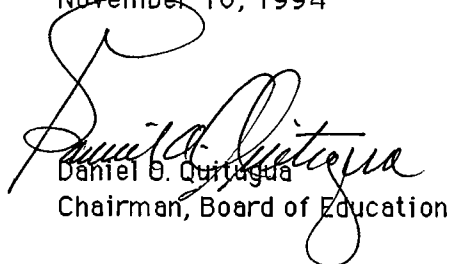
The Board of Education, Commonwealth of the Northern Mariana Islands, hereby notifies the general public of its intention to adopt certain proposed policies. The new and proposed policies, which would have the force and effect of law, are promulgated pursuant to the authority provided by the Education Act of 1988 and the Administrative Procedures Act.

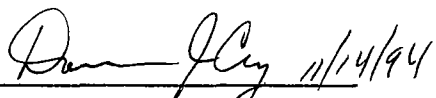
The policies involve the following subject area:


- | | |
|---|--|
| NEW POLICY 1009 | Harassment on the Basis of Race, Color, National Origin, & Sex, On PSS Grounds or by PSS Employees |
| 1. New Policy 1009.1 | Harassment Prohibited |
| 2. New Policy 1009.2 | Conduct Constituting Harassment |
| 3. New Policy 1009.3 | Persons Subject to Policy |
| 4. New Policy 1009.4 | Duty to Report Violations |
| 5. New Policy 1009.5 | Enforcement of Policy |
| 6. Amend. Policy 301.2 | Appointment of the Commissioner of Education |
| 7. Amend. Policy 1006
CNMI BOE BY-LAWS | Federal Grants |
| 8. Amendment | Article VI Section 7 |
| 9. Amendment | Article VI Section 9 |
| 10. Amendment | Special Education Program Regulations (Revised) 1994 |

The text of the proposed policies are published following this notice. Anyone interested in commenting on the policies may do so by submitting comments in writing to the Chairperson, Board of Education, P.O. Box 1370 CK, Saipan, MP 96950 within thirty days of the date of publication of this issue of the Commonwealth Register.

November 10, 1994


Daniel B. Quintana
Chairman, Board of Education

Received By:  11/14/94
Donna Cruz, Governor Office

Filed By:  11/14/94
Soledad B. Sasamoto
Registrar of Corporations

BOARD OF EDUCATION

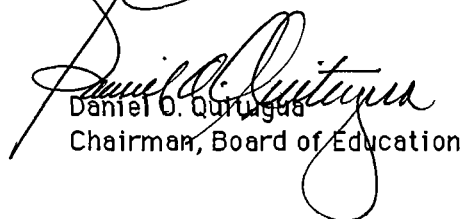
NUTISIA POT I MANNUEBU NI MANMAPROPOPONI NA POLICIES

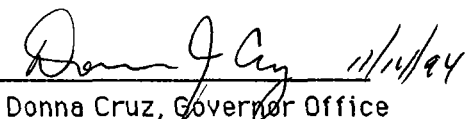
I Board of Education, Commonwealth of the Northern Mariana Islands, ha emfotma i publiku pot i extension-ña na para u fanadapta nuebu na amendasion para policies. I nuebu yan manmapropoponi na policies u gai fuetsa taiguihi ha i lai ni macho'gue sigun aturidat i Education Act of 1988 yan i Administrative Procedures Act.

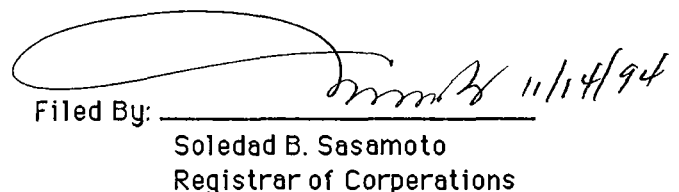
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3. Nuebu Policy 1009.3	<u>Persons Subject to Policy</u>
4. Nuebu Policy 1009.4	<u>Duty to Report Violations</u>
5. Nuebu Policy 1009.5	<u>Enforcement of Policy</u>
6. Amenda Policy 301.2	<u>Appointment of the Commissioner of Education</u>
7. Amenda Policy 1006	<u>Federal Grants</u>
CNMI BOE BY-LAWS	
8. Amenda	<u>Article VI Section 7</u>
9. Amenda	<u>Article VI Section 9</u>
10. Amenda	<u>Special Education Program Regulations (Revised) 1994</u>

I intension i ma amenda na amendasion yan i nuebu na policies siempre u fan mapublika huyong despues di malaknos-ña este na notisia. Hai na petsona malago' mama'tinas rekomendasion pot este siha na policies, siña ha tuge' papa' ya u submiti halom gi Chairperson, Board of Education, P.O. Box 1370 CK, Saipan, MP 96950 gi halom trenta (30) dias despues di mapublika huyong este na notisia gi Commonwealth Register.

10, 1994


Daniel O. Quirigua
Chairman, Board of Education

Received By:  11/14/94
Donna Cruz, Governor Office

Filed By:  11/14/94
Soledad B. Sasamoto
Registrar of Corporations

BOARD OF EDUCATION

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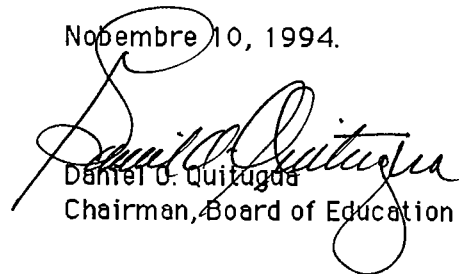
Schóól Board of Education, mellól Commonwealth of the Northern Mariana Islands, rekke arongaar towlap reel mángemángiir igha rebwe adaptááilil allégh kka e efféetá. Allégh kka rebwe féerúl, nge e pwal yoor bwángil me allégh nge re bwal féerú sáangi bwángil me ailéewal Education Act of 1988 me Administrative Procedures Act.

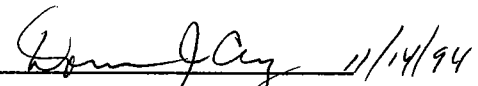
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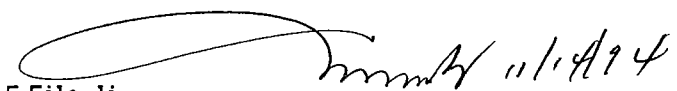
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7. Liiwelil Policy 1006	<u>Federal Grants</u>
CNMI BOE BY-LAWS	
8. Liiwelil	<u>Article VI Section 7</u>
9. Liiwelil	<u>Article VI Section 9</u>
10. Liiwelil	<u>Special Education Program Regulations (Revised) 1994</u>

Owtol allégh yeel nge ebwe toowow mwiril arongorong yeel. Iyo e mwuschál bwe atotoolong meeta tipal me mángemángil nge ebwe ischiitiw nge aa afanga ngáli Chairperson, Board of Education, P.O. Box 1370 CK, Saipan, MP 96950. Llól eliigh rái sáangi igha e toowow arongorong yeel llól Commonwealth Register.

Novembre 10, 1994.


Daniel C. Quitugua
Chairman, Board of Education

Iyo E Risibiiy:  11/14/94
Donna Cruz, Governor Office

Iyo E File-li:  11/14/94
Soledad B. Sasamoto
Registrar of Corporations

New Policy

Policy 1009 Harassment On The Basis Of Race, Color, National Origin, And Sex, On PSS Grounds or By PSS Employees

1009.1 Harassment Prohibited.

Unlawful harassment in the workplace on the basis of an individual's race, color, national origin, religion, or sex by any official or employee of the PSS or in any building under control of the PSS is prohibited. Such harassment is unlawful under Commonwealth law, Federal statutes, and the Rules and Regulations of PSS; including but not limited to, Article I, Section 6, CNMI Constitution, Article XV, Section 1 (b), CNMI Constitution, 42 U.S.C. 2000d-2000e, and Section 5302 (Policy on Employee Conduct) of the PSS Rules and Regulations.

1009.2 Conduct Constituting Harassment.

Slurs and other verbal or physical conduct relating to an individual's race, color, national origin, religion or sex constitutes unlawful harassment when such slurs or conduct (1) has the purpose or effect of creating an intimidating, hostile or offensive working or educational environment, (2) has the purpose or effect of unreasonably interfering with an individual's work or educational performance; or (3) otherwise adversely affects an individual's employment or educational opportunities. While any final determination whether particular verbal and physical conduct constitutes unlawful harassment shall be based on the particular facts of each alleged act of harassment, individuals subject to this policy shall be presumed to intend the reasonable and foreseeable consequences of their conduct.

1009.3 Persons Subject to Policy.

The policy prohibiting unlawful harassment on the basis of race, color, national origin, religion, or sex shall apply to all acts and/or conduct (1) by any official, employee, agent or sub-contractor of the PSS within the scope of their employment or contract, and (2) by any person lawfully on premises under the control of the PSS within the scope of their lawful authority.

1009.4 Duty to Report Violations.

Unless provided otherwise under the Rules and Regulations of the PSS, possible violations of this policy shall be reported to the Principal, in the case of a public school, or senior PSS official, in the case of premises under the control of the PSS other than a school, responsible for the facility in which the alleged violation of this policy took place. Such report shall include at the minimum the name of person who allegedly violated this policy, the date and place of the alleged violation, the circumstances of the conduct alleged to constitute unlawful harassment, and the names of any other persons who might have personal knowledge of the conduct reported.

1009.5 Enforcement of Policy.

In the case of conduct on the part of an official, employee, agent or sub-contractor of the PSS violations of this policy shall be subject to appropriate disciplinary action, including possible suspension or termination of employment or contract. In the case of conduct on the part of an individual on or in premises under the control of PSS, violations of this policy shall be subject to such corrective action, including restricting or barring an individual or organization from PSS premises, as is warranted under the facts. Disciplinary action against an official, employee, agent or sub-contractor, or termination of authority to use or be on premises under the control of the PSS based on this policy shall be taken only after compliance with all applicable rules and regulations of the PSS governing such proposed action.

Amended Policies

Policy 301. 2 Appointment of the Commissioner of Education

The Commissioner of Education shall ~~consult with the Board concerning the appointment of~~ appoint the Deputy Commissioner of Education, Directors of Administration and Instruction, Staff Services Officer, Fiscal and Budget Officer, Federal Programs Coordinator, Procurement and Supply Officer, Timian and Rota Administrative Services Officers, and the Principals. Concurrence by the Board of Education for these positions shall be required.

Policy 1006 Federal Grants

All ~~new~~ federal program applications should be reviewed and endorsed by the Board ~~through the Chairman of the Board.~~ Existing clearing house procedures will be followed as required by each federally funded program. Board members will be provided copies of program applications.

CNMI Board of Education By-Laws

Article VI Section 7

Current Policy:

Board members who are non-CNMI Government employees will be given honorarium for regular meetings and Committee meetings attended at the rate established by law which is \$60 for a full day and \$30 for a half day. These meetings must have a quorum and minutes are to be recorded. Meetings of less than three hours will be compensated at half the established rate. Members who are Government employees will receive compensation if official meetings both regular and Committee are held ~~after 4:30 p.m. and are held~~ established by law which is \$60 for a meeting of more than 4 hours or \$30 for a meeting of less than 4 hours. between 11:30 a.m. and 12:30 p.m., after 4:30 p.m. or on weekends, at the same rate with non-Government employees.

Article VI Section 9

Official Representation expenditures shall be governed by the procedures established and approved by the Board for Expenditure of Official Representation funds. ~~and shall be subject to the rules and regulations of the Board.~~

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**Commonwealth of the Northern Mariana Islands
Public School System
Special Education Program
Regulations
(revised 1994)**

The Commonwealth of the Northern Mariana Islands (CNMI), Public School System (PSS), Board of Education (BOE) will provide all children with disabilities eligible to receive special education and related services the right to a free appropriate public education from birth through age 21. The Coordinator for Special Education Programs (Coordinator) is the designated head of the State Education Agency (SEA) for Special Education Programs for the CNMI. In the CNMI, the SEA and the Local Education Agency (LEA) are the same agency, PSS.

PSS recognizes its unique situation as a commonwealth located over 4,000 miles distant from the nearest state (Hawai'i). The following regulations are drafted to ensure the delivery of a free appropriate public education.

1.0 Free Appropriate Public Education (FAPE)

PSS will provide for every child with disabilities ages birth through 21 years of age identified through the eligibility process as outlined in Section *1.0 Free Appropriate Public Education* a free, meaning at no cost to the parent, appropriate, meaning as determined through the Individualized Education Plan/ Individualized Family Services Plan (IEP/IFSP) process as defined by Section *3.0 Individualized Education Plan*, public education.

1.1 Child Study Team

A Child Study Team meeting will be convened prior to a referral to the Special Education Program for consideration of the possibility of a disability. The Child Study Team (CST) is a school-based committee under the direction of the principal of the school whose task is to assist in developing alternative educational strategies for children who are experiencing difficulty in the regular education program. One of its responsibilities is to refer children with suspected disabilities to the Special Education Program for consideration for eligibility as a child with a disability. The CST is utilized as one of the various methods the Special Education Program uses in meeting the requirement of ensuring that children with special learning needs are identified and receive the educational services to which they are entitled. While CSTs are the preferred method of referral, other forms of referral will be considered as well.

1.2 Referral for Consideration of Eligibility for Special Education and Related Services

1.2.1 Pre-school Referrals

Pre-school referrals are for children ages birth through three (3) years old who are not enrolled in a preschool program such as Children's Diagnostic Assistance Center (C*DAC), are not attending a Head Start program or private pre-school program.

Referrals are to be in written form using the Referral for Eligibility form available from the Special Education Program and submitted to the Itinerant Teacher(s) whose primary responsibility is for early childhood programs.

A Child Study Team consisting of the Itinerant Teacher, other Early Childhood Program staff knowledgeable in the development of children of this age and any other individual who is deemed appropriate by any party of the CST or by the parent should observe the child in his or her natural environment and then determine if a referral for consideration for eligibility for special education and related services is warranted.

Within 15 working days of the receipt of the recommendation of the CST by the Special Education Program for consideration for eligibility for special education and related services, the Coordinator will designate the Itinerant Teacher(s) whose primary responsibility is for early childhood programs to act as the contact person for this child's case until eligibility is determined.

1.2.2 In-school Referrals

In-school referrals are for children ages three (3) through 21 years of age who are currently enrolled or attending a CNMI school either public or private, Head Start or other pre-school program

Referrals are to come from the Child Study Team, are to be in written form using the Referral for Eligibility form available through the Special Education Program and are to be submitted to the Coordinator for Special Education Programs through the Itinerant Teacher.

Within 15 working days of the receipt of the recommendation of the CST for consideration for eligibility for special education and related services, the Coordinator will designate the Itinerant Teacher assigned to the school which the child is attending to act as the contact person for this child's case until eligibility is determined.

1.2.3 Out of School Referrals

Out of school referrals are for children who are entering the CNMI from another country, jurisdiction or state with supporting documentation of previous assistance in special programs or for children who have not been attending school although of school age.

- (1) Children who enter the CNMI public or private schools who have received special services in their former school and have documentation indicating this are to be immediately referred to the Child Study Team and to the Itinerant Teacher assigned to the school in which the child is enrolled or to the Coordinator for Special Education Programs. All documentation indicating that the child received special services elsewhere should be reviewed by the CST and attached to the Referral for Eligibility form if referral for consideration for special education and related services is the recommendation of the CST. Documentation includes:
 - (a) a current Individualized Education Plan (IEP)
 - (b) any paperwork which indicates that the child was found eligible to receive special education services
 - (c) any information which indicates that an individual assessment was conducted in an area such as the following:
 - (i) psychological testing
 - (ii) individual academic assessment
 - (iii) scores from individually administered standardized tests
 - (iv) speech-language assessment

- (2) Children who have not been attending school for an extended period of time. This includes children whose parents have kept them at home for any reason, children who have been adjudicated and children who have dropped out of school who are less than 22 years of age.

Referrals are to come from the Child Study Team in the school which they would attend if they were enrolled, are to be in written form using the Referral for Eligibility form and are to be submitted to the Coordinator for Special Education Programs through the Itinerant Teacher.

Within 15 working days of the receipt of the recommendation of the CST for consideration for eligibility for special education and related services, the Coordinator will designate the Itinerant Teacher assigned to the school which the child is attending to act as the contact person for this child's case until eligibility is determined.

1.3 Parental Permission

Testing and evaluation materials and procedures for the purpose of evaluation and placement of children with disabilities shall be selected and administered so as not to be racially or culturally discriminatory.

The primary purpose of conducting an evaluation is to gather information to determine whether a child has a disability and is eligible to receive special education and related services. A secondary purpose is to identify specific instructional and support services which are needed by the child for meaningful educational benefit.

Written notice must be given to the parent of a child with a disability a reasonable time before the Special Education Program:

- (1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child; or
- (2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child.

Parental consent must be obtained before:

- (1) Conducting a preplacement evaluation; and/or
- (2) Initial placement of a child with a disability in a program providing special education and related services

If a parent refuses to have a child suspected of a disability evaluated or initially placed, the Public School System may use the hearing procedures established in Section 5.0 *Procedural Safeguards* to determine if the child may be evaluated or initially provided special education and related services without parental consent. If the hearing officer upholds the Public School System, the Public School System will evaluate or initially provide special education and related services to the child without the parent's consent.

Except for preplacement evaluation and initial placement, consent shall not be required as a condition of any benefit to the parent or child.

1.4 Assignment of Multidisciplinary Team Members for Assessment

The assessment of the child is made by the Multidisciplinary Team which is a group of persons including at least one teacher or other specialist with knowledge in the area of suspected disability.

If an individual licensed or certified to assess children in the area of the suspected disability is not available for assignment for assessment, the Itinerant Teacher is to notify the Coordinator for Special Education Programs and the following procedures are to be followed:

- (1) If there is another agency in the CNMI which has on staff an individual qualified to assess a child in the area of suspected disability, the Special Education Program will try to develop a Memorandum of Understanding between PSS and the agency for assessment of the child.
- (2) If the assessment is one for which there is no other agency in the CNMI which has on staff an individual qualified to assess a child in the area of suspected disability or if the agency is unwilling to develop a Memorandum of Understanding with the PSS, the Special Education Program will contract for assessment of children suspected of a disability with a qualified individual or agency on Guam, Hawaii, in the mainland United States or elsewhere.

1.5 Timelines

The entire process from date parental permission is granted to the date of Eligibility is to be completed within fifty (50) working days if individuals licensed or certified in assessment of children suspected of a disability are available in the PSS.

In the event qualified individuals are not available for assessment in the PSS and the Special Education Program is required to develop a Memorandum of Understanding or contract with individuals or agencies in Guam, Hawaii, the mainland United States or elsewhere then the fifty (50) working day timeline will not be in effect.

- (1) In cases where assessments for children suspected of having a disability are to be made by individuals in other agencies in the CNMI through a Memorandum of Understanding, the Special Education Program will request that the assessment take place within the fifty (50) working day timeline if at all possible but no later than eighty five (85) days from the date Parent Permission is signed.
- (2) In cases where assessments for children suspected of having a disability are to be made by individuals or agencies contracted in Guam, Hawaii, the mainland United States or elsewhere, the contract is to require assessment of children suspected of a disability to take place at least three times a year, no later than 120 days from the date Parent Permission is signed.

In either of the above events, the child suspected of having a disability is to receive assessment in as many areas as possible within the fifty (50) working day timeline and an Eligibility meeting is to be held within the fifty (50) working day timeline to determine if the child is eligible to receive special education and related services. If assessment data is unavailable within the fifty (50) working day timeline because the assessment is to be conducted by an agency within the CNMI through a Memorandum of Understanding or because the assessment is to be conducted through a contract with an individual or agency in Guam, Hawaii, the mainland United States or elsewhere, then the Multidisciplinary Team is to make a determination that eligibility can not be determined. It is to be clearly stated on the Summary of Eligibility form that the Multidisciplinary Team will re-meet upon

receipt of the necessary assessment information but in no case later than eighty-five (85) working days after receipt of parent permission to test if the assessment is being performed through a Memorandum of Understanding with an agency in the CNMI or no more than 120 days from the date Parent Permission is signed if the assessment is being performed through a contract with an individual or agency in Guam, Hawaii, the mainland United States or elsewhere.

1.6 Eligibility Meetings

1.6.1 Confirming Eligibility Meetings

A Confirming Eligibility meeting is held if the child and data meet the following criteria:

- (1) Child has previously been found eligible to receive services in some other jurisdiction and;
- (2) Records provided by the parent, school or other source include:
 - (a) an IEP which is no more than one year old or an Eligibility Statement indicating the child was found eligible to receive services which is no more than three years old; and
 - (b) supporting records such as a psychological report, an educational assessment report, a speech/language report, or an Occupational Therapist's or Physical Therapist's report which are no more than three years old.

The Multidisciplinary Team will meet within 30 working days to review the documents and to make one of the following determinations:

- (1) The child is eligible to receive services in the CNMI
- (2) The child is not eligible to receive services in the CNMI
- (3) Eligibility can not be determined. Additional information is required.

Information required must be specified and a timeline for gathering the information as well as for the Multidisciplinary Team to re-meet must be determined

1.6.2 New Eligibility Meeting

A New Eligibility meeting is held if the child and data meet the following criteria:

- (1) Child has not previously been found eligible to receive services or
- (2) There is evidence that a child has been found to have previously received services but the conditions for holding a Confirming Eligibility have not been met; and
- (3) Records provided include:
 - (a) Referral for Eligibility form and accompanying data; and
 - (b) signed Parent/Guardian Permission to Test form;

The Multidisciplinary Team will meet within 50 working days of the date of the referral to review the evaluation information and to make one of the following determinations:

- (1) The child is eligible to receive services in the CNMI
- (2) The child is not eligible to receive services in the CNMI
- (3) Eligibility can not be determined. Additional information is required.

Information required must be specified and a timeline for gathering the information as well as for the Multidisciplinary Team to re-meet must be determined

1.6.3 Triannual Eligibility Meeting

An evaluation of the child is conducted every three years or more frequently if conditions warrant or if the child's parent or teacher requests an evaluation. This is called a Triannual Eligibility meeting. The purpose of a Triannual Eligibility meeting is to determine if the child continues to meet the requirements of eligibility for special education services in the CNMI. A Triannual Eligibility meeting is held if:

- (1) Child was found eligible to receive services in the CNMI and;
- (2) This determination was three years previous; or
- (3) The child's parent or teacher requests an evaluation; or
- (4) It is determined that conditions warrant an evaluation

The Multidisciplinary Team will meet within 50 working days of the date of the referral to review the evaluation information and to make one of the following determinations:

- (1) The child continues to be eligible to receive services in the CNMI
- (2) The child is no longer eligible to receive services in the CNMI
- (3) Eligibility can not be determined. Additional information is required.

Information required must be specified and a timeline for gathering the information as well as for the Multidisciplinary Team to re-meet must be determined. The child will continue to receive the services as stipulated on the current IEP until such time as the question of eligibility has been determined.

1.7 Eligibility Criteria

In order to be considered eligible to receive special education and related services in the CNMI, a child must meet the following criteria:

- (1) The child must have a disability and
- (2) the child's educational performance must be adversely affected and
- (3) a Multidisciplinary Team agrees that the child is in need of special education and related services

A disability means that the child's apparent ability to receive benefit from the educational program provided without special education and related services has been negatively impacted to a degree that it is reasonable to assume that without the intervention of special education and related services, the child will not benefit from the educational program as provided. This determination is made through assessments and observation made by knowledgeable individuals. No one procedure or assessment is used.

Categories of disability are:

Autistic

Criteria:

- (1) A condition of autism exists and;
- (2) the child's educational performance is adversely affected and;
- (3) the Multidisciplinary Team agrees that the child is in need of special education and related services

Definitions:

- (1) A condition of autism means
 - (a) the child demonstrates at least six of the following nine characteristics and;
 - (b) the behaviors or characteristics are demonstrated at least 50% of the time in the child's primary environment and

- (c) onset of these behaviors or characteristics occurred before the child reached 36 months of age.
- (2) Characteristics:
 - (a) Lack of appropriate speech - may be echolalic or nonverbal; may demonstrate some understandable speech but may not use speech meaningfully or in appropriate contexts
 - (b) Lack of appropriate social behavior - may be either oblivious to other people's presence or may relate to others in a bizarre manner
 - (c) Apparent sensory deficit - may not consistently respond to sensory stimulation but does not have a true sensory deficit
 - (d) Lack of appropriate play - may ignore toys or objects or interact with toys or objects in a strange or inappropriate manner; may demonstrate compulsive behavior during play
 - (e) Inappropriate or out of context emotional behavior - may demonstrate extreme tantrums or outbursts of hysterical laughter with out apparent reason; may display a virtual absence of emotional responses; may fluctuate from laughter to crying without apparent reason
 - (f) Self-stimulation - may engage in high rate of stereotypical, repetitive behaviors such as flapping fingers, waving hands in front of face, rhythmic rocking or spinning
 - (g) Isolated areas of high functioning (splinter skills) - may be especially proficient in a particular area while other skills may be significantly delayed;
 - (h) Erratic and labile behavior - may demonstrate unpredictable responses and labile behavior; attention span may be less than one minute for many activities; may fluctuate from manic moods characterized by laughing and giggling to depressed moods characterized by crying and withdrawal
 - (i) Rigidity of structured activity - may resist change or react in an unusual manner when routine or environment is changed; self-directed activities performed by the child may be rigid
- (2) Adversely affects educational performance means the child performs in the lowest 20% of Commonwealth peers on one or more critical development school skills.

Assessments for determination are to include:

- (1) evaluation by professional trained in the assessment of emotional and behavioral disorders and;
- (2) educational evaluation which indicates achievement as it relates to the child's peers

Assessments are administered in accordance with Section 6.0 *Protection in Evaluation Procedures*.

Communication Disorder

Criteria:

- (1) A communication disorder exists and;
- (2) the child's educational performance is adversely affected and;
- (3) the Multidisciplinary Team agrees that the child is in need of special education and related services

Definitions:

- (1) A communication disorder means:
 - (a) for 0 to 5 years of age:
 - (i) the child demonstrates early language milestones which are more than 6 months delayed or;

- (ii) the child was born with a physical anomaly or neurological disorder which has been demonstrated to present probable limitations on the child's ability to acquire oral language or which renders the child incapable of producing speech or;
- (iii) the child demonstrates prominent dysfluencies, articulation error patterns or inappropriate vocal characteristics for more than 50% speech attempts and this pattern of speech dysfluencies, articulation error patterns or inappropriate vocal characteristics has persisted for more than six months
- (b) for 6 to 21 years of age:
 - (i) the child uses oral or sign language to communicate successfully for less than 50% of his/her attempts in the classroom and/or with his/her peers and this inability is not a result of a hearing impairment, cognitive impairment, specific learning disability, emotional disturbance or other disabling condition or;
 - (ii) the child was born with a physical anomaly or neurological disorder which renders the child incapable of producing speech or;
 - (iii) the child demonstrates prominent dysfluencies, articulation error patterns or inappropriate vocal characteristics which causes the child's speech to be less than 75% intelligible and this pattern of speech dysfluencies, articulation error patterns or inappropriate vocal characteristics has persisted for more than six months
- (2) Adversely affects educational performance means the child performs in the lowest 20% of Commonwealth peers on one or more critical development school skills.

Assessments for determination are to include:

- (1) evaluation which determines speech/language ability in the child's primary language such as language samples, classroom observation, teacher and/or parent interview and criterion-referenced testing and standardized testing;
- (2) educational evaluation which indicates achievement as it relates to the child's peers

Assessments are administered in accordance with Section 6.0 *Protection in Evaluation Procedures*.

Cognitively Impaired

Criteria:

- (1) A cognitive impairment exists and;
- (2) the child's educational performance is adversely affected and;
- (3) the Multidisciplinary Team agrees that the child is in need of special education and related services

Definitions:

- (1) A cognitive impairment means:
 - (a) the child demonstrated developmental delays as an infant and toddler and continues to demonstrate at least two-year delays in at least two areas of development: motor skills, social-adaptive behavior, communication skills, and/or thinking or problem solving skills;
 - (b) the results of at least two different assessments indicate that all aspects of the child's cognitive functioning are depressed for someone the child's age and;
 - (c) the results of an adaptive behavior measurement indicates that the child's adaptive behavior is significantly different from the behavior expected of a child of similar age and cultural background as the child

- (2) Adversely affects educational performance means the child performs in the lowest 20% of Commonwealth peers on one or more critical development school skills.

Assessments for determination are to include:

- (1) evaluation which determines cognitive ability and;
- (2) educational evaluation which indicates achievement as it relates to the child's peers and;
- (3) evaluation of adaptive behavior

Assessments are administered in accordance with Section 6.0 *Protection in Evaluation Procedures*.

Deaf

Criteria:

- (1) A condition of deafness exists and;
- (2) the child's educational performance is adversely affected and;
- (3) the Multidisciplinary Team agrees that the child is in need of special education and related services

Definitions:

- (1) A condition of deafness means the child does not have the capability to hear and understand more than 25% of auditory information even with amplification.
- (2) Adversely affects educational performance means the child performs in the lowest 20% of Commonwealth peers on one or more critical development school skills.

Assessments for determination are to include:

- (1) one or more of the following: behavioral audiometry, pure-tone thresholds, tympanography, speech discrimination, auditory brainstem response (ABR) testing and clinical observations and;
- (2) educational evaluation which indicates achievement as it relates to the child's peers

Assessments are administered in accordance with Section 6.0 *Protection in Evaluation Procedures*.

Deaf-Blind

Criteria:

- (1) A condition of deaf-blindness exists and;
- (2) the child's educational performance is adversely affected and;
- (3) the Multidisciplinary Team agrees that the child is in need of special education and related services

Definitions:

- (1) A condition of deaf-blindness means the child meets the criteria for deaf and visually impaired
- (2) Adversely affects educational performance means the child performs in the lowest 20% of Commonwealth peers on one or more critical development school skills.

Assessments for determination are to include:

- (1) evaluation which determines deafness and visual impairment and;
- (2) educational evaluation which indicates achievement as it relates to the child's peers.

Assessments are administered in accordance with Section 6.0 *Protection in Evaluation Procedures*.

Developmental Delay

Criteria:

- (1) A developmental delay exists (the Commonwealth of the Northern Mariana Islands Public School System has not included children who are at risk of having developmental delay in this definition) and;
- (2) the child is between the ages of birth to 5 years of age and;
- (3) the Multidisciplinary Team agrees that the child is in need of special education and related services

Definitions:

- (1) A developmental delay means the child demonstrates a 25% delay of his/her chronological age in one or more of the following areas:
 - (a) vision
 - (b) hearing
 - (c) speech or language
 - (d) psychosocial
 - (e) self-help skills or;
- (2) the child has been diagnosed as having a physical or cognitive condition that has a high probability of impairing the normal attainment of developmental skills.

Assessments for determination are to be made by an individual with expertise in early childhood education and are to determine:

- (1) cognitive ability
- (2) motor skills
- (3) social-adaptive behavior
- (4) perceptual skills
- (5) communication skills

Assessments are administered in accordance with Section 6.0 *Protection in Evaluation Procedures*.

Hearing Impaired

Criteria:

- (1) A hearing impairment exists and;
- (2) even with prosthetic aids the child's educational performance is adversely affected and;
- (3) the Multidisciplinary Team agrees that the child is in need of special education and related services

Definitions:

- (1) A hearing impairment means:
 - (a) the child does not hear and understand more than 60% of auditory information even with amplification or;
 - (b) the child fails a hearing test four or more times over a nine month period
- (2) Adversely affects educational performance means the child performs in the lowest 20% of Commonwealth peers on one or more critical development school skills.

Assessments for determination are to include:

- (1) one or more of the following: behavioral audiometry, pure-tone thresholds, tympanography, speech discrimination, auditory brainstem response (ABR) testing and clinical observations and;

- (2) educational evaluation which indicates achievement as it relates to the child's peers

Assessments are administered in accordance with Section 6.0 *Protection in Evaluation Procedures*.

Multihandicapped

Criteria:

- (1) A multihandicapping condition exists and;
- (2) the child's educational performance is adversely affected and;
- (3) the Multidisciplinary Team agrees that the child is in need of special education and related services

Definitions:

- (1) A multihandicapping condition means the child meets the criteria for two or more concomitant disabilities.
- (2) Adversely affects educational performance means the child performs in the lowest 20% of Commonwealth peers on one or more critical development school skills.

Assessments for determination are to include evaluations which determines two or more concomitant disabilities.

Assessments are administered in accordance with Section 6.0 *Protection in Evaluation Procedures*.

Other Health Impaired

Criteria:

- (1) A condition of other health impairment exists and;
- (2) the child's educational performance is adversely affected and;
- (3) the Multidisciplinary Team agrees that the child is in need of special education and related services

Definitions:

- (1) A condition of other health impairment means:
 - (a) the child has a medically diagnosed chronic condition which limits the child's strength, vitality of alertness and adversely impacts the child's performance and;
 - (b) the condition must be expected to continue to impact the child's performance for more than 50% of the time in the child's educational placement and;
 - (c) the condition must be expected to continue in duration for at least one year.
- (2) Adversely affects educational performance means the child performs in the lowest 20% of Commonwealth peers on one or more critical development school skills.

Assessments for determination are to include:

- (1) medical evaluation which determines if such a chronic conditions exists and;
- (2) educational evaluation which indicates achievement as it relates to the child's peers.

Assessments are administered in accordance with Section 6.0 *Protection in Evaluation Procedures*.

Orthopedically/Physically Impaired

Criteria:

- (1) An orthopedic/physical impairment exists and;

- (2) the child's educational performance is adversely affected and;
- (3) the Multidisciplinary Team agrees that the child is in need of special education and related services

Definitions:

- (1) An orthopedic/physical impairment means the child has an orthopedic/physical condition which is caused by congenital anomaly or disease affecting the neuromusculoskeletal system or from other causes such as cerebral palsy, amputations, spinal cord injury, fractures or burns which cause contractures.
- (2) Adversely affects educational performance means the child performs in the lowest 20% of Commonwealth peers on one or more critical development school skills.

Assessments for determination are to include:

- (1) evaluation which determines:
 - (a) the child is unable to ambulate self independently on school grounds or in the child's primary environment without assistive devices at least 50% of the time or;
 - (b) the child cannot perform basic self-help skills independently at least 50% of the time or;
 - (c) the child requires the use of therapeutic equipment for 50% or more of the school day or in the child's primary environment or;
 - (d) the child requires occupational therapy and/or physical therapy to maintain function, range of motion, strength and coordination for optimal performance in the classroom or in the child's primary environment
- (2) educational evaluation which indicates achievement as it relates to the child's peers.

Assessments are administered in accordance with Section 6.0 *Protection in Evaluation Procedures*.

Seriously Emotionally Disturbed

Criteria:

- (1) A condition of serious emotional disturbance exists and;
- (2) the child's educational performance is adversely affected and;
- (3) the Multidisciplinary Team agrees that the child is in need of special education and related services

Definitions:

- (1) A condition of serious emotional disturbance means the child demonstrates one or more of the following characteristics over a long period of time and to a marked degree:
 - (a) a long period of time is represented by consistent behavior for more than 6 months which is not the result of head trauma, substance abuse or a change in the child's conditions such as death of a family member or significant other, divorce of a parent, move to a new location or other environmental factors.
 - (b) to a marked degree means that the behaviors demonstrated are to such an extent that they interfere with the child's ability to function in the school and/or primary environment and require intervention
- (2) Characteristics:
 - (a) inability to build or maintain satisfactory interpersonal relationships with teachers, peers or significant others in the community
 - (b) consistently odd or unusual behaviors at school or in the child's primary environment

- (c) appears to over-react to change or mildly stressful situations or has demonstrated inappropriate feelings or behaviors under normal circumstances
 - (d) a pervasive mood of unhappiness or depression
 - (e) a tendency to develop physical symptoms of fearful responses associated with personal or school-related problems
 - (f) psychotic episodes
 - (g) aggressive behavior or tantrum behavior at school, in the community or in the child's primary environment which are severe in nature and may be uncontrollable
- (3) Adversely affects educational performance means the child performs in the lowest 20% of Commonwealth peers on one or more critical development school skills.

Assessments for determination are to include:

- (1) evaluation by professional trained in the assessment of emotional and behavioral disorders and;
- (2) educational evaluation which indicates achievement as it relates to the child's peers

Assessments are administered in accordance with Section 6.0 *Protection in Evaluation Procedures*.

Specific Learning Disabled

Criteria:

- (1) A specific learning disability exists and;
- (2) the child's educational performance is adversely affected and;
- (3) the Multidisciplinary Team agrees that the child is in need of special education and related services

Definitions:

- (1) A specific learning disability means the child:
 - (a) does not demonstrate a pervasive developmental disorder or a generalized cognitive impairment and;
 - (b) has performed below the lowest 20% of his peers in the Commonwealth in at least one of the following academic skill areas:
 - (i) oral expression
 - (ii) reading skills
 - (iii) written expression
 - (iv) spelling
 - (v) mathematical computation
 - (vi) mathematical reasoning and
 - (c) has demonstrated specific deficits such as those listed below which limit the child's ability to learn without specialized instruction:
 - (i) visual-motor
 - (ii) visual-perceptual
 - (iii) motor-planning
 - (iv) sensory integration
 - (v) specific language-learning disabilities such as auditory processing deficits, auditory memory impairments, childhood aphasia or word-finding deficits
 - (vi) attention deficit disorder and;
 - (d) the child's poor performance in school cannot be solely attributed to:
 - (i) sensory deficits such as visual or hearing impairments
 - (ii) physical or orthopedic impairments

- (iii) limited proficiency in English
 - (iv) cultural disadvantage
 - (v) lack of instruction or experience
 - (vi) poor quality of instruction
 - (vii) frequent absences
 - (viii) poor motivation to succeed in school
 - (ix) emotional problems
 - (x) instability in the home environment or other social stress factors
- (2) Adversely affects educational performance means the child performs in the lowest 20% of Commonwealth peers on one or more critical development school skills.

Assessments for determination are to include:

- (1) evaluation which determines the child's :
 - (a) cognitive skills and potential
 - (b) learning style
- (2) educational evaluation which indicates achievement as it relates to the child's peers.
- (3) observation of the child's academic performance in the regular classroom setting conducted by at least one Multidisciplinary Team member other than the child's teacher. If the child is of less than school age or out of school, the observation of the child will take place in an environment appropriate for a child of that age.

Assessments are administered in accordance with Section 6.0 *Protection in Evaluation Procedures*.

The Eligibility Statement for a child identified as having a specific learning disability will include a statement of:

- (1) Whether the child has a specific learning disability
- (2) The basis for making the determination
- (3) The relevant behavior noted during the observation of the child
- (4) The relationship of that behavior to the child's academic functioning
- (5) The educationally relevant medical findings, if any
- (6) Whether there is a severe discrepancy between achievement and ability that is not correctable without special education and related services
- (7) The determination of the Multidisciplinary Team concerning the effects of environmental, cultural, or economic disadvantage

Each Multidisciplinary Team member will certify through his or her signature on the Eligibility Statement that the report reflects his or her conclusions. If a Multidisciplinary Team member determines that the Eligibility Statement does not reflect his or her conclusions, the member must submit a separate statement presenting his or her conclusions. This statement is called a dissenting opinion and will become an attachment to the Summary of Eligibility form.

Traumatic Brain Injury

Criteria:

- (1) A condition of traumatic brain injury exists and;
- (2) the child's educational performance is adversely affected and;
- (3) the Multidisciplinary Team agrees that the child is in need of special education and related services

Definition:

- (1) A Traumatic Brain Injury exists if:
 - (a) An injury to the brain has occurred caused by an external physical force;

- (b) The injury has occurred which results in total or partial functional disability or psychosocial maladjustment;
- (2) Traumatic Brain Injury means an open or closed head injury resulting in mild, moderate, or severe impairments in one or more areas including:
 - (a) cognition
 - (b) language
 - (c) memory
 - (d) attention
 - (e) reasoning
 - (f) abstract thinking
 - (g) judgment
 - (h) problem-solving
 - (i) sensory
 - (j) perceptual and motor abilities
 - (k) psychosocial behavior
 - (l) physical functions
 - (n) information processing and
 - (m) speech
- (3) The term does not include brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.
- (4) Adversely affects educational performance means the child performs in the lowest 20% of Commonwealth peers on one or more critical development school skills.

Assessments for determination are to include:

- (1) Evaluation by a professional trained in the assessment of Traumatic Brain Injury and
- (2) Educational evaluation which indicates achievement as it relates to the child's peers
- (3) Assessments are administered in accordance with Evaluation Procedures as indicated above.

Assessments are administered in accordance with Section 6.0 *Protection in Evaluation Procedures*.

Visually Impaired

Criteria:

- (1) A visual impairment exists and;
- (2) the child's educational performance is adversely affected and;
- (3) the Multidisciplinary Team agrees that the child is in need of special education and related services

Definitions:

- (1) A visual impairment means the child demonstrates a condition which interferes with the child's ability to visually discriminate even with correction. This term includes both partially sighted as well as blind children.
- (2) Adversely affects educational performance means the child performs in the lowest 20% of Commonwealth peers on one or more critical development school skills.

Assessments for determination are to include:

- (1) visual discrimination evaluation and;
- (2) educational evaluation which indicates achievement as it relates to the child's peers

Assessments are administered in accordance with Section 6.0 *Protection in Evaluation Procedures*.

1.8 Scheduling of Individualized Education Plans (IEP)

If a determination is made that a child has a disability and needs special education and related services, an Individualized Education Plan must be developed for the child in accordance with Section 3.0 *Individualized Education Program*.

1.9 Student Placement

Following determination that a student is eligible to receive special education and related services through the Eligibility Process and the development of an Individualized Education Plan or an Individualized Family Service Plan (IFSP) by the IEP or IFSP Committee has occurred, a discussion of placement takes place. In interpreting evaluation data and in making placement decisions, the IEP/IFSP Committee will:

- (1) Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social and/or cultural background, medical, and adaptive behavior;
- (2) Insure that information obtained from all of these sources is documented and carefully considered;
- (3) Insure that the placement decision is made in conformity with Section 4.0 *Least Restrictive Environment*.

1.10 Alternative Procedures for the Delivery of Services to Children with Disabilities

In the event that any of the special education and related services which have been determined through the IEP/IFSP process to be necessary for a child with disabilities to derive benefit from the educational program are unable to be delivered due to a lack of qualified personnel, the Special Education Program will take the following alternative measures:

- (1) If there is another agency on island which has on staff an individual qualified to provide services, the Special Education Program will try to develop a Memorandum of Understanding between PSS and the agency for provision of the necessary services.
- (2) If the service is one in which a teacher aide, therapy aide or other paraprofessional has received training under the direct supervision of a qualified service provider and there is no qualified service provider on island or if there has been an attempt to develop a Memorandum of Understanding but agreement has not been reached, then the teacher aide, therapy aide or other paraprofessional will deliver the service to the child. Supervision of the teacher aide, therapy aide or other paraprofessional by a qualified service provider is to take place on at least a biannual, meaning twice per year, basis. Additional supervision of the teacher aide, therapy aide or other paraprofessional is to take place through contact with the special education teacher and other related services providers on an on-going basis. Continued training for these individuals will remain a priority during the times when it is traditional that school children are not in school.
- (3) If the service is one in which there is no teacher aide, therapy aide or other paraprofessional who has received training under the direct supervision of a qualified service provider available, the Special Education Program will make every effort to contract for services with a qualified service provider on Guam, Hawaii, in the mainland United States or elsewhere.

At no time is it to be construed that these alternative measures are to take the place of active recruitment of qualified service providers. The Special Education Program fully recognizes that the services as determined on a child's IEP are required to be provided by the Special Education Program and every effort is to be expended toward securing the services of a qualified service provider.

1.11 FAPE for Children Ages Three (3) through Five (5) and for Two-year Olds who Become Three During the School Year

All children in the CNMI with disabilities aged three through five are entitled to a free appropriate public education. Every two year old child with disabilities or determined as in need of services and who is provided services by the CNMI has available to him/her a free appropriate public education.

Two year old children with disabilities who will reach the age of three during the school year and are receiving or have received services under Part H of the Individuals for Disabilities Education Act (IDEA) (20 U.S.C. Sections 1400 - 1485 (1988)) are provided a smooth transition from receiving services under Part H to receiving services under Part B of IDEA with no break in the services.

2.0 Child Find

The CNMI Public School System shall undertake to ensure that all children with disabilities, regardless of the severity of their disability, who are in need of special education and related services, are identified, located and evaluated. Pursuant to PSS internal procedures, a method to determine which children are currently receiving needed special education and related services and which children are not receiving needed special education and related services is in place.

2.1 Child Identification Plan

The agency which is responsible for State-wide coordination of planning and implementing the child identification effort is the Public School System of the Commonwealth of the Northern Mariana Islands. Other agencies participating in child identification activities are the Department of Public Health and Environmental Services, the Department of Community and Cultural Affairs and the CNMI Head Start Program. These agencies assist in identification of children in need of special education and related services through distribution of information to the public and referral of suspect children to the Early Childhood Program or the Special Education Program.

It is the responsibility of the Public School System to conduct child identification activities for the CNMI.

3.0 Individualized Education Program

The Special Education Program will develop and implement an individualized education program plan (IEP) for each of the children with disabilities eligible to receive special education and related services. The IEP for each child with a disability is reviewed and revised at least annually.

The Special Education Program is responsible for insuring that IEP's are developed and implemented for each identified disabled child. This includes children who are referred to a private school or facility by PSS and to children enrolled in private or parochial schools and receiving special education and related services from PSS. All IEP's will be in effect at the

beginning of each school year and before any special education and related services are provided to a child. IEP's will be implemented as soon as possible.

3.1 Site Visits

Site visits will be made at least twice each year to selected public schools and private schools or facilities in which a child with a disability receiving special education or related services is enrolled to review IEPs.

3.2 IEP Meeting

The Special Education Program is responsible for initiating and conducting meetings for the purpose of developing, reviewing and revising a child with a disability's IEP.

The meeting must be held within 30 calendar days of a determination that the child is eligible for special education and related services.

The Special Education Program will initiate and conduct meetings to periodically review each child's IEP and, if appropriate, revise its provisions. A meeting must be held for this purpose at least once a year for an IEP.

In a case where a participating agency, other than the Special Education Program fails to provide agreed upon transition services, the Special Education Program will reconvene the IEP team to identify alternative strategies to meet the transition objectives.

The Special Education Program will insure that each meeting includes the following participants:

- (1) A representative of the Special Education Program, other than the child's teacher, who is qualified to provide or supervise the provision of, special education
- (2) The child's teacher
- (3) One or both of the child's parents
- (4) The child, where appropriate
- (5) Other individual's at the discretion of the parent or the Special Education Program
- (6) Principal or designee

For the child with a disability who has been evaluated for the first time and has been found eligible to receive special education and related services, the Special Education Program will insure that a member of the evaluation team participates in the IEP meeting or that the representative of the Special Education Program, the child's teacher, or some other person is present at the meeting, who is knowledgeable about the evaluation procedures used with the child and is familiar with the results of the evaluation.

If one of the purposes of the meeting is the consideration of transition services for a student, the Special Education Program will invite the student and a representative of any other agency that is likely to be responsible for providing or paying for transition services.

If the student does not attend, the Special Education Program will take other steps to ensure that the student's preferences and interests are considered. And, if an agency invited to send a representative to a meeting does not do so, the Special

Education Program will take other steps to obtain the participation of the other agency in the planning of any transition services.

3.3 IEP Parent Participation

The Special Education Program will take steps to insure that one or both of the parents of the child with a disability are present at each meeting or are afforded an opportunity to participate including:

- (1) Notifying parents of the meeting early enough to insure that they will have an opportunity to attend; and
- (2) Scheduling the meeting at a mutually agreed upon time and place.

The notice to the parent must indicate the purpose, time, and location of the meeting, and who will be in attendance.

A meeting may be conducted without a parent in attendance if the Special Education Program is unable to convince the parents that they should attend or after three (3) attempts to either schedule or hold a scheduled IEP to which the parent does not attend. The Special Education Program will maintain a record of its attempts to arrange a mutually agreed upon time and place such as:

- (1) Detailed records of telephone calls made or attempted and the results of those calls
- (2) Copies of correspondence sent to the parents and any responses received, and
- (3) Detailed records of visits made to the parent's home or place of employment and the results of those visits

The Special Education Program will take whatever action is necessary to insure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English. The Special Education Program will give the parent, upon request, a copy of the IEP.

3.4 Content of IEP

The IEP for each child shall include:

- (1) A statement of the child's present levels of educational performance;
- (2) A statement of annual goals, including short term instructional objectives;
- (3) A statement of the specific special education and related services to be provided to the child, and the extent to which the child will be able to participate in regular educational programs;
- (4) The projected dates for initiation of services and the anticipated duration of the services;
- (5) Appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short term instructional objectives are being achieved; and
- (6) A statement of the needed transition services for students beginning no later than age 16 and annually thereafter and, when determined appropriate for the student, beginning at age 14 or younger, including, when appropriate, a statement of the interagency responsibilities, or linkages (or both) before the student leaves the school setting.

3.5 Private School Placement

Before the Special Education Program places a child with a disability in, or refers a child to, a private school or facility, the Special Education Program will initiate and

conduct a meeting to develop an IEP for the child following the IEP meetings requirements as outlined in Section 3.0 *Individualized Education Programs*.

The Special Education Program will insure that a representative of the private school facility attends the meeting. If the representative cannot attend, the Special Education Program will use other methods to insure participation by the private school or facility, including individual or conference telephone calls.

After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility with the consent of the Coordinator for Special Education Programs.

If the private school or facility initiates and conducts these meetings, the Special Education Program will insure that the parents and a Special Education Program representative:

- (1) Are involved in any decision about the child's IEP; and
- (2) Agree to any proposed changes in the program before those changes are implemented

Even if a private school or facility implements a child's IEP, responsibility for compliance with IDEA remains with the Special Education Program. As such, all private schools or facilities shall cooperate in accordance with PSS directives.

3.6 Children with Disabilities in Parochial or Other Private Schools

If a child with a disability is enrolled in a parochial or other private school by an entity other than PSS, and receives special education or related services from the Special Education Program, the Special Education Program will:

- (1) Initiate and conduct meetings to develop, review and revise an IEP in accordance with the requirements as stated in Section 3.0 *Individualized Education Programs*; and
- (2) Insure that a representative of the parochial or other private school attends each meeting. If the representative cannot attend, the Special Education Program will use other methods to insure participation by the private school, including individual or conference telephone calls.

4.0 Least Restrictive Environment

The child must be placed in the school which he/she would attend if the child had no disability unless there are circumstances which make attendance at the village school not appropriate.

Conditions which need to be taken into consideration when determining placement include:

- (1) Level of contact with specially trained teachers required by the child to meet his needs
- (2) Need for specially trained resource personnel such as interpreters for children with hearing impairments or deafness or individual who speaks the language of the child.
- (3) Special equipment required by the child which is not transportable and not housed in his/her village school
- (4) The student's need for interaction with other students with disabilities with similar disabilities (i.e. children with deafness)
- (5) Any other conditions which warrant consideration

It is the intent of the Public School System to provide a free appropriate public education to all children with disabilities in their village school in the least restrictive environment possible regardless of the severity of the disability. Children with disabilities are to be educated with children who are not disabled. Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment shall occur only when the nature or severity of the disability is such that education in regular classes with the use of supplemental aids and services cannot be achieved satisfactorily.

4.1 Continuum of Alternative Placements

A continuum of alternative placements which is required by federal regulations, acts to restrict the IEP Committee in determining appropriate placement based on the child's needs. The Special Education Program requires the IEP Committee to make placement decisions based on the needs of the child, keeping in mind the listing below which has been delineated only to meet federal requirements.

The continuum of alternative placements includes but is not limited to:

- (1) Participation in the regular education program for 100% of the school day with supplementary aids and services provided by the Special Education Program in the regular education classroom.
- (2) Participation in the regular education program for less than 100% of the school day but more than 50% of the school day with supplementary aids and services provided by the Special Education Program in the regular education classroom and specialized instruction provided in a separate instructional setting within the school
- (3) Participation in the regular education program for less than 50% of the school day with supplementary aids and services provided by the Special Education Program in the regular education classroom and specialized instruction provided in a separate instructional setting within the school, in the home or in another instructional setting
- (4) No participation in the regular education program; all instruction is specialized and in a separate instructional setting
- (5) Instruction is in a setting outside the public school system (ie. home, hospital, correctional facility, institutional setting)

4.2 Nonacademic Settings Requirement

For every child with a disability receiving special education and related services in the CNMI, the IEP Committee is to take into consideration nonacademic and extracurricular activities and make sure that each child with a disability participates with children who do not have disabilities to the maximum extent appropriate.

Services and activities to be taken into consideration include:

- (1) Meals
- (2) Recess periods
- (3) Counseling services
- (4) Athletics
- (5) Transportation
- (6) Health services
- (7) Recreational activities
- (8) Special interest groups or clubs sponsored by the Public School System
- (9) Referrals to agencies that provide assistance to individuals with disabilities, employment of students, including both employment by the Public School System and assistance in making outside employment available

4.3 Children in Public or Private Institutions
The Special Education Program will take the steps necessary including the development of a Memorandum of Understanding or special implementation procedures for insuring that any child with disabilities entitled to special education and related services placed in a public or private institution receives his or her program in the least restrictive environment.

4.4 Technical Assistance and Training Activities
The Special Education Program will provide training activities on the provision of least restrictive environment to teachers and administrators in the Public School System yearly. The training will provide information regarding their responsibilities for implementing the least restrictive environment. Assistance in implementing the requirements for providing the least restrictive environment will be provided as requested.

5.0 Procedural Safeguards

The Special Education Program of the Public School System is the public agency responsible for ensuring effective implementation of procedural safeguards for children with disabilities in the CNMI. The following formal process is available to parents at all times. However, the Special Education Program suggests that informal mediation be attempted prior to the parent requesting a hearing.

5.1 Opportunity to Examine Records
The parents of a child with a disability will have the opportunity to inspect and review all education records with respect to:

- (1) The identification, evaluation and educational placement of the child and;
- (2) The provision of a free appropriate public education to the child

5.2 Independent Educational Evaluation
The parents of a child with a disability have the right to obtain an independent educational evaluation (IEE) of the child subject to the following limitations:

A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the Special Education Program. However, the Special Education Program may initiate a due process hearing pursuant to Section 5.0 *Procedural Safeguards* to show that its evaluation is appropriate. If the final decision by the hearing officer is that the evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

If the parent obtains an independent educational evaluation at private expense, the results of the evaluation:

- (1) Must be considered by the Special Education Program in any decision made with respect to the provision of a free appropriate education to the child; and
- (2) May be presented as evidence at a hearing regarding that child

If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense.

Whenever an independent evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the

qualifications of the examiner, must meet the same criteria which the Special Education Program uses when it initiates an evaluation.

The Special Education Program will provide to parents, upon request, information about where an independent educational evaluation may be obtained.

5.3 Prior Notice; Parent Consent

Written notice which meets the requirements listed under the *5.0 Procedural Safeguards* must be given to the parent of a child with a disability a reasonable time before the Special Education Program:

- (1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child, or
- (2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child.

5.4 Requirements for Content of Notice to Parents

The content of the notice to parents must include:

- (1) A full explanation of all of the procedural safeguards available to the parents under Subpart E of the IDEA.
- (2) A description of the action proposed or refused by the Special Education Program, an explanation of why the Special Education Program proposes or refuses to take the action, and a description of any options the Special Education Program considered and the reasons why those options were rejected.
- (3) A description of each evaluation procedure, test, record, or report the agency uses as a basis for the proposal or refusal.
- (4) A description of any other factors which are relevant to the Special Education Program's proposal or refusal

The notice must be:

- (1) Written in language understandable to the general public
- (2) Provided in the native language of the parent or other mode of communication used by the parent unless it is clearly not feasible to do so

If the native language or other mode of communication of the parent is not a written language, the Special Education Program will take steps to insure:

- (1) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication
- (2) That the parent understands the content of the notice; and
- (3) That there is written evidence that the requirements listed above have been met

5.5 Impartial Due Process Hearing

The parent or the Public School System may initiate a hearing on any of the matters as described in Section 5.3 (1); (2) *Prior Notice; Parent Consent*.. The request must be made in writing to the Coordinator for Special Education Programs. If the parent is unable to make the request in writing, the request can be taken verbally, put into writing and transmitted to the Coordinator for Special Education Programs. The date the Coordinator for Special Education Programs receives the written request shall be deemed the date of PSS's notification. The hearing must take place at a time and location reasonably convenient to parent and the child and, within 45

days, a final decision is to be made and a copy of the decision mailed to each of the parties.

PSS is the sole provider of public education in the CNMI and is thus the agency vested with the responsibility of conducting the hearing.

The Special Education Program will inform the parent of any free or low-cost legal and other relevant services available in the area if:

- (1) The parent requests the information; or
- (2) The parent or the Special Education Program initiates a hearing under this section

5.6 Impartial Hearing Officer

A hearing may not be conducted by:

- (1) An employee of a public agency which is involved in the education or care of the child, or
- (2) Any person having a personal or professional interest which would conflict with his or her objectivity in the hearing

The Special Education Program will keep a list of the persons who serve as hearing officers. The list must include a statement of the qualifications of each of those persons. The Public School System will select who will serve as the impartial hearing officer.

The impartial hearing officer shall possess all powers delineated in the CNMI Administrative Procedures Act § 9109 (f) (1CMC §9109 (f)).

5.7 Hearing Rights

Any party to a hearing has the right to:

- (1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;
- (2) Present evidence and confront, cross-examine, and compel the attendance of witnesses;
- (3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five days before the hearing;
- (4) Obtain a written or electronic verbatim record of the hearing. The type of record to be produced shall be determined by PSS;
- (5) Obtain written findings of fact and decisions. (The Special Education Program will transmit those findings and decisions, after deleting any personally identifiable information to the Special Education State Advisory Panel. The SEA will also make the findings and decision available to the general public after it has deleted any personally identifiable information).

The parents involved in hearings have the right to:

- (1) Have the child who is the subject of the hearing present; and
- (2) Open the hearing to the public.

5.8 Hearing Decision; Appeal

The written findings of fact and the decisions issued by the hearing officer are final and binding upon all parties unless appealed to a Commonwealth or Federal Court.

5.9 Administrative Appeal

Within the Commonwealth of the Northern Mariana Islands, all hearings are conducted by the Public School System which is the SEA. Therefore, opportunities for appeal to the SEA are not applicable.

5.10 Civil Action Policy

Any party aggrieved by the findings and decisions made in a hearing, has the right to bring a civil action under section 615 (e)(2) of IDEA.

5.11 Child's Status During Proceedings (Stay Put Provision)

During the pendency of any administrative or judicial proceeding regarding a complaint, unless the Special Education Program and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her present educational placement.

If the complaint involves an application for initial admission to public school, the child, with the consent of the parent, must be placed in the public school program until the completion of all the proceedings.

5.12 Surrogate Parents

The Public School System will insure that the rights of a child are protected when:

- (1) No parent can be identified;
- (2) The Special Education Program, after reasonable efforts, cannot discover the whereabouts of a parent; or
- (3) The child is a ward of the CNMI under Commonwealth law
- (4) A parent can demonstrate that it is not possible for the parent to protect the rights of the child due to extraordinary circumstances

Decisions made by a surrogate parent have the same consequences as if they were made by a natural parent. During the term of appointment, it shall be a surrogate parent's duty to exercise all of the rights and responsibilities as if they were the student's parent. If a determination is made by the Coordinator for Special Education Programs that a surrogate parent is required, one will be appointed immediately.

The Special Education Program will select a surrogate parent based on the following criteria:

- (1) The individual has no interest that conflicts with the interest of the child he or she represents; and
- (2) The individual has knowledge and skills, that insure adequate representation of the child; and
- (3) The person assigned as a surrogate is not an employee of a public agency which is involved in the education or care of the child. (A person who otherwise qualifies to be a surrogate parent under this section is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.)

The surrogate parent may represent the child in all matters relating to:

- (1) The identification, evaluation, and educational placement of the child, and
- (2) The provision of a free appropriate public education to the child

5.13 Qualifications of a Surrogate Parent

A surrogate parent is considered to be qualified to serve if the Coordinator for Special Education Services has determined that the individual possesses the necessary knowledge and skills to adequately represent the child; and

- (1) Is not an employee of an agency assigned as the child's guardian, or an employee who exercises the rights of a guardian as part of his/her job with the Commonwealth; and
- (2) Is not a foster parent currently serving as a custodian of the child unless the foster parent meets all the standards for a qualified surrogate parent established in this section; and
- (3) Is not employed by any agency involved in the care and treatment of the child; and
- (4) Does not have interests which are in conflict with the interests of the child

5.14 Conflict of Interest

A conflict of interest exists for a person under consideration as a surrogate parent if:

- (1) The person proposed as a surrogate parent might benefit personally or professionally from decisions regarding the child;
- (2) The person proposed as a surrogate parent may be required to make decisions regarding the child which might effect policy in which the individual has a personal or professional interest; or
- (3) The person proposed as a surrogate parent may not be able to faithfully represent the child because of an institutional bias or interest

6.0 Protection in Evaluation Procedures

Testing and evaluation materials and procedures used for the purposes of evaluation and placement of children with disabilities must be selected and administered so as not to be racially or culturally discriminatory.

6.1 Preplacement Evaluation

Before any action is taken with respect to the initial placement of a child with a disability in a special education program, a full and individual evaluation of the child's educational needs must be conducted in accordance with the requirements of Section 6.0 *Protection in Evaluation Procedures*.

6.2 Evaluation Procedures

The Special Education Program will insure that:

- (1) Tests and other evaluation materials:
 - (a) are provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so;
 - (b) have been validated for the specific purpose for which they are used; and
 - (c) are administered by trained personnel in conformance with the instructions provided by their producer;
- (2) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient;
- (3) Tests are selected and administered so as best to ensure that when a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (except where those skills are the factors which the test purports to measure);

- (4) No single procedure is used as the sole criterion for determining an appropriate educational program for a child; and
- (5) The evaluation is made by a multidisciplinary team or group of persons, including at least one teacher or other specialist with knowledge in the area of suspected disability.
- (6) The child is assessed in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

The entire process from the date of parental permission to assess to the date of the eligibility meeting shall be completed as soon as possible but, in no case, more than fifty (50) working days except if the following conditions apply:

In the event there are no qualified individuals on staff within the PSS available to assess the child, then the following timelines shall be in effect:

- (1) In cases where assessments for children suspected of having a disability are to be made by individuals in other agencies in the CNMI through a Memorandum of Understanding, the Special Education Program will request that the assessment take place within the fifty (50) working day timeline if at all possible but no later than eighty five (85) working days from receipt by the outside agency of the request.
- (2) In cases where assessments for children suspected of having a disability are to be made by individuals or agencies contracted in Guam, Hawaii, the mainland United States or elsewhere, the contract is to require assessment of children suspected of a disability to take place at least three times a year, no later than 120 days from the date the Parent Permission is signed.

In either of the above events, the child suspected of having a disability is to receive assessment in as many areas as possible within the fifty (50) working day timeline and an Eligibility Meeting is to be held within the fifty (50) working day timeline to determine if the child is eligible to receive special education and related services. If assessment data is unavailable within the fifty (50) working day timeline because the assessment is to be conducted by an agency within the CNMI through a Memorandum of Understanding or because the assessment is to be conducted through a contract with an individual or agency in Guam, Hawaii, the mainland United States or elsewhere, then the Multidisciplinary Team is to make a determination that eligibility can not be determined. As soon as it is known that the assessment data is unavailable, the Special Education Program is to take action to secure the necessary assessments. It is to be clearly stated on the Summary of Eligibility form that the Multidisciplinary Team will re-meet upon receipt of the necessary assessment information but in no case later than eighty-five (85) working days after receipt of parent permission to test if the assessment is being performed through a Memorandum of Understanding with an agency in the CNMI or no later than 120 days from the date Parent Permission is signed if the assessment is being performed through a contract with an individual or agency in Guam, Hawaii, the mainland United States or elsewhere.

7.0 Confidentiality of Personally Identifiable Information

7.1 Notice to Parents

The Special Education Program shall give notice which is adequate to fully inform parents about the requirements concerning confidentiality of personally identifiable information including:

- (1) A description of the extent to which the notice is given in the native languages of the various population groups in the CNMI
- (2) A description of the children on whom personally identifiable information is being maintained, the types of information, (including sources from whom information is gathered), and the uses to be made of the information
- (3) A summary of the policies and procedures which participating agencies must follow regarding storage, disclosure to third parties, retention and destruction of personally identifiable information; and
- (4) A description of all the rights of parents and children regarding this information including the rights under the Family Education Rights and Privacy Act (FERPA) of 1974 and implementing regulations in Part 99 of this title

Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the CNMI of the activity.

The Special Education Program has developed a document entitled *Confidentiality of Personally Identifiable Information* which is available upon request to any individual. Public notice of the availability of this document will be made before any major identification, location, or evaluation activity such as Child Find activities.

7.2 Providing Access Rights

The Special Education Program will permit parents to inspect and review any education records relating to their children which are collected, maintained, or used by the Special Education Program. The Special Education Program will comply with a request without unnecessary delay and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, or placement of the child, and in no case more than 45 days after the request has been made.

The right to inspect and review education records includes:

- (1) The right to a response from the Special Education Program to reasonable requests for explanation and interpretations of the records
- (2) The right to request that the Special Education Program provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records and
- (3) The right to have a representative of the parent inspect and review the records

A parent has authority to inspect and review records relating to his or her child unless the Special Education Program has been advised that the parent does not have the authority under CNMI law governing such matters as guardianship, separation or divorce.

7.3 Maintaining Records of Parties Obtaining Access

The Special Education Program will keep a record of parties obtaining access to educational records collected, maintained, or used under this part (except access by parents and authorized employees of the Special Education Program) including the name of the party, date access was given, and the purpose for which the party is authorized to use the records.

- 7.4 Maintaining Records on More than One Child**
If any education record includes information on more than one child, the parents of those children will have the right to inspect and review only the information relating to their child or to be informed of that specific information.
- 7.5 Providing a List of Types and Location of Information**
The Special Education Program will provide parents on request a list of the types and locations of educational records collected, maintained or used by the Special Education Program.
- 7.6 Policy on Charging Fees for Copying Records**
The Public School System reserves the right to charge a reasonable fee for copies of records which are made for parents if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.
- The Public School System will not charge a fee to search for or to retrieve information.
- 7.7 Amendment of Records**
If a parent feels that information in education records collected, maintained or used by the Special Education program is inaccurate, misleading or violates the privacy or other rights of the child, he/she may request that the Special Education Program amend the information.
- The Special Education Program will decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.
- If the Special Education Program decides to refuse to amend the information, the Special Education Program must inform the parent of the refusal and advise the parent of his/her rights to a hearing.
- 7.8 Opportunity for a Hearing**
Upon request, the Special Education Program will provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the child.
- 7.9 Hearing Procedures**
Any requested hearing must be conducted according to procedures set forth in 34 CFR §99.22.
- 7.10 Result of Hearing**
If, as a result of the hearing, the Special Education Program decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it shall amend the information according and so inform the parent in writing.
- If, as a result of the hearing, the Special Education Program decides that the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it shall inform the parent of the right to place in the records it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

Any explanation placed in the records of the child must:

- (1) Be maintained by the Special Education Program as part of the records of the child as long as the record or contested portion is maintained by the Special Education Program and
- (2) If the records of the child or the contested portion is disclosed by the agency to any party, the explanation must also be disclosed.

7.11 Consent Regarding Personally Identifiable Information

The Special Education Program will secure parental consent before personally identifiable information is:

- (1) Disclosed to anyone other than officials of participating agencies collecting or using this information subject to 34 CFR Part 99 (FERPA)
- (2) Used for any purpose other than meeting a requirement as set forth by these regulations

If a parent refuses to provide consent to disclose personally identifiable information in circumstances the Coordinator for Special Education Programs deems disclosure to be appropriate a hearing pursuant to Section 5.0 *Procedural Safeguards* may be held.

7.12 Destruction of Information

The Special Education Program will inform parents when personally identifiable information collected, maintained or used under Part B of the IDEA is no longer needed to provide educational services to the child.

The information which is no longer needed must be destroyed at the request of parents (except that the student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation).

7.13 Children's Rights

The Special Education Program provides children who have reached the age of 18 the same rights of privacy as those afforded to their parents.

The determination that an student's disability interferes with his/her ability to exercise the rights of privacy may be deemed appropriate:

- (1) If the parent has had the student declared legally incompetent; or
- (2) If the IEP Committee, including the parent, makes the determination that the student is incapable of representing his/her rights. A statement to that effect must be placed in the student's Confidential file

In such cases, the Special Education Program may continue to abide by the parent's decisions.

7.14 Safeguard of Personally Identifiable Information

The Special Education Program will protect the confidentiality of personally identifiable information at collection, storage, disclosures and destruction stages.

One official at the Special Education Program and one official at each school site will assume responsibility for ensuring the confidentiality of any personally identifiable information.

All persons collecting or using personally identifiable information must receive training or instruction regarding the the Special Education Program's regulations, policies and procedures.

The Special Education Program will maintain, for public inspection, a current listing of the names and positions of those employees within the Special Education Program who may have access to personally identifiable information.

7.15 Enforcement Requirement

Monitoring for compliance with pertinent Special Education Program regulations of each public and private school in which children with disabilities are enrolled shall take place on a continuous basis. Sanctions for non-compliance with the regulations are as follows:

In each instance where a school is found to be not in compliance with a regulation, the Assistant Coordinator for Elementary and Secondary Programs will conduct an inservice training meeting designed to assist the school in attaining compliance with the regulation. The inservice training meeting is to be held within two weeks of the finding of non-compliance. The Coordinator for Special Education Programs shall make available monitoring procedures for each section. These monitoring procedures shall set forth guidelines by which these meetings shall be conducted. The Assistant Coordinator for Elementary and Secondary Programs will then conduct a follow-up visit within one month to see if the school has complied with the regulation.

A report indicating in what way the school was out of compliance as well as the dates on which the inservice training meeting was conducted and a listing of individuals in attendance at the inservice training meeting is to be submitted to the Coordinator for Special Education Programs and a copy is transmitted to the principal of the school as well as to the Itinerant Teacher within two weeks of the inservice training meeting.

A report outlining the findings of the follow-up visit is submitted to the Coordinator for Special Education Programs and a copy is transmitted to the principal of the school as well as the Itinerant Teacher within two weeks of the follow-up visit. In this report will be the recommendation by the Assistant Coordinator for Elementary and Secondary Programs for action to be taken with regard to the school in violation. Actions may include:

- (1) Notification to the Coordinator for Special Education Programs that the regulation(s) for which the school had previously been in violation has been corrected and no further action is necessary.
- (2) Notification that the regulation(s) for which the school had previously been in violation is in the process of being corrected. The timeline for compliance is to be included in the report. A second follow-up visit is set no more than two weeks after the estimated date of compliance according to the timeline submitted by the school. A second follow-up report is to be submitted to the Coordinator and a second recommendation is to be made.
- (3) Notification that the regulation(s) for which the school had previously been in violation remains out of compliance and the school has either not developed a timeline for compliance, has not met the timeline as developed previously, or refuses to attain compliance with the regulation(s) and a recommendation that adverse action be taken against the responsible personnel for remaining out of compliance.

The Coordinator for Special Education Programs, upon receipt of the final report submitted by the Assistant Coordinator for Elementary and Secondary Programs containing his/her recommendations, will, if appropriate, make a recommendation for adverse action to the Commissioner of Education.

8.0 Responsibilities of the State Educational Agency

Each educational program for children with disabilities administered in the CNMI is under the direct supervision of Public School System Coordinator for Special Education Programs. It should not be construed, however, that this statement of responsibility limits the responsibility of agencies other than the Public School System for providing or paying for some or all of the costs of a free appropriate public education for children with disabilities in the CNMI.

9.0 Comprehensive System of Personnel Development

The Public School System's Comprehensive System of Personnel Development has been designed so as to be consistent with the purposes of IDEA and with the comprehensive system of personnel development as described in 34 CFR 303.360. It is also designed to be consistent with the provisions on personnel standards as outlined in the CNMI Personnel Policies.

10.0 Private Schools

The Public School System insures that any child with a disability receiving or eligible to receive special education and related services who is placed or referred by the Public School System to a private school or facility will be provided with:

- (1) Special education and related services as stipulated in the IEP;
- (2) An IEP which meets the requirements as set forth in Section 3.0 *Individualized Education Program*;
- (3) A program which is at no cost to the parent and;
- (4) A program at a school or facility which meets the standards that apply to the Public School System as outlined in the Public School System Policy Manual

A child with a disability receiving or eligible to receive special education and related services who is placed or referred by the Public School System to a private school or facility has all of the rights of a child with a disability who is served by the Public School System.

10.1 Implementation by the CNMI

The Special Education Program will monitor the compliance pursuant to procedures established in these regulations. Copies of all applicable standards will be made available to each private school and facility in which the Public School System has placed a child with disabilities. The Public School System will seek the participation of private schools and facilities in which the Public School System has placed a child with disabilities in the revision or development of CNMI standards which apply.

11.0 Recovery of Funds

No child will be classified as eligible to receive services unless the procedures as set forth in the State Plan under *Right To Education* are followed. Funds made available for any child erroneously classified will be recovered.

12.0 Annual Evaluation

The Public School System Special Education Program assures that at least annually, the effectiveness of programs in meeting the educational needs of children with disabilities will be determined.

13.0 Description of Use of Part B Funds

Funds paid to the Public School System under IDEA (Part B) are spent in accordance with the provisions of Part B. To this end, the Public School System has established an accounting system for funds received under Part B and the following procedures for expenditure are followed:

- (1) Any expenditure of Part B funds requires the initials of the Coordinator for Special Education Programs who is charged with overseeing the compliance with regulations of Part B.
- (2) Review of the expenditure of Part B funds is made by the Federal Programs Office which is charged with overseeing compliance with federal rules and regulations for the Public School System.

14.0 Interagency Agreements

Public School System shall develop and implement interagency agreements between the Public School System and all other CNMI agencies that provide or pay for services required under this part for children with disabilities. The CNMI currently has interagency agreements (sometimes referred to as Memoranda of Understanding) with Vocational Rehabilitation Services, the Division of Youth Services and HeadStart which pertain to Part B services. In the cases where these agreements do not meet the criteria stated below, the Public School System will see to it that the criteria is included upon review and/or reauthorization of the agreements. The criteria required is that which:

- (1) Describe the role that each of those agencies plays in providing or paying for services required under this part for children with disabilities, and
- (2) Provide for the development and implementation of interagency agreements that:
 - (a) Define the financial responsibility of each agency for providing children with disabilities with free appropriate public education; and
 - (b) Establish procedures for resolving interagency disputes among agencies that are parties to the agreements

15.0 Personnel Standards

The Public School System has developed policies and procedures related to the establishment and maintenance of standards to ensure that personnel necessary to carry out the purpose of this part are appropriately and adequately trained. These policies and procedures can be found in the *Public School Personnel System; Rules and Regulations*

16.0 Full Educational Opportunity

The Commonwealth of the Northern Mariana Islands Public School System has the goal of providing full educational opportunity to all children with disabilities aged birth through 21 years of age. The CNMI presently offers, through the Public School System and various other agencies, a full range of programs and services for children and youth with disabilities ages birth through 21 years of age.

16.1 Facilities, Personnel and Services to Meet Full Educational Opportunity Goal

The Public School System provides in each elementary and secondary school in the CNMI a program for children with disabilities in attendance in the school. Special Education teaching personnel are assigned to the school in accordance with the needs of the individual children with disabilities enrolled in the school.

16.2 Parent Involvement

The CNMI Public School System Special Education Program, in meeting the goal of full educational opportunity, makes provisions for the participation of and consultation with parents or guardians of children with disabilities.

17.0 Complaint Management System

Special Education Program's complaint management system is designed to assist individuals and organizations to make complaints, state concerns or request action from the Special Education Program at both the school level and at the central office level. The regulations require that all complaints which allege that the CNMI has violated a federal statute or regulation that applies to a program must be resolved within 60 calendar days.

Any individual or organization which wishes to make a complaint concerning the Special Education Program should contact the Coordinator for Special Education Programs to receive a copy of the *Complaint Management System Policies and Procedures*.

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**REGULATIONS
AND
NOTICE OF PROPOSED REGULATIONS
DEPARTMENT OF COMMERCE**

COMMERCE REGULATIONS

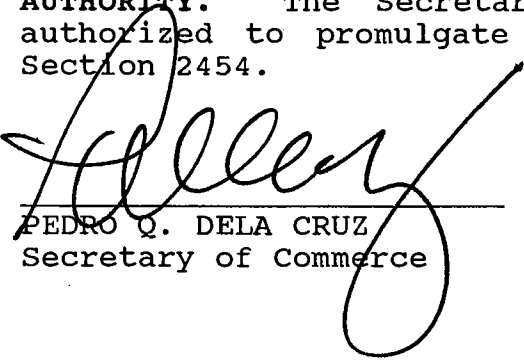
The Secretary of the Department of Commerce proposes to promulgate Business License and Foreign Investment Regulations .

There has been considerable confusion in respect to the requirements for business licenses. The business licensing regulations are needed to advise the public as to the requirements in order to achieve the efficient administration of the business licensing requirements.

CONTENTS. The business license regulations provide a consolidation of all the statutes relating to business licensing requirements in a single place. The statutory requirements and definitions used in the Revenue and Taxation Act of 1982 (P.L. No.3-11) are restated and simplified in the regulation, The Safe Diving Act of 1990 is also referred to. The Immigration Rules on 90 days and Long Term Business Entry Permits are repealed and adopted in these regulations. The regulations are published immediately following this notice.

PUBLIC COMMENT. It is the intent of the Secretary of the Department of Commerce to adopt the regulations as permanent regulations pursuant to 1 CMC Section 9104(a)(1) and (2). The regulations are being published as proposed regulations and the public is provided an opportunity to comment on the proposed regulations. The Secretaries of Commerce and Labor and Immigration jointly published emergency and proposed regulations on September 15, 1994. The published regulations covered three parts: Part I, Business License; Part II, Foreign Investments; and Part III, Insurance Company Regulations. Parts I and 2 are hereby rescinded and revoked in compliance to the Governor's request and are replaced with proposed rules and regulations. Part III is separately adopted by the Insurance Commissioner. Comments have been received and incorporated in the regulations. Comments on the proposed Commerce regulations may be sent to the Secretary, Department of Commerce, Caller Box 10007, Capitol Hill, Saipan, MP 96950.

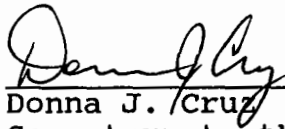
AUTHORITY. The Secretary of the Department of Commerce is authorized to promulgate these regulations pursuant to 1 CMC Section 2454.



PEDRO Q. DELA CRUZ
Secretary of Commerce



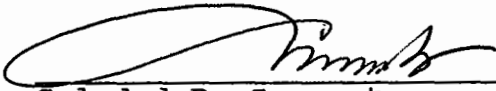
Date



Donna J. Cruz
Secretary to the Governor

11/15/94

Date



Soledad B. Sasamoto
Registrar of Corporations

11/15/94

Date Filed

**REGULASION YAN NUTISIA
PUT I MAPROPOPONI NA REGULASION
DIPATTAMENTON COMMERCE**

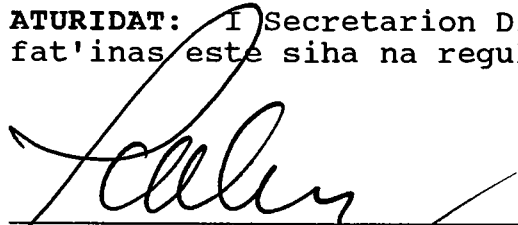
REGULASION COMMERCE

I interest pupbliku ha nisisita i ma'adaptan-ñiha este siha na regulasion gi menos di trenta (30) dias na nutisia. Guaha unos kuantu engkabukao siha na kausa manmasusedi konrespetu put i nisisidat siha para lisensian bisnes. I regulasion manlisensian bisnes manisariu para u atbisa i pupbliku put i nisisidat siha kosaki siña ma kumple i efisiente na atministrasion todú nisisidat siha para manlisensian bisnes.

I regulasion put manlisensian bisnes ha pribeni i mana'fandanña' todú probension siha put i nisisidat manlisensian bisnes gi un lugat ha'. I probension put nisisidat yan definasion siha ni manma'usa gi halom este na regulasion. I regulasion siha para u famapupblika ensigidas despues di este na nutisia.

KOMENTON PUBLIKU: I intensión i Secretarion Dipattamenton Commerce ayu i para u adapta este siha na Regulasion komu petmanente na regulasion sigun gi 1 CMC §9104(a)(1) yan (2). I Secretarion Commerce yan i Secretarion Labor yan Immigration ma adapta i regulasion lisensian bisnes gi Septiembre 15, 1994 sigun gi gotpe na nisisidat. Tres patte ma adapta Pat I, Bisnes License, Pat II, Foreign Investments; yan Pat III, Insurance Company Regulation. Dos patte, Pat I yan II.

ATURIDAT: I Secretarion Dipattamenton Commerce ma'aturisa para u fat'inas este siha na regulasion sigun gi 1 CMC §2454.



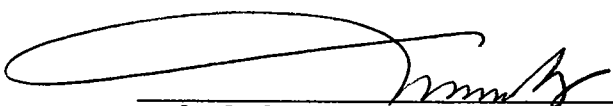
PEDRO Q. DELA CRUZ
Secretario, Dipattamenton Commerce

Nov. 15, 1994
Fecha



Donna J. Cruz
Sekretarian Gobietno

11/15/94
Fecha



Soledad B. Sasamoto
Rehistradot Kotparasion Siha

11/15/94
Fecha ni ma'file

ALLÉGHÛL ME
ARONGORONG REEL FFEERÛL ALLÉGH MELLÓL
DIPATAMENTOOL COMMERCE

ALLEGHUL COMMERCE

Reel ghatchúur towlap nge eghi auscheeyá bwe rebwe kkáyil adaptááli Allégh kkaal llól eliigh (30) rál sáangi igha e toowow arongorong. Aa ghi sségh fitighoogho reel meta kka mwóghutughutul business licenses. Alléghul Business Licensing kkaal nge eghi fil bwe ebwe yoor bwe reel ebwe areepiyaar tolwap reel mwóghutughutul me ebwe aghatchú lemelem ngáre administration reel meta kka e nisisita.

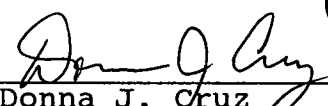
Alléghul business licensing yeel nge ebwe ayoora aweewe reel alongal statues ikka ebwal toolong mwóghutughutul business licensing mellól eew bwulé. Milikka statutory requirements nge ikkaal aweewe kka re yááyá mellól Revenue and Taxation Act of 1982 (P.L. No. 3-11) nge e bwal toolong llól allégh kkaal. Allégh kkaal nge ebwe arongorongoló ngáre schagh e toowow arongorong yeel.

Mángemáng me Tipeer Towlap: Mángmemángil Sehóol iiseh Dipatamnetool Commerce bwe ebwe adataáli Allégh yeel ngáre ebwe aléghéléghélé sáangi bwángil me ailéewal 1 CMC §9104 (a)(1) me (2). Sekretariyaal Commerce, Labor me Immigration e ayoora eew allégh ye e ghi presisu rebwe ayoora wóol Septiembre 15, 1994 bwe ebwe tepengi eluww titilil alléghil bisnis: Autol I nge Lisensiyal Bisnis, Autol II nge Bisnis kka Lughul (Foreign Investment), me Autol III Alléghil Kompaniyal Insurance. Autol I me II nge raa ayúúló, reel aal ffél me allégh Gobietno Commonwealth, nge rehbwe siwili ngeli schagh akkw ffél. Nge Autol II raa tabwey mereel Insurance Commissioner. Meangemang me tiip kkaal nge emmwel schagh bwe rebwe ischiitiw nge raa afanga ngáli Sehóol iiseh Dipatamnetool Commerce, Bureau of Commerce Building, Caller Box 10007, Capitol Hill, Saipan, MP 96950.


BWÁNG: Sehóol iiseh Dipatamentool Commerce nge eyoor bwángil bwe ebwe fféer allégh kkaal sáangi bwángil me ailéewal 1 CMC §2454.


Pedro Q. Dela Cruz, Sehóol iiseh
Dipatamentool Commerce

NOV. 15, 1994
Rál


Donna J. Cruz
Sekretóriyaal Gubenno

11/15/94
Rál


Soledad B. Sasamoto
Registrar of Corporation

11/15/94
Rallil file

DEPARTMENT OF COMMERCE

PART I - BUSINESS LICENSE REGULATIONS

SECTION 101. AUTHORITY. These regulations are promulgated pursuant to 1 CMC §2454 which authorizes the Secretary of Commerce to promulgate regulations regarding those matters over which the Department of Commerce has jurisdiction. The Department of Commerce (the "Department") has jurisdiction over the issuance of business licenses under 1 CMC §2453 and 4 CMC §1503 (Business License Fees and regulation (a) thru (f) regulation of private investment, including foreign investment).

SECTION 201. DEFINITIONS. FOR THE PURPOSES OF THIS PART, THE FOLLOWING DEFINITIONS SHALL APPLY:

A. "Business" includes all activities whether personal, professional or incorporated, carried on within the Commonwealth of the Northern Mariana Islands (the "Commonwealth" or "CNMI") for either direct or indirect economic benefit, as determined by the Secretary of Finance, provided that one who qualifies as an employee shall not be considered a business.

B. "Line of business" is a distinct and separate economic or business activity. The Standard Industrial Classification Manual established by the Executive Office of the President of the United States of America, Office of Management and Budget shall be used as a guideline.

C. "Resident agent" is a person, as defined in definition G(1), residing in the Commonwealth.

D. "Secretary" means the Secretary of the Department of Commerce.

E. "Manufacturer" is any business engaged in combining or processing components or materials to increase their value for sale in the ordinary course of business.

F. "Wholesaler" is any business engaged in the sale of tangible personal property to another for resale for direct or indirect economic benefit.

G. "Person" is (1) any individual, estate, firm, corporation, company, joint venture, association, partnership, trust, receiver, club, syndicate, cooperative association or any other entity; or (2) a foreign government, the United States government, the Freely Associated States of Micronesia, the Marshall Islands and Palau (FAS), the Commonwealth government or any agency or instrumentality of these entities.

H. "Public utility" is any person exclusively franchised by any government entity to sell:

- (1) Electric energy, gas, water, garbage, or sewage disposal services;
- (2) Public transportation services as a common carrier; or
- (3) Telephone, telegraph, or television services.

SECTION 301. LICENSE REQUIRED. In order to lawfully engage in a business, a person must obtain from the Secretary a business license to engage in that business by submitting a completed application to the Secretary and paying all applicable fees and penalties.

SECTION 401. LICENSE APPLICATION. A resident agent, an employee of the license applicant or other individual designated by the license applicant may be the license applicant but not a nonresident worker. Every applicant shall complete a Business License Application adopted by the Secretary which shall include the following information:

- A. The applicant's name, address and telephone number;
- B. The trade name, assumed name or business name if different from the

name of the applicant;

- C. The location or locations of the business, including building name, floor and sketch showing the location of the business;
- D. The lines of business;
- E. The type of business, partnership, sole proprietorship, nonprofit or business corporation;
- F. The Commonwealth immigration classification if applicable of the sole proprietor or partners or shareholders;
- G. The country or place of incorporation of the corporation;
- H. With respect to corporations, the name of the registered agent as defined in the existing Business Corporation Regulations, and the address of the registered office of the corporation;
- I. All trade names, assumed names and fictitious names used by the applicant, in conjunction with any activity, business or otherwise;
- J. The taxpayer identification number;
- K. The latest annual corporation report which has been filed with the CNMI Registrar of Corporations;
- L. The year in which the applicant first commenced business in the Commonwealth under the line or lines of business covered by the application; and

SECTION 501. LICENSE TERMS.

A. Duration. All business licenses shall be issued for a period of one year and shall expire one year from date of issue. Fees will not be prorated.

B. Conditions. The following conditions are placed on all license applications:

(1) Fictitious names, doing business as (dba's), trade names and assumed names shall be respected and the Secretary shall not grant to any two persons the same business name.

(2) One business license shall be granted to each distinct business activity. The Standard Industrial Classification Manual established by the Executive Office of the President of the United States of America, Office of Management and Budget shall be used as a guideline.

(3) The required documentation shall include:

(a) Where one is required, the authority for a corporation or business entity to transact business must be obtained from the appropriate government agency or agencies such as the municipal council, Casino Gaming Commission and Lottery Commission, Director of Banking, Insurance Commissioner, Alcoholic Beverage control and Taxicab Bureau.

(b) A copy of the certificate of incorporation or registration.

(c) A statement indicating that the applicant is good standing with the CNMI Division of Revenue and Taxation.

(4) The following classes of nonimmigrants or aliens are prohibited from engaging in business in the Commonwealth:

(a) Tourist

(b) Long term tourist

(c) Nonresident worker and their immediate relatives (as defined in 4 CMC Section 4337(j)).

(d) Foreign press

(e) Minister of Religion

(f) Religious missionary

SECTION 601. AUTHORITY TO REQUEST FOR SUPPORTING DOCUMENTS. The Secretary or his or her designee may from time to time request the applicant for a business license to provide documents to substantiate representations made in the initial application for the business license.

SECTION 701. RENEWAL. A business may renew its business license by filing a Business License Renewal application adopted by the Secretary and by paying the license fee at least thirty (30) days prior to the expiration of the current business license.

SECTION 801. BUSINESS LICENSE NOT TRANSFERABLE. A business License is not transferable.

SECTION 901. AMENDMENT TO BUSINESS LICENSE. Any change(s) in the business information, corporation, partnership, non-profit organization, or association status and information and business activity(ies) and respectively all such changes made with the Registrar of Corporations must be reported to the Business License Office within 10 working days of such change(s). Failure to report any change(s) above to the Business License Office may be grounds for revocation of business license.

SECTION 1001. DISPLAY OF BUSINESS LICENSE. The business license shall be displayed in a conspicuous place at the licensee's principal place of business. Copies of the Business License shall be displayed at all other locations from which the licensee conducts business.

SECTION 1100. GROUNDS FOR REVOCATION OR SUSPENSION OF BUSINESS LICENSE. The Secretary may revoke or suspend any license upon finding after two weeks public notice and a hearing pursuant to 1 CMC §9108-9111 that:

- A. The application of the licensee contained false or fraudulent information;
- B. The licensee bribed or otherwise unlawfully influenced any person to issue the license other than on the merits of application;
- C. The licensee presented false or fraudulent information to any person in support of the application;
- D. The licensee violated any provision of Commonwealth law or any rule or regulation; or
- E. The license application prohibits the licensee from owning a business or engaging in business by reason of the licensee's immigration status.
- F. The application is incomplete or not accompanied by information required to be submitted with the application.

SECTION 1200. APPEAL OF LICENSE DENIAL, SUSPENSION OR REVOCATION. Any person aggrieved by the denial, suspension or revocation of a business license is entitled to seek judicial review of the action pursuant to 1 CMC §9112.

SECTION 1300. FEES. The following non-refundable fees shall be paid to the Secretary of Commerce for the following classes of licenses at the time of filling the application.

- A. Security dealers, \$300;
- B. Security brokers, \$50;
- C. Investment advisors, \$50;
- D. Banks, \$50;
- E. Finance, \$300;
- F. Trust, \$300;
- G. Mortgage companies, \$50;
- H. Credit unions, \$50;
- I. Foreign exchange, \$50;
- J. Insurance companies, \$300;
- K. Insurance brokers, \$100;
- L. Insurance agents, \$75.00;
- M. Insurance solicitors, \$50;
- N. Insurance Adjusters, \$100;
- O. Public utilities, \$300;
- P. Manufacturers, \$50;
- Q. Wholesalers, \$50;
- R. Nonprofit organizations, \$50;
- S. Roadside vendors selling local agricultural and fishery products, \$5;
- T. Commercial Fishing License, \$50 per net tonnage of vessel;
- U. Scuba Diving Instruction, \$100.00;
- V. Scuba Diving Tour Operations, \$100;
- W. General business license covering all other businesses, \$50 for each

distinct business activity;

- X. License amendment fee, \$25;
- Y. License replacement fee, \$25.

SECTION 1400. PENALTY FOR CONDUCTING BUSINESS WITHOUT A LICENSE.

A. Every person who is required to obtain a business license and who engages in business without first obtaining or renewing a business license shall be subject to a civil penalty in the amount of 10% of the applicable license fee for a period of less than one month and 10% of the applicable license fee for each additional month or portion thereof, not to exceed 100% of the applicable licensee fee.

B. In addition to the penalty imposed by subsection A, interest at the rate of 15% per annum shall be imposed on all unpaid license fees.

C. A returned check used for payment of a business license shall be assessed a penalty twice the amount of the fees.

SECTION 1500. ENFORCEMENT. The Secretary may delegate his authority under these regulations to any employee for the purposes of enforcing any and all of these regulations. The enforcement of all activities under jurisdiction of the Secretary of Commerce shall be coordinated by the various heads of the different divisions, and shall be directed by a designated Chief of Enforcement.

SECTION 1600. AUTHORITY TO ENGAGE IN BUSINESS. It is unlawful for any person to organize and conduct business in the Commonwealth without the expressed approval of the Secretary. All persons wishing to organize and conduct business must file an application with the Secretary for the authority to organize and conduct business in the Commonwealth. No person may organize such a corporation until written authority to organize has been obtained from the Secretary. The application shall contain the following information:

A. The proposed location of its principal office, amount of paid-in capital, and corporate name which shall not be the same as any other filed or existing corporation;

B. The proposed articles of incorporation should disclose all stock subscribers, amount of capital paid-in by each stockholders, and the aggregate paid-in capital. Declarations, affidavits and certifications must be notarized by a duly authorized Commonwealth Notary Public Official.

C. Evidence of character, financial responsibility, business experience and ability of the proposed incorporators, directors and officers;

D. All other information required to be filed with the Articles of Incorporation under the laws of the Commonwealth, for purposes of receiving a corporate charter or by regulations of the Secretary, or specifically requested of the incorporator by the Secretary.

PART II - FOREIGN INVESTMENTS

SECTION 101. AUTHORITY. These regulations are promulgated pursuant to 1 CMC §2454 which authorizes the Secretary of Commerce to promulgate regulations regarding those matters over which the Department of Commerce has jurisdiction. These regulations are promulgated pursuant to 1 CMC §2453 (a) thru (f), and 2454, 4 CMC §1503 and 3 CMC Div. 4 §4331(e) and (j).

SECTION 201. DEFINITIONS. For the purposes of this Part, the following definitions shall apply:

A. "Alien" means an individual who is not a United States citizen, a citizen of the former Trust Territory of the Pacific Islands, a CNMI permanent resident or a holder of a CNMI Certificate of Identity.

B. "Alien investor" is an alien who has expressed a willingness to invest, has invested in or is in the process of investing in an enterprise in the Commonwealth of the Northern Mariana Islands (the "Commonwealth" or "CNMI"). An alien investor shall not be an excludable alien under section 4322 of the Commonwealth Entry and Deportation Act of 1983, as amended. An alien investor does not include entities such as corporations, partnerships or other entities existing solely by virtue of the law.

C. "Approved investment" is an investment approved by the Foreign Investment Review Committee.

D. "Approved letter" means a letter issuable by the Secretary certifying the acceptance of an approved investment subject to the minimum investment criterias and standards set forth in section 901 for a regular term business certificate, section 1001 for a long term business certificate and section 1101 for a foreign investor certificate.

E. "Commerce certificate" means a certificate issued by the Secretary to an applicant whose application has been approved by the Foreign Investment Review Committee.

F. "Capital" means money or property used or committed to be use in an enterprise in the form of equity or ownership interest, and not as a loan.

G. "Domestic corporation" means a corporation authorized by law to issue stock, organized under the laws of the Commonwealth of the Northern Mariana Islands.

H. "Enterprise" means a commercial or business activity carried on for profit in the Commonwealth. This enterprise is limited to one corporation, branch, office, subsidiary or facility of a foreign corporation, a partnership, or association which is an approved investment.

1. "New enterprise" means an enterprise existing or prospective which has been established by an alien investor for the purpose of doing business within the Commonwealth, provided that prior to the establishment of any entity such as a corporation, partnership, or association, the authority to organize must be obtained from the Secretary.

2. "Existing enterprise" means a present or existing enterprise that is engaged in business in the Commonwealth and in which the alien investor previously had no ownership interest.

I. "Foreign corporation" means a corporation formed under the laws of a jurisdiction other than the Commonwealth of the Northern Mariana Islands.

J. "Foreign investment" means a direct investment or investments by an alien investor or foreign corporation that is incorporated outside the United States in a business entity, existing or proposed in the Commonwealth.

K. "Foreign national" means an alien.

L. "Immediate family" means the spouse, parents and natural or adopted children under the age of 21.

M. "Public organization" means a Commonwealth public corporation or agency of the Commonwealth government.

N. "Secretary" means the Secretary of the Department of Commerce.

SECTION 301. PURPOSE. To provide for standards and criterias for the issuance of Commerce certificates to aliens who invest in business entities in the Commonwealth; to transfer the processing, approval, issuance and renewal of Regular Term Business Entry Permits from the Department of Labor and Immigration to the Department of Commerce; to transfer the processing, approval, issuance and renewal of Long Term Business Entry Permits from the Department of Labor and Immigration to the Department of Commerce; these transfers are accomplished through the Secretary of Labor and Immigration's repeal and the Secretary of Commerce's adoption of applicable provisions of the Immigration's rules and regulations; to amend the Foreign Investor Certificate program; to establish a Foreign Investment Review Committee and for other purposes.

SECTION 401. FOREIGN INVESTMENT POLICY. The Secretary makes the following declarations:

A. It is declared that all investments in the Commonwealth by foreign nationals shall fall under the classification of foreign investment;

B. It is declared that all investments by foreign nationals in existing enterprises shall fall under the foreign investment classification;

C. It is declared that all investments by foreign nationals or foreign corporations, proposed or actual, in new enterprises which are not engaged in business, but are proposed to engage shall fall under the classification of foreign investment.

D. It is declared that before any filing of corporate documents by a foreign national or a foreign corporation wholly owned by foreign nationals with the Registrar of Corporations, the incorporators must obtain the authority to organize from the Secretary;

E. It is declared that if a corporation is organized with both United States citizens and foreign nationals holding interest, the corporation may proceed, without hindrance, in perfecting its business;

F. It is declared that if an investment in a proposed or existing enterprise cannot be categorized as falling under foreign investment, the Secretary must make findings and determine whether such an investment should be classified as a foreign investment or an investment by United States citizens, and

G. These regulations should provide foreign investors a sense of direction and guideline to proceed onto the next phases of investor classifications from short term business entry permit holder to regular term business certificate or two year term business certificate and ideally to the foreign investor certificate classification. Holders of a one year term business entry permits are encouraged to apply for the two year business certificate.

SECTION 501. TRANSFER OF AUTHORITY. The responsibilities of the Department of Labor and Immigration over the processing, approval, issuance and renewal of regular term business entry permits under section 706A of the Immigration Rules and Regulations and long term business entry permits under section 706N of the Immigration Rules and Regulations are hereby repealed by the Secretary of Labor and Immigration, and are adopted by the Secretary of Commerce in these regulations. "Regular term business entry permits" shall henceforth be renamed "regular term business certificates" and "long term business entry permits" shall be renamed "long term business certificates".

SECTION 601. CERTIFICATION. The Secretary or his or her designee shall certify that an alien investor has met the requirements for a Commerce certificate before an immigration business of foreign investor visa could be processed by the Division of Immigration under the Department of Labor and Immigration. The certification by the Secretary shall be consistent with the recommendation by the Foreign Investment Review Committee. No business or foreign visa shall be issued or granted by the Director of the Immigration Service without the expressed approval by way of certification of the Secretary.

SECTION 701. FOREIGN INVESTMENT REVIEW COMMITTEE. There is hereby created a Foreign Investment Review Committee (hereafter "Review Committee") composed of the Secretary or his or her designee and the Attorney General or his or her designee and any other person(s) whom the Secretary deems appropriate. The Attorney General's presence on the Review Committee is limited to ensuring that the activities of the Review Committee are in compliance with the laws of the Commonwealth.

A. Duties. The Review Committee shall review all applications for or renewals of regular term business certificates, long term business certificates, and foreign investor certificates. The standard of review are set forth in section 901 for a regular term business certificate, section 1001 for a long term business certificate, and section 1101 for a foreign investor certificate. The Review Committee shall review all applications for the authority to organize and any other activities as determined by the Secretary. The Review Committee through the Secretary shall regularly consult with the Governor regarding the Commonwealth's policies with respect to foreign investments.

B. Procedures. The Review Committee shall establish in writing standard operating procedures for the review of all applications for a Commerce certificate and other applications assigned to it by the Secretary. The Review Committee shall communicate its findings and decision in writing regarding each application for a Commerce certificate to the Secretary no later than 30 calendar days from the date the application form is filed with the Department of Commerce. The Secretary shall notify the applicant of the decision of the Review Committee within 5 working days of receipt of the decision of the Review Committee. The Secretary shall issue an approved letter to an applicant whose application has been approved.

C. Appeal. The applicant whose permit has been disapproved shall have up to seven (7) working days in which to appeal the decision of the Review Committee. The request for appeal shall be made in writing and presented to the Secretary. The Secretary shall comply with the requirements of the Administrative Procedures Act regarding the appeals process.

D. Authority to Request for Documents, Interviews, and Public Hearings. The Review Committee shall have the authority to request the applicant to provide documents to substantiate representations made in the application for a Commerce certificate through correspondences or interviews. The Review Committee may request and hold public hearings from time to time on the type of investments needed in the Commonwealth.

SECTION 801. CLASSIFICATION. The Review Committee may classify an alien who owns an interest in a foreign corporation that incorporates in the Commonwealth as an alien investor if the alien satisfactorily establishes his or her ownership interest in the foreign corporation and meets the requisite criterias and standards of the Commerce certificate applied for. The Review Committee may review, upon request and submission of sufficient documentation, the status of an alien not owning any interest in a Commonwealth Corporation, and who is requesting issuance of either a 90 day business certificate and visa or a 2 year term business certificate and visa. The Review Committee may qualify such alien for any of the two business entry certificates. This exclusion shall only be limited to applicants from existing enterprises and corporations whose investments have been approved by the Review Committee.

SECTION 901. REGULAR TERM BUSINESS CERTIFICATE.

A. Conditions.

1. A holder of a regular term business certificate entitles the alien investor to lawfully engage in business in the Commonwealth for not more than ninety (90) days within a 12 month period.

2. The application fee for a regular term business certificate shall be paid to the CNMI Treasurer prior to filing an application for a regular term business certificate with the Secretary.

3. All applications for a regular term business certificate must be made only after the applicant has lawfully entered the Commonwealth. Only a holder of a short term business entry permit is allowed to apply for a regular term business entry certificate.

4. Applicants for a regular term business certificate must file the application with the Secretary at least 10 days prior to the expiration of the applicant's immigration permit.

B. Standard of Review. The standard of review of the regular term business certificate shall be determined by the Secretary. The criterias, requirements, and basis of approval shall be contained in standard operating procedures held at the Office of the Secretary.

C. Application Process. Applicants for a regular term business certificate shall file with the Department of Commerce a completed application form approved by the Secretary. The procedures for the review of regular term business certificates are set forth in section 701 of this Part.

SECTION 1001. LONG TERM BUSINESS CERTIFICATE.

A. Conditions.

1. A holder of a long term business certificate entitles the alien investor to lawfully engage in business in the Commonwealth for a period of two (2) years.

2. The application fee shall be paid to the CNMI Treasurer prior to filing an application for a long term business certificate with the Secretary.

3. Holders of a short term business entry permit and a regular term business certificate are eligible to apply for a long term business certificate.

4. Applicants for this certificate must file an application with the Secretary ten (10) days prior to the expiration of the applicant's entry permit or visa.

B. Standard of Review.

1. Approved Investment - General Standard.

An approved investment is one which the Review Committee finds that the Alien has invested or is actively in the process of investing a significant amount of capital in a bona fide enterprise which benefits the Commonwealth. A certificate holder shall not deviate from an approved investment or separately incorporate that which is not an approved investment. A separate business license shall not be issued unless the requirements for a license set forth in Part I of these regulations are complied with.

2. The Review Committee shall determine the criterias for approval of the application for a Long Term Business Certificate, which may include, but are not limited to, the following:

- a. The representations made by the alien in his or her application and representations made through interviews by members of the Review Committee;
 - b. The length of time for which the Long Term Business Certificate may be granted before it shall be subject to reconsideration for renewal;
 - c. The types and scope of business activities in which the alien may engage;
 - d. Guarantees of employment preferences for Commonwealth residents;
- and,
- e. Such other conditions as the Review Committee deems appropriate.

3. Evaluation Factors - New Enterprises.

In determining whether a proposed investment in a new enterprise is an approved investment, the Review Committee shall consider the following:

- a. The amount of capital invested or to be invested by the alien investor, of which, investments by individuals must not be less than \$50,000.
- b. The type of enterprise proposed by the alien investor;
- c. The reputation and business experience of the alien investor;
- d. The number and type of employment opportunities to be created for Commonwealth residents by the enterprise;
- e. The number of alien workers to be employed by the enterprise;
- f. The demand for the type of enterprise and existing competition;
- g. The island or islands on which the enterprise will be located;
- h. The extent to which the enterprise will reduce imports and increase exports;
- i. The extent of which the enterprise will increase the availability of goods and services at competitive prices to Commonwealth residents;
- j. The extent to which the enterprise will support or enhance existing industries in the Commonwealth;
- k. The extent to which the enterprise will develop the resources

of the Commonwealth;

1. The extent of any equity participation in the enterprise by Commonwealth residents;

m. Whether the enterprise will be a substantial, on going business, as distinct from a marginal enterprise established solely for the purpose of earning a living for the alien and his family; and

n. The extent to which the enterprise will contribute to the overall economic well-being of the Commonwealth without adversely affecting existing social, cultural, and ethnic conditions in the Commonwealth;

3. Evaluation Factors - Existing Enterprises.

In determining whether a proposed investment in an existing enterprise is an approved investment, the Review Committee shall consider the following:

a. The amount of capital invested or to be invested by the Alien Investor. Minimum investments of \$150,000 in a public organization or \$250,000 in a private enterprise are required;

b. The type of business engaged in by the existing enterprise;

c. The size and financial integrity of the existing enterprise;

d. The ownership of the existing enterprise; and

e. The nature and extent of the Alien Investor's participation in the management of the existing enterprise;

f. The number of resident employees shall not be less than 20% of total employees of the existing enterprise.

C. Application Process.

1. The applicant shall file an application for a long term business certificate with the Secretary. The application will not be accepted without the necessary supporting documents and shall become the property of the Secretary once submitted. All documents shall be filed out under penalty of perjury.

2. The following documents shall be attached to a completed application form:

a. Certified copy of birth certificate,

b. Any document deemed necessary by the Secretary to substantiate the applicants immigration entry classification;

c. One and one-quarter inch (1¼") frontal photograph in either black and white or color; and,

d. Any other documents required by the Secretary.

3. Applicants for a long term business certificate shall file with the Department of Commerce a completed application form approved by the Secretary. The procedures for the review of an application for a long term business certificates are set forth in section 701 of this Part.

D. Renewal of a long term business certificate (two year term and one year term business permits/certificates).

1. The holder of a long term business certificate has no absolute right to renewal of the certificate.

2. The Long Term Business Certificate may be renewed if the Review Committee finds that the alien's investment continues to be in compliance with the standards set forth in this Part.

3. An alien may apply for a renewal by submitting an application for a renewal with the Secretary at least 90 days prior to the expiration of the alien investor's previously issued long term business entry permit.

SECTION 1101. FOREIGN INVESTMENT CERTIFICATE.

A. Conditions.

1. A Certificate of Foreign Investment is a certificate issued to an alien who has met all the standards and conditions enumerated in this Part as proof of the holder's participation as an alien investor in an approved investment in the Commonwealth. The holder shall have the right to lawfully engage in business in the Commonwealth as long as the alien investor complies with the terms upon which the certificate was issued.

2. The application fee for a foreign investor certificate shall be paid to the CNMI Treasurer prior to filing an application for this certificate with the Secretary.

3. All applications for a foreign investor certificate must be made only after the applicant has lawfully entered the Commonwealth. Holders of a short term business entry permit, a regular term business certificate, or a long term business certificate shall be eligible to apply for a foreign investor certificate.

B. Standard of Review. An approved investment for the purposes of this section means an investment approved by the Secretary, which approval shall be subject to the following standards:

1. **Minimum Amount of Investment.** The amount of the "Approved Investment" shall be \$100,000 per person in an aggregate "Approved Investment" in excess of \$2,000,000; or \$250,000 by an individual in a single "Approved Investment".

2. **Approved Investment Standards.** In reviewing the acceptability of an Approved Investment for purposes of determining issuance or denial of a Certificate of Foreign Investment, the Secretary shall consider:

a. The relative need for or desirability of the type of enterprise described by the applicant;

b. Whether or not the proposed enterprise is in compliance with local and/or federal laws;

c. The number and description of employment positions created by the enterprise or which will be created for qualified Commonwealth residents and the extent to which non-residents personnel are or will be utilized at the outset of the applicant's enterprise, the quality and projected performance of a resident employee training program, if any;

d. The effect which the enterprise will have upon the ecology of the Commonwealth including its pollutant or non-pollutant status, its potential impact on the fresh water table, and the likelihood of creating waste products that would be detrimental to the environment.

e. The personal integrity and business reputation of the Alien Investor and any associate investors involved in the enterprise;

f. To the extent that such factor can be determined, the likelihood that the enterprise will continue its operation in the Commonwealth for a substantial period of time;

g. The extent to which contractors, subcontractors, labor and materials and other supplies available locally have been or will be utilized in the establishment, construction and operation of the enterprise;

h. The extent to which the enterprise will impact upon power and water resources in the Commonwealth, whether or not the enterprise includes water catchments, separate power plant, separate water wells, other independent water or power resource; and if not, the amounts of water and power necessary for establishment, construction, and operation of the enterprise;

i. The likelihood that the enterprise has not been organized in good faith or with a permanent character or that the issuance of a Certificate of Foreign Investment will be misused;

j. Nothing in these standards shall preclude the Foreign Investor from investing in an ongoing enterprise.

C. Application Process.

1. Issuance of Certificates of Foreign Investment.

a. The alien investor shall submit an application for an approved investment subject to the standards and criteria outlined in this Part. The applicant shall provide all information and supporting documents as deemed necessary by the Secretary.

b. The Review Committee shall review the application for an approved investment and, in the event that the proposal complies with the standards and criteria outlined in this section, it shall communicate its decision to the Secretary in writing. The Secretary shall inform the applicant of the decision of the Review Committee. If the application is approved, the Secretary shall issue an approval letter to the applicant. The Approval Letter shall not be evidence of a Certificate of Foreign Investment as referenced in section 1(a). The Approval Letter shall be issued or denied within a time period not to exceed forty-five (45) days from the date of application.

c. After receiving an Approval Letter regarding a proposed Approved Investment, the Alien Investor shall secure the necessary financial backing to proceed with the Approved Investment.

d. After obtaining necessary financial backing to finance the approved Investment, the Alien Investor shall supply documentary proof of such backing to the Secretary for his review and approval. This documentation shall be sufficient to convince the Secretary that the Alien Investor has sufficient backing to initiate the Approved Investment within one hundred and eighty (180) days following the issuance of a Certificate of Foreign Investment. This documentation may include cash deposits, letters of credit, or any other evidence of financial ability acceptable to the Secretary.

e. Upon receipt and approval of documentation proving financial ability of the Alien Investor, the Secretary shall issue a Certificate of Foreign Investment. Issuance or denial of the Certificate of Foreign Investment shall be effected by the Secretary within a time period not to exceed thirty (30) days after the receipt of the financial backing documentation.

f. In the event the Secretary denies issuance of either an Approval Letter or a Certificate of Foreign Investment to any applicant, the Secretary shall deliver the reasons for denial in writing to the applicant within the time periods specified in section 2(b) and or section 2(e).

2. Certification. After the issuance of an approval letter to the applicant, the Secretary shall certify to the Director of the Immigration Service that the applicant is eligible for a foreign investor visa.

D. Duration of Certificate of Foreign Investment. The duration of the Certificate of Foreign Investment shall be perpetual; provided that the Approved Investment continues to comply with the standards of issuance.

E. Annual report. The holder of a Certificate of Foreign Investment must submit to the Secretary an annual report of investment activities in the Commonwealth on or before January 1 of each year. The report shall contain the information necessary for the Secretary to determine whether or not the Certificate holder is under continuing compliance with the standards of issuance.

F. Fees. An application for a Certificate of Foreign Investment shall be accompanied by a non-refundable fee of \$10,000.00 for the processing of the application.

G. Revocation of Certificate of Foreign Investment.

1. The Secretary, after permitting the Certificate holder (or his authorized representative) to appear before him, in person, and finding, upon a preponderance of the evidence reviewed by him, that the Alien Investor has:

a. Not maintained an Approved Investment in continuing compliance with the standards of issuance of a Certificate of Foreign Investment; and/or

b. Committed fraud or misrepresentation in any material assertion in the application for the Approval Letter, the Certificate of Foreign Investment, or the Annual Report required pursuant to Section 4 herein; and/or

c. Been subjected to an adjudication of bankruptcy regarding the Alien Investment; and/or

d. Failed to comply with any conditions or obligations stated in the Certificate of Foreign Investment, after having been afforded by the Secretary reasonable period within which to correct such failure; provided, however, that should the alien Investment fail for reasons beyond the control of the Alien Investor, the Secretary shall provide reasonable time to the Alien Investor within which to refinance the Approved Investment, or secure participation in an alternative Approved Investment.

e. Been subjected to a finding by the Attorney General that the corporate parent for the enterprise, if any, has been dissolved; and/or

f. Violated any provision of these rules and regulations.

The Secretary shall either take steps to secure correction of any insufficiency or non-compliance, or revoke the Certificate of Foreign Investment, the Alien Investor shall be afforded a six-month grace period following termination or revocation of his Certificate, in order to take steps necessary to liquidate, transfer or otherwise dispose of assets connected with the Alien Investor's Approved Investment activity. The Secretary shall inform the Secretary of Labor and Immigration in writing of his decision to revoke and/or deny renewal of the Certificate of Foreign Investment, and compute the six month's grace period date commencing from the date of denial and/or revocation. The Alien Investor's Foreign Investment Visa (and any visas held by members of

his immediate family) shall be valid up to and including the final day of the six-month grace period following termination of the Certificate of Foreign Investment.

SECTION 1201. OTHER FOREIGN INVESTMENT. Nothing in these rules and regulations shall preclude foreign investment in the Commonwealth; however, any other manner of foreign investment shall not entitle the alien investor to a Commerce certificate.

SECTION 1301. FEE SCHEDULE

- A. Regular Term Business Certificate \$200;
- B. Long Term Business Certificate \$1,000;
- C. Foreign Investment Visa
 - a) \$2,500 to a holder of a Foreign Investment Certificate;
 - b) 2,500 per family member;
- D. Foreign Investment Certificate \$10,000;
- E. Penalties for any violation of these rules and regulations: \$100 per day the violation is not resolved and \$100 per violation.

All Fees collected under this Part shall be deposited with the CNMI Treasurer, and the Secretary of Finance shall permit the Secretary of Commerce to use the funds for the enforcement of these regulations. All fees are non-refundable.



**DEPARTMENT OF COMMERCE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
CALLER BOX 10007, C.K., SAIPAN, MP 96950**

**TEL. NO. (670) 322-8711/4
FAX NO. (670) 322-4008**

FOREIGN INVESTMENT REVIEW COMMITTEE

DATE SUBMITTED: _____

* THE FOLLOWING DOCUMENTS WERE SUBMITTED TO THE FOREIGN INVESTMENT REVIEW COMMITTEE IN ORDER TO CONSIDER APPLICATION.

CHECK LIST

____ Documents to support financial backing

____ Description of proposed project or line of business

____ Evidence of character and business reputation of all involved investors

____ Immigration status of involved investors and family members

Principal: _____

____ Copy of Certificate of Incorporation

____ Fees paid

Receipt no. _____



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**TEL. NO. (670) 322-8711/4
FAX NO. (670) 322-4008**

FOREIGN INVESTMENT REVIEW COMMITTEE

* Application for Foreign Investment Certificate for _____ has been:
 Approved Denied

Review Committee Date

Review Committee Date

Review Committee Date

Review Committee Date

Review Committee Date

Review Committee Date

COMMENTS:



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**LONG TERM BUSINESS ENTRY CERTIFICATE REGULATIONS
ADOPTED AS OF 10/15/94, CR 16 NO.9**

706.N.LONG TERM BUSINESS ENTRY CERTIFICATE.

1. DEFINITIONS.

For purposes of this subsection, the following terms shall have the following meanings:

- A. "Enterprise" means a commercial or business activity carried on for profit in the Commonwealth.
 - 1) "New Enterprise" means an enterprise existing or prospective which has been established by an alien for the purpose of doing business within the Commonwealth.
 - 2) "Existing Enterprise" means a present or existing enterprise that is engaged in business in the Commonwealth and in which the Alien previously had no ownership interest.
- B. "Capital" means money or property used or committed to use in an enterprise in the form of equity or ownership interest, and not as a loan.
- C. "Immediate Family" means the Alien Investor's spouse, parents and children.
- D. "Secretary of Commerce" means the Secretary of Commerce of the Commonwealth government.
- E. "Review Committee" means a committee composed of the Attorney General or his designee and the Secretary of Commerce or his designee.
- F. "Public Organization" means a Commonwealth Public Corporation or agency of the Commonwealth government.

2. APPROVED INVESTMENT - GENERAL STANDARD.

An approved investment is one which the Review Committee finds that the Alien invested or is actively in the process of investing a significant amount of capital in a bona fide enterprise benefiting the Commonwealth.

3. EVALUATION FACTORS - NEW ENTERPRISES.

In determining whether a proposed investment in a new enterprise is an approved investment, the Review Committee shall consider the following:

- A. The amount of capital invested or to be invested by the Alien Investor;
- B. The type of enterprise proposed by the Alien Investor;
- C. The reputation and business experience of the Alien Investor;
- D. The number and type of employment opportunities to be created for Commonwealth residents by the enterprise;
- E. The number of alien workers to be employed by the enterprise;
- F. The demand for the type of enterprise and existing competition;
- G. The island or islands on which the enterprise will be located;
- H. The extent to which the enterprise will reduce imports and increase exports;
- I. The extent to which the enterprise will increase the availability of goods and services at competitive prices to Commonwealth residents;
- J. The extent to which the enterprise will support or enhance existing industries in the Commonwealth;
- K. The extent to which the enterprise will develop the resources of the Commonwealth;
- L. Whether the enterprise will be a substantial, on going business, as distinct from a marginal enterprise established solely for the purpose of earning a living for the alien and his family;
- M. The extent to which the enterprise will contribute to the overall economic well-being of the Commonwealth without adversely affecting existing social, cultural, and ethnic conditions in the Commonwealth;

4. EVALUATION FACTORS - EXISTING ENTERPRISES.

In determining whether a proposed investment in an existing enterprise is an approved investment, the Review Committee shall consider the following:

- A. The amount of capital invested or to be invested by the Alien Investor. Minimum investments of \$150,000 in a public organization or \$250,000 in a private enterprise are required;
- B. The type of business engaged in by the existing enterprise

- C. The size and financial integrity of the existing enterprise;
- D. The ownership of the existing enterprise;
- E. The nature and extent of the Alien Investor's participation in the management of the existing enterprise;
- F. The number of resident employees shall not be less than 20% of total employees of the existing enterprise;

5. APPLICATION PROCESS.

The applicant shall file an application for a Long Term Business Entry Certificate with the Secretary. The application will not be accepted without the necessary supporting documents and shall become the property of the Secretary once submitted. The applicant shall submit three copies of the application and such additional information and documentation the applicant desires to include. All documents shall be filled out under penalty of perjury.

The following documents shall be attached to a completed application form:

- A. Certified copy of birth certificate;
- B. Any document deemed necessary by the Secretary of Commerce to substantiate the applicants immigration entry classification;
- C. One and one-quarter inch frontal photograph in either black and white or color;
- D. Proof of payment made to CNMI Treasurer; (non-refundable)

The Review Committee shall determine the conditions for approval of the application for a Long Term Business Entry Certificate, which may include, but are not limited to, the following:

- 1. The representations made by the alien in his/her application to the Review Committee;
- 2. The length of time for which the Long Term Business Entry Certificate may be granted before it shall be subject to reconsideration for renewal;
- 3. The type and scope of business activities in which the alien may engage;
- 4. Guarantees of employment preferences for Commonwealth residents, the Secretary of Commerce will condition renewal of permit on the number of residents employed by the holder.
- 5. Such other conditions as the Review Committee deems appropriate.

6. RENEWAL OF LONG TERM BUSINESS ENTRY CERTIFICATE.

- A. The holder of a Long Term Business Entry Certificate has no absolute right to renewal of the Long Term Business Entry Certificate.
- B. The Long Term Business Entry Certificate may be renewed if the Review Committee finds that the Alien's Investment continues to be in compliance with the standards set forth in Section 2, considering the Evaluation Factors set forth in Section 3 & 4, and the conditions imposed under Section 5.B., provided the Alien is not excludable.
- C. An alien may apply for a renewal of the Long Term Business Entry Certificate by submitting three copies of the renewal application and such additional information and documentation that the applicant desires to include to the Secretary at least 90 days prior to the expiration of the Alien Investor's previously issued Long Term Business Entry Certificate.



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CALLER BOX 10007, C.K., SAIPAN, MP 96950**

TEL. NO. (670) 322-8711/4
FAX NO. (670) 322-4008

LONG TERM BUSINESS ENTRY CERTIFICATE (2 YRS)

* THE FOLLOWING DOCUMENTS ARE TO BE SUBMITTED BEFORE THE REVIEW COMMITTEE IN ORDER TO CONSIDER APPLICATION.

CHECK LIST

- ____ COMPLETED LTPEC APPLICATION
- ____ PHOTO
- ____ MARRIAGE CERTIFICATE
- ____ CURRENT POLICE CLEARANCE
- ____ HEALTH CERTIFICATE
- ____ COPY OF PASSPORT
- ____ BIRTH CERTIFICATE
- ____ BGRT QUARTERLY
- ____ WITHHOLDING EMPLOYEE TAX
- ____ BUSINESS LICENSE OF EXISTING BUSINESS
- ____ BY-LAWS
- ____ ARTICLES OF INCORPORATION
- ____ CORPORATE CHARTER
- ____ AFFIDAVIT/CERTIFICATION/DECLARATION OF PAID IN CAPITAL
- ____ BUSINESS FINANCIAL STATEMENT
- ____ LEASE AGREEMENT PRIVATE/PUBLIC
- ____ SKETCH OF LOCATION
- ____ LIST OF DEPENDENTS
- ____ INVENTORY OF ASSETS
- ____ FILING FEE PAID RECEIPT NO. _____

- A. IS APPLICANT ON ISLAND _____ OFF ISLAND _____
- B. TYPE OF PERMIT _____ NO. _____
- C. ANY AMENDMENTS TO BUSINESS(LIST) _____
- D. APPLICATION SUBMITTED BY INCORPORATOR _____ AGENT(NAME) _____
- E. SOCIAL SECURITY NUMBER OF INCORPORATOR:
PREVIOUS # _____ NEW # _____

DOCUMENTS REVIEWED BY: _____

STATUS: _____ RECOMMENDED FOR APPROVAL
 _____ RECOMMENDED FOR DENIAL
 _____ PENDING

COMMENTS: _____



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FAX NO. (670) 322-4008**

FOREIGN INVESTMENT APPLICATION REQUIREMENTS

- * Detailed information on required documents
- A. DOCUMENTS TO SUPPORT FINANCIAL BACKING
 - 1. Corporation authorizes Department of Commerce to do bank inquiry or verification.
 - 2. Bank statements, financial statements, bank references submitted.
 - 3. Does corporation have any loan commitments if so, please provide pertinent documents.
- B. DESCRIPTION OF PROPOSED PROJECT OR LINE OF BUSINESS
 - 1. Should provide a feasibility study or analysis
 - 2. What type of work force, training program
 - 3. Overall economic impact and environmental impact
- C. EVIDENCE OF CHARACTER AND BUSINESS REPUTATION OF ALL INVOLVED INVESTORS
 - 1. Letters of recommendation
 - 2. Affiliations with other corporations
 - 3. Police clearance
- D. IMMIGRATION STATUS OF INVOLVED INVESTORS AND FAMILY MEMBERS
 - 1. Number of Family members
- E. COPY OF CERTIFICATION ON INCORPORATION
 - 1. Proof or copy of Certification of Incorporation



DEPARTMENT OF COMMERCE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
CALLER BOX 10007, C.K., SAIPAN, MP 96950

TEL. NO. (670) 322-8711/4
FAX NO. (670) 322-4008

CRITERIAS ON APPROVING 90 DAY BUSINESS ENTRY PERMITS

1. The 90 day entry permit sets out the initial stage in the foreign investment process. Due diligence is therefore necessary in the review process. This is a vital stage in the guidance and regulation of foreign investment. Below is a listing of business activities by priority as set forth by the Secretary of Commerce:
 - A. Hotels/Motels
 - B. Manufacturing, including textile manufacturing
 - C. Air Transportation/Transportation Services/Shipping
 - D. Construction
 - E. Banking/Finance
 - F. Agriculture/Fishing
 - G. Professional Service
 - H. Retail/Wholesale Trade
 - I. Restaurants and Bars
 - J. All others
2. Business activity to be engaged in must be disclosed. A proposal or a business plan must be submitted.
3. Amount of capital invested or to be invested. Financial statements of principals, including companies owned or affiliated with principals.
4. Investment or financing schemes. Bank references, business background/experiences and references must be submitted. Commitment letters from financiers/banks to fund the project.
5. With investments of less than \$50,000, equity participations with U.S. citizens are encouraged.
6. Number of employees expected to be hired immediately. Training programs, management incentives and other employee benefits.
7. Expected duration of stays of applicants in the CNMI to tend to business.
8. Criterias in evaluating new enterprises under the Long Term Business Entry Permits program must be incorporated at this stage and not until a business is already opened and operating.

**NOTICE OF PROPOSED AMENDMENTS AND REPEAL OF REGULATIONS
OFFICE OF LABOR AND IMMIGRATION**

The Secretary of the Department of Labor and Immigration (Hereafter, referred to as the Secretary) proposes to repeal and amend sections of 706 Immigration and Naturalization Regulations to provide for non-conflicting and consistent authority between the Department of Commerce and the Department of Labor and Immigration.

CONTENTS: Section 706 of the Immigration and Naturalization Regulations classify selected Entry permits. It is the intent of the Secretary to repeal Section 706 A(3) and to propose that Section 706 A(3) be amended to read in whole: "that the Secretary will issue a 90 day Regular-Term Entry Permit only after certification by the Department of Commerce."; It is the intent of the Secretary to repeal Section 706 N(1,2,3,4,5) and amend Section 706 N(6)(A) to read in whole: " The Director of Immigration shall issue a Long Term Business Entry Permit to an alien whose application has been approved and certified by the Department of Commerce and who is not an excludable alien."; It is the intent of the Secretary to repeal Section 706 N(6)(B); It is the intent of the Secretary to amend Section 706 N(7)(B) to read in whole: "The long term business entry permit may be renewed upon certification by the Department of Commerce."; It is the intent of the Secretary to repeal Section 706 N(7)(C and D).

PUBLIC COMMENT: It is the intent of the Secretary of the Department of Labor and Immigration to repeal and adopt the regulations as permanent regulations pursuant to 1 CMC Section 9104(a) (1) and (2). The proposed and repealed regulations are being published and the public is provided an opportunity to comment. All interested persons may submit written data, views, or arguments about proposed amendments and repeals to the Department of Labor and Immigration, Airport Road Saipan, MP, on or before December 17, 1994.

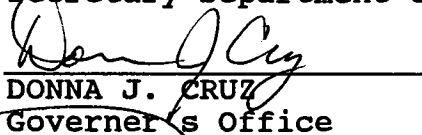
AUTHORITY: The Department of Labor and Immigration is authorized to amend and repeal regulations pursuant Executive Order Section 301, 94-3 Reorganization Plan No. 2, 1994 and 3 CMC Division 4 Section 4312 B.


RAYNALDO M. CING

Secretary Department of Labor and Immigration

11/15/94
Date

Received by:


DONNA J. CRUZ
Governor's Office

11/15/94
Date



SOLEDAD B. SASAMOTO
Filed by Registrar of Corporations

11/15/94
Date

NOTICE OF ADOPTION AND CERTIFICATION OF
INSURANCE COMPANY REGULATIONS, PART III

The Insurance Commissioner adopts and certifies the foregoing as the final rules and regulations on insurance companies.

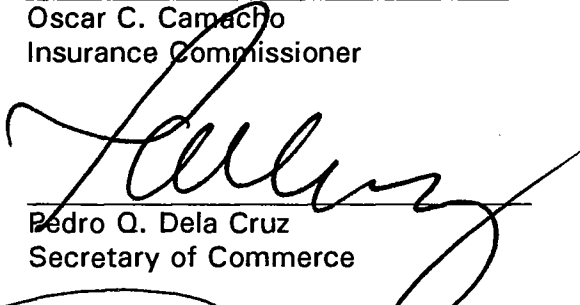
Oral comments as well as written comments are considered in the refinement of the proposed rules published on September 15, 1994.

I, hereby certify and adopt these rules and regulations on insurance companies.



Oscar C. Camacho
Insurance Commissioner

10/12/94
Date



Pedro Q. Dela Cruz
Secretary of Commerce

10/12/94
Date



Soledad B. Sasamoto
Registrar of Corporations

11/15/94
Date Filed



Donna J. Cruz
Secretary to the Governor

10/13/94
Date

NUTISIA PUT MA ADAPTA YAN SETTIFKASION
REGULASIONKOMPANIAN INSURANCE, PATTE III

I komisinan Insurance ha adapta yan settifika i utiimu na areklamento yan regulasion komopanian insurance.

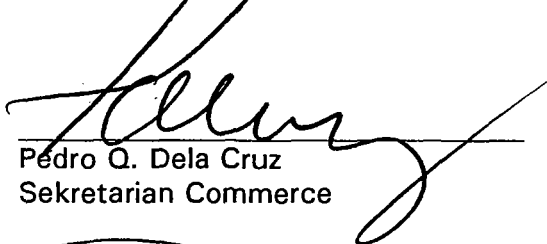
Kuentos yan i manmatuge' papa siha na komentu manmakonsidera yan ribisa para i manmapropoioni siha na areklamento gi Septiembre 15, 1994.

Guahu, hu settifika yan adapta este siha areklamento yan regulasion kompanian insurance.



Oscar C. Camacho
Komisinan Insurance

10/12/94
Fecha



Pedro Q. Dela Cruz
Sekretarian Commerce

10/20/94
Fecha



Soledad B. Sasamoto
Rehistradot Kotparasion Siha

11/15/94
Fecha ni ma'file



Donna J. Cruz
Sekretarian Gobietno


10/13/94
Fecha

ARONGORONG REEL ADOPTION ME ALÉGHÉLÉGHÚL
ALLÉGHÚL KOMPANIYAAL INSURANCE PATTI III


Insurance Commissioner e adaptáali me aléghéléghúúw aighúúghúl alléghúl komapniyaal Insurance kkaal.

Kkepas fengál me mángemáng me tiip kka e iischitiw nge rghal aweweey fengálliyy bwe ebwe atotoolong ilól fféerúl allégh kkaal iwe aa takkal toowow wóól Septembre 15, 1994.

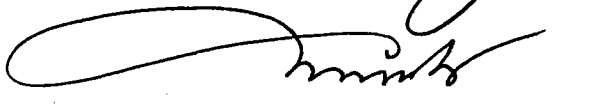
I alúghúlúgh me adptáali allégh kka e ghil ngál kompaniyaal insurance.


Oscar C. Camacho
Insurance Commissioner

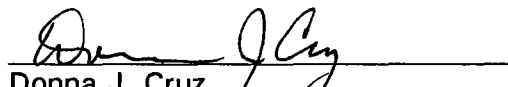
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Pedro Q. Dela Cruz
Sekretóriyaal Commerce

10/12/94
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Soledad B. Sasamoto
Registrar of Corporations

11/15/94
Rállil file


Donna J. Cruz
Sekretóriyaal Guberno

10/13/94
Rál

OFFICE OF THE INSURANCE COMMISSIONER
DEPARTMENT OF COMMERCE AND LABOR
CAPITOL HILL, SAIPAN, MP 96950

Rule Requiring Annual Audited Financial Reports

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Section 8.	Consolidated or Combined Audits
Section 9.	Scope of Examination and Report of Independent Certified Public Accountant
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Section 14.	Exemptions an Effective Dates
Section 15.	Severability Provision

Section 1. AUTHORITY

This rule is promulgated by the Commissioner of Insurance pursuant to 4 CMC Section 7105(b) of the Commonwealth Insurance Act of 1983 as amended.

Section 2. PURPOSES AND SCOPE

The purposes of these rules are to improve the Office of the Commonwealth Insurance Commissioner's surveillance of the financial condition of insurers by:

- 1) Requiring an annual examination by independent certified public accountants of the financial statements reporting the financial position and the results of operations of insurers.
- 2) To ensure reserves are allocated for certain risks.

Every insurer, as defined in Section 3, shall be subject to the first rule. Insurers having direct premiums written in the CNMI of less than 450,000 in any calendar year and less than 50 policyholders or certificate holders of directly written policies at the end of such calendar year shall be exempt from the rule for such year unless the Commissioner makes a specific finding that compliance is necessary for the Commissioner to carry out statutory responsibilities) except that insurers having assumed premiums pursuant to contracts and/or treaties of reinsurance of \$50,000 or more will not be so exempt.

Foreign or alien insurers filing audited financial reports in another state, pursuant to such other state's requirement of audited financial reports which has been found by the commissioner to be substantially similar to the requirements herein, are exempt from this rule if:

- A. A copy of the Audited Financial Report, Report on Significant Deficiencies in Internal Controls, and the Accountant's letter of Qualifications which are filed with such other state are filed with the Commissioner in accordance with the filing dates specified in sections 4,

11, and 12 respectively.

- B. A copy of any Notification of Adverse Financial Condition Report filed with such other state is filed with the Commissioner within the time specified in Section 10.

This rule shall not prohibit, preclude or in any way limit the commissioner of Insurance from ordering and/or conducting and/or performing examinations of insurers under the rules and regulations and the practices and procedures of the Office of the Insurance commissioner.

There is no exception to the second rule, the imposition of security deposits on all insurers providing for labor bonds and/or surety on alien laborers.

Section 3. DEFINITIONS

- A. "Audited financial report" means and includes those items specified in section 5 of this rule.
- B. "Accountant" and "Independent Certified Public Accountant" means an independent certified public accountant or accounting firm in good standing with the American Institute of CPA's and in all states in which they are licensed to practice.
- C. "Insurer" means an authorized insurer as defined in 4 CMC Section 7301(a) and (b) of the Commonwealth Insurance Act of 1983.
- D. "State" means any state of the United States, the governments of Puerto Rico, American Samoa and Guam.
- E. Labor bond is defined in the Alien Labor Rules and Regulations adopted on April 15, 1988 Section II page 5515 and is herein incorporated.

Section 4. FILING AND EXTENSIONS FOR FILING OF ANNUAL AUDITED FINANCIAL REPORTS.

All insurers shall have an annual audit by an independent certified public accountant and shall file an audited financial report with the Commissioner on or before June 1 for the year ended December 31 immediately preceding. The Commissioner may require an insurer to file an audited financial report earlier than June 1 with ninety (90) days advance notice to the insurer.

Extensions of the June 1 filing date may be granted by the Commissioner for thirty-day periods upon showing by the insurer and its independent certified public accountant the reasons for requesting such extension and determined by the Commissioner of good cause for an extension. The request for extension must be submitted in writing not less than ten (10) days prior to the due date in sufficient detail to permit the Commissioner to make an informed decision with respect to the requested extension.

Section 5. CONTENTS OF ANNUAL AUDITED FINANCIAL REPORT.

The Annual Audited Financial Report shall report the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flows and changes in capital and surplus for the year then ended in conformity with statutory accounting practices prescribed, or otherwise permitted, by the Department of Insurance of the state of domicile.

The Annual Audited Financial Report shall include the following:

- A. Report of independent certified public accountant.

- B. Balance sheet reporting admitted assets, liabilities, capital and surplus.
- C. Statement of operations.
- D. Statement of cash flows.
- E. Statement of changes in capital and surplus (For domestic insurers, the statement of changes in capital and surplus).
- F. Notes to financial statements. These notes shall be those required by the appropriate NAIC Annual Statement Instructions and any other notes required by generally accepted accounting principles and shall also include:
 - (1) A reconciliation of differences, if any, between the audited statutory financial statements and the Annual Statement filed pursuant to 4 CMC Section 7306(o)(1), 7396(d), and 7308(e), respectively, of the Commonwealth Insurance Act with a written description of the nature of these differences.
 - (2) A summary of ownership and relationships of the insurer and all affiliated companies.
- G. The financial statements included in the Audited Financial Report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the Audited Statement of the insurer filed with the Commissioner, and the financial statement shall be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. However, in the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted.

Section 6. DESIGNATION OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.

Each insurer required by this rule to file an annual audited financial report must within sixty (60) days after becoming subject to such requirement, register with the Commissioner in writing the name and address of the independent certified public accountant or accounting firm (generally referred to in this rule as the "accountant") retained to conduct the annual audit set forth in this rule. Insurers not retaining an independent certified public accountant on the effective date of this rule shall register the name and address of their retained certified public accountant not less than six (6) months before the date when the first audited financial report is to be filed.

The insurer shall obtain a letter from the accountant, and file a copy with the Commissioner stating that the accountant is aware of the provisions of the Insurance Code and the Rules and Regulations of the Insurance Department of the state of domicile that relate to accounting and financial matters and affirming that he will express his opinion on the financial statements in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by the Department, specifying such exceptions as he may believe appropriate.

If an accountant who was the accountant for the immediately preceding filed audited financial report is dismissed or resigns the insurers shall within five (5) business days notify the Commissioner of this event. The insurers shall also furnish the Commissioner with a separate letter within ten (10) business days of the above notification stating whether in the twenty-four (24) months preceding such event there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure; which disagreements, if not resolved to the

satisfaction of the former accountant, would have caused him to make reference opinion. The disagreements required to be reported in response to this Section include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this section are those that occur at the decision-making level, i.e., between personnel of the insurer responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering its report. The insurer shall also in writing request such former accountant to furnish a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons for which he does not agree; and the insurer shall furnish such responsive letter from the former accountant to the Commissioner together with its own.

Section 7. QUALIFICATION OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.

- A. The Commissioner shall not recognize any person or firm as a qualified independent certified public accountant that is not in good standing with the American Institute of CPAs and in all states in which the accountant is licensed to practice.
- B. Except as otherwise provided herein, as independent certified public accountant shall be recognized as qualified as long as he or she conforms to the standards of his or her profession, as contained in the Code of Professional Ethics of the American Institute of Certified Public Accountants.
- C. No partner or other person responsible for rendering a report may act in that capacity for more than seven (7) consecutive years. Following any period of service such person shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of two (2) years. An insurer may make application to the Commissioner for relief from the above rotation requirement on the basis of unusual circumstances. The Commissioner may consider the following factors in determining if the relief should be granted:
 - (1) Number of partners, expertise of the partners or the number of insurance clients in the currently registered firm;
 - (2) Premium volume of the insurer; or
 - (3) Number of jurisdictions in which the insurer transacts business.

The requirement of this paragraph shall become effective two (2) years after the enactment of this rule.

- D. The Commissioner shall not recognize as a qualified independent certified public accountant, nor accept any annual Audited Financial Report, prepared in whole or in part by, any natural person who:
 - (1) Has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. Section 1961-1968, or any dishonest conduct or practices under federal or state law;
 - (2) Has been found to have violated the insurance laws of this state with respect to any previous reports submitted under this rule; or
 - (3) Has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under the provisions of this rule.

- E. The Commissioner of Insurance, as provided in 4 CMC Section 7201(i) of the Commonwealth Insurance Act, may hold a hearing to determine whether a certified public accountant is qualified and, considering the evidence presented, may rule that the accountant is not qualified for purposes of expressing his opinion on the financial statements in the annual Audited Financial Report made pursuant to this rule and require the insurer to replace the accountant with another whose relationship with the insurer is qualified within the meaning of this rule.

Section 8. CONSOLIDATED OR COMBINED AUDITS.

An insurer may make written application to the Commissioner for approval to file audited consolidated or combined financial statements in lieu of separate annual Audited Financial Statements if the insurer is part of a group of insurance companies which utilizes a pooling or one hundred percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and such insurer cedes all of its direct and assumed business to the pool. In such cases, a columnar consolidating or combining worksheet shall be filed with the report, as follows:

- A. Amounts shown on the consolidated or combined Audited Financial Report shall be shown on the Worksheet.
- B. Amounts for each insurer subject to this section shall be stated separately.
- C. Noninsurance operations may be shown on the worksheet on a combined or individual bases.
- D. Explanations of consolidating and eliminating entries shall be included.
- E. A reconciliation shall be included of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the Annual Statements of the insurers.

Section 9. SCOPE OF EXAMINATION AND REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.

Financial statements furnished pursuant to Section 5 hereof shall be examined by an independent certified public accountant. The examination of the insurer's financial statements shall be conducted in accordance with generally accepted auditing standards. Consideration should also be given to such other procedures illustrated in the Financial Condition Examiner's Handbook promulgated by the National Association of Insurance Commissioners as the independent certified public accountant deems necessary.

Section 10. NOTIFICATION OF ADVERSE FINANCIAL CONDITION.

The insurer required to furnish the annual Audited Financial Report shall require the independent certified public accountant to report, in writing, within five (5) business days to the board of directors or its audit committee any determination by the independent certified public accountant that the insurer has materially misstated its financial condition as reported to the Commissioner as of the balance sheet date currently under examination or that the insurer does not meet the minimum capital and surplus requirement of the Commonwealth Insurance Act of that date. An insurer who has received a report pursuant to this paragraph shall forward a copy of the report to the commissioner within five (5) business days of receipt of such report and shall provide the independent certified public accountant making the report with evidence of the report being furnished to the Commissioner. If the independent certified public accountant

fails to receive such evidence within the required five (5) business day period, the independent certified public accountant shall furnish to the Commissioner a copy of its report within the next five (5) business days.

No independent public accountant shall be liable in any manner to any person for any statement made in connection with the above paragraph if such statement is made in good faith in compliance with the above paragraph.

If the accountant, subsequent to the date of the Audited Financial Report filed pursuant to this rule, becomes aware of facts which might have affected his report, the Office of the Insurance Commissioner notes the obligation of the accountant to take such action as prescribed in Volume 1, Section AQ 561 of the Professional Standards of the American Institute of Certified Public Accountants.

Section 11. REPORT ON SIGNIFICANT DEFICIENCIES IN INTERNAL CONTROLS.

In addition to the Annual Audited Financial Statements, each insurer shall furnish the Commissioner with a written report prepared by the accountant describing significant deficiencies in the insurer's internal control structure noted by the accountant during the audit. ASA No. 60, Communication of Internal Control Structure Matters Noted in an Audit (AU Section 325 of the Professional Standards of the American Institute of Certified Public Accountants) requires an accountant to communicate significant deficiencies (known as "reportable conditions") noted during a financial statement audit to the appropriate parties within an entity. No report should be issued if the accountant does not identify significant deficiencies. If significant deficiencies are noted, the written report shall be filed annually by the insurer with the Office of the Insurance Commissioner within sixty (60) days after the filing of the annual Audited Financial Statements. The insurer is required to provide a description of remedial actions taken or proposed to correct significant deficiencies, if such actions are not described in the accountant's report.

Section 12. ACCOUNTANT'S LETTER OF QUALIFICATIONS

The accountant shall furnish the insurer in connection with, and for inclusion in, the filing of the annual audited financial report, a letter stating:

- A. That the accountant is independent with respect to the insurer and conforms to the standards of his or her profession as contained in the Code of Professional Ethics and pronouncements of the American Institute of Certified Public Accountants.
- B. The background and experience in general, and the experience in audits of insurers of the staff assigned to the engagement and whether each is an independent certified public accountant. Nothing within this rule shall be construed as prohibiting the accountant from utilizing such staff as he or she deems appropriate where use is consistent with the standards prescribed by generally accepted auditing standards.
- C. That the accountant understands the annual audited financial report and his opinion thereon will be filed in compliance with this rule and that the Commissioner will be relying on this information in the monitoring and regulation of the financial position of insurers.
- D. That the accountant consents to the requirements of Section 13 of this rule and that the accountant consents and agrees to make available for review by the Commissioner, his designee or his appointed agent, the workpapers, as defined in Section 13.
- E. A representation that the accountant is properly licensed by an appropriate state licensing authority and is a member in good standing in the American Institute of Certified Public Accountants.

- F. A presentation that the accountant is in compliance with the requirements of Section 7 of this rule.

Section 13. DEFINITIONS, AVAILABILITY AND MAINTENANCE OF CPA WORKPAPERS.

Workpapers are the records kept by the independent certified public accountants of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to his examinations of the financial statements of an insurer. Workpapers, accordingly, may include audit planning documentation, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of his examination of the financial statements of an insurer and which support his opinion thereof.

Every insurer required to file an Audited Financial Report pursuant to this rule, shall require the accountant to make available for review by the Commissioner's examiners, all workpapers prepared in the conduct of his examination and any communications related to the audit between the accountant and the insurer, at the offices of the insurer, at the Office of the Insurance Commissioner or at any other reasonable place designated by the Commissioner. The insurer shall require that the accountant retain the audit workpapers and communications until the Office of the Insurance Commissioner has filed a Report on examination covering the period of the audit but no longer than seven (7) years from the date of the audit report.

In the conduct of the aforementioned periodic review by the Commissioner's examiners, it shall be agreed that photocopies of pertinent audit workpapers may be made and retained by the Office of the Insurance Commissioner. Such reviews by the Commissioner's examiners shall be considered investigations and all working papers and communications obtained during the course of such investigations shall be afforded the same confidentiality as other examination workpapers generated by the Office of the Insurance Commissioner.

Section 14. EXEMPTIONS AND EFFECTIVE DATES.

Upon written application of any insurer, the Commissioner may grant an exemption from compliance with this rule if the Commissioner finds, upon review of this application, that compliance with this rule would constitute a financial or organizational hardship upon the insurer. An exemption may be granted at any time and from time to time for a specified period or periods. Within ten (10) days from a denial of an insurer's written request for an exemption from this rule, such insurer may request in writing a hearing on its application for an exemption. Such hearing shall be held in accordance with 4 CMC Section 7201(i) through (v) of the Commonwealth Insurance Act pertaining to administrative hearing procedures.

Domestic insurers retaining a certified public accountant on the effective date of this rule who qualify as independent shall comply with this Rule for the year ending December 31, 1994 and each year thereafter unless the Commissioner permits otherwise.

Domestic insurers not retaining a certified public accountant on the effective date of this rule who qualify as independent may meet the following schedule for compliance unless the Commissioner permits otherwise.

- A. As of December 31, 1994, file with the Commissioner:
- (1) Report of independent certified public accountant;
 - (2) Audited balance sheet;

(3) Notes to audited balance sheet.

- B. For the year ending December 31, 1994 and each year thereafter, such insurer shall file with the Commissioner all reports required by this rule.

Foreign Insurers shall Comply with this Rule for the year ending December 31, 1994 and each year thereafter, unless the Commissioner permits otherwise.

Section 15. SECOND RULE. SECURITY DEPOSIT.

- A. As security for the faithful performance of its obligations, each insurer before engaging in the business of surety for labor as required by the Chief of Labor on the bonding of nonresident workers shall deposit with the Treasurer of the Commonwealth twenty five percent of its surety risk exposure directly on the bonding of nonresident workers in time deposits for a period of not less than one year in a bank licensed by the CNMI Director of Banking; and such value must be maintained at all times. The Insurance Commissioner prescribes the following procedures and guidelines:
- (1) On or before renewal of an insurer's Certificate of Authority it must present to the Insurance Commissioner the required security deposit and a listing of all nonresident labor bonds. The listing shall include such items as names of insured, employers, amount of coverage, and dates of the expiration of such bonds;
 - (2) Time deposit account must show "Insurance company "and " the CNMI Treasurer "or" the Insurance Commissioner" as holders of the account;
 - (3) The Commissioner shall notify Treasurer and Company of accounts maturity date and Treasurer shall be authorized to renew or terminate such account pursuant to instructions from the Commissioner;
 - (4) Release of the Security deposit shall be accomplished by authority from the Insurance Commissioner and only upon satisfaction of the following conditions:
 - (a) Insurer files for bankruptcy, or
 - (b) A reasonable determination by the Insurance Commissioner and after making findings that the circumstances surrounding the release warrants for such release. Reasons, findings, and determinations must be documented.
 - (c) The Insurance Commissioner shall conduct examinations and request insurance companies to provide listing of new bonds issued, and require such companies to increase security deposits relative to the increase in the risk exposure as found by the Insurance Commissioner.
 - (d) The Chief of Labor shall furnish the Insurance Commissioner a summary of nonresident labor bond information. Information shall include names of insurance companies, the number of employees insured by such companies, and total amount of coverage per insurance company. This summary should be presented to the Commissioner on or before December 15th of each year.

Section 16. SEVERABILITY PROVISION.

If any section or portion of a section of these rules or the applicability thereof to any person or circumstance is held invalid by a court, the remainder of the rules or the applicability of such provisions to other persons or circumstances shall not be affected thereby.

B. The Review Committee under the direction of the Secretary of Commerce shall adopt specific criterias and establish standard operating procedures and shall be incorporated into these regulations: forms, standard operating procedures and guidelines, public notices and service announcements, memorandums, and other miscellaneous items.

25% RESERVE REQUIREMENT

1. **Criteria and options adopted are as follows: Option number five (5) is to be installed as the guiding criteria. This installation is a result of written comments received from two insurance companies and oral comments from various individuals. Non-compliance of this rule may result in the non-renewal of insurer's Certificate of Authority and, or sanctions imposed on insurers writing surety to the Chief of Labor.**

ANALYSIS OF IMPOSING A 25% RESERVE REQUIREMENT ON INSURANCE COMPANIES SELLING LABOR BONDS.

Option #1

\$3,100 policy; \$100 premium; 25%.

	# of Policies	Policy	Res. Req.	Reserve Require.	Premium	Premiums to be earned	Reserve **Realization
	1	\$3,100	25%	\$775	\$100	\$100	7.75
***	11,167	\$3,100	25%	\$8,654,425	\$100	\$1,116,700	7.75

OPTION #2:

\$3,100 Policy; \$100; 25% reserve; \$100,000 capital

	# of Policies	Policy	Reserve Rate	Reserve Require.	Premium	Premiums to be earned	Reserve Realization	Max. # of Policies
	1	\$3,100	25%	\$775	\$100	\$100	7.75	129
***	11,167	\$3,100	25%	\$8,654,425	\$100	\$1,116,700	7.75	779

OPTION #3:

\$3,100 policy; \$100 premium; 25% reserve requirement-- policy to be born by employers.

	# of Policies	Policy	Res. Req.	Reserve Require.	Premium	Premiums to be earned	Reserve Realization
	1	\$3,100	25%	\$775	\$100	\$100	7.75
***	11,167	\$3,100	25%	\$8,654,425	\$100	\$1,116,700	7.75

Option #3a:

\$3,100 policy; \$100 premium; 25% reserve requirement-- policy to be born by employers; \$100,000 capital.

	# of Policies	Policy	Reserve Rate	Reserve Require.	Premium	Premiums to be earned	Reserve Realization	Max. # of Policies
	1	\$3,100	25%	\$775	\$100	\$100	7.75	8
***	11,167	\$3,100	25%	\$8,654,425	\$100	\$1,116,700	7.75	8

Option #3b:

Portion of reserve requirement to be born by employers.

	Premium	Average Policy	Reserve Require.	@ 10%*	@ 15%*	@ 20%*	@ 25%*
	\$100	\$3,100	\$775.00	\$697.50	\$658.75	\$620.00	\$581.25
***	11167	Reserves:	\$8,654,425	\$7,788,983	\$7,356,261	\$6,923,540	\$6,490,819

*insurance company's share of the reserve requirement.

OPTION #4:

\$3,100 policy; \$100 premium; 25% reserve requirement--use of other insurance class premiums for reserves.

	# of Policies	Policy	Res. Req.	Reserve Require.	Premium	Premiums to be earned	Reserve Realization
	1	\$3,100	25%	\$775	\$100	\$100	7.75
***	11,167	\$3,100	25%	\$8,654,425	\$100	\$1,116,700	6.25

Option #4a:

\$3,100 policy; \$100 premium; 25% reserve requirement--use of other insurance class premiums for reserves; \$100,000.

	# of Policies	Policy	Reserve Rate	Reserve Require.	Premium	Premiums to be earned	Reserve Realization	Max. # of Policies
	1	\$3,100	25%	\$775	\$100	\$100	7.75	160
***	11,167	\$3,100	25%	\$8,654,425	\$100	\$1,116,700	6.25	1,440

OPTION #5:

Only a portion of policy is used to calculate reserve req.; \$100,000 cap
\$3,100-2,000= \$1,100 subject to reserve requirement.

	# of Policies	Policy	Res. Req.	Reserve Require.	Premium	Premiums to be earned	Reserve Realization	Max # of Policies
	1	1100	25%	\$275	\$100	\$100	2.75	364
***	11,167	1100	25%	\$3,070,925	\$100	\$1,116,700	2.75	5,756

***Actual number of policies written as of April 1994. Source: Insurance Survey.

**Indicates how long the company will realize the required reserve based on annual premiums.

**INSTRUCTION SHEET FOR
"AUTHORITY TO ORGANIZE"
A DOMESTIC CORPORATION PURSUANT TO PART II, SECTION 901
BUSINESS LICENSE REGULATIONS**

- 1) A proposed incorporator, director, or officer is considered an organizer of the proposed domestic corporation.
- 2) At least one or more individuals may act as organizers of a proposed domestic corporation.
- 3) Every organizer must submit a biographical affidavit which shall be accompanied or supported by at least two letters of reference written by sources not mentioned in the application as organizers.
- 4) Official Police Clearance from country of citizenship or last residency of at least three years is required of each Organizer.
- 5) No application for a "Business License" will be accepted if the proposed articles of incorporation for the proposed domestic corporation have been filed with the Office of the Registrar of Corporations and a corporate charter was granted prior to filing the same documents with the Office of the Secretary of Commerce.
- 6) The Department of Commerce will not render a final review of an application that is incomplete of the required information. Normally, a preliminary review is undertaken to ascertain the completeness of an application with respect to all the information required to be submitted under Section 1600 of the Business License Regulations.
- 7) Any result of a preliminary review will be issued in writing and addressed in letter form to the proposed President of the proposed domestic corporation.
- 8) If none of the proposed corporate directors or officers will be acting in the capacity of "Resident Manager" or "General Manager" or their equivalence, then the individual designated to act as such will be required to provide the same information required of an organizer under #3 above.
- 9) If more than 10% of the outstanding stock of the proposed domestic corporation are to be acquired by corporations, associations, or partnerships, such organizations must submit full disclosure of its principals, major stockholders, including their addresses and citizenships, its financial condition and a "good standing" certification issued by the country or state of its domicile.
- 10) It is highly recommended that all applications seeking "authority to organize" be submitted under a cover letter written on a bonafide office stationery of the legal counsel of the organizers which has the mailing address and telephone number(s) of the person to be of contact contained therein.

BIOGRAPHICAL AFFIDAVIT
(Print or Type)

In connection with the application for "Authority to Organize" a corporation, I herewith make representations and supply information about myself as hereinafter set forth. (Attach addendum or separate sheet if space hereon is insufficient to answer any question fully.) IF ANSWER IS "NO" or "NONE", SO STATE.

1) Affiant's full name (initials NOT ACCEPTABLE).

2) a) Have you ever had your name changed? _____ If yes, give the reason for change.

b) Other names used at any time. _____

3) Affiant's Social Security Number: _____

4) Date and place of birth: _____

5) Affiant's address: _____

Telephone: _____

6) List your residence for the last ten (10) years starting with your current address, giving:

DATE	ADDRESS	CITY and STATE
------	---------	----------------

7) Education: Dates, Names, Locations and Degrees.

College _____

Graduate Studies _____

Others _____

8) List memberships in Professional Societies and Associations.

9) Proposed position with the proposed business corporation.

10) List complete employment record (up to and including present jobs, positions, directorates or officerships) for the past ten (10) years, giving:

DATE	TITLE	EMPLOYER AND ADDRESS

11) Present employer may be contacted. Yes No (circle one)
 Former employers may be contacted. Yes No (circle one)

12) a) Have you ever been in a position which required a fidelity bond?

 If any claims were made on the bond, give details. _____

b) Have you ever been denied an individual or position schedule fidelity bond, or has a bond canceled or revoked? _____ If yes, give details

13) List any professional, occupational, and vocational licenses issued by any public or governmental licensing agency or regulatory authority which you presently hold or have held in the past (state date license issued, issuer of license, date terminated, reasons for termination).

14) During the last ten (10) years, have you ever been refused a professional, occupational, or vocational license by any public or governmental licensing agency or regulatory authority, or has any such license held by you ever been suspended or revoked? _____ If yes, give details.

15) List any corporations in which you control directly or indirectly or own legally or beneficially 5% or more of the outstanding stock (in voting power).

 If any of the stock is pledged or hypothecated in any way, give details. _____

16) Will you or members of your immediate family subscribe to or own, beneficially or of record, shares of stock of the applicant corporation or hypothecated in any way, give details.

17) Have you ever been adjudged a bankrupt? _____

18) a) Have you ever been convicted or had a sentence imposed or suspended or had pronouncement of a sentence suspended or been pardoned for conviction of or pleaded guilty or nolo contendere to an information or indictment charging any felony, or charging a misdemeanor involving embezzlement, theft, larceny, or mail fraud, or charging a violation of any corporate securities statute or any insurance law, or have you been subject of any disciplinary proceedings of any federal or state regulatory agency? _____

If yes, give details. _____

b) Has any company been so charged, allegedly as a result of any action or conduct on your part? _____

If yes, give details. _____

19) Have you ever been an officer, director, trustee, investment committee member, key employee, or controlling stockholder of any corporation which, while you occupied any such position or capacity with respect to it, became insolvent or was placed under supervision or in receivership, rehabilitation, liquidation or conservatorship? _____

20) Has the certificate of authority or license to do business of any corporation of which you were an officer or director or key management person ever been suspended or revoked while you occupied such position? _____
If yes, give details. _____

Dated and signed this _____ day of _____, 19__ at _____.

I hereby certify under penalty of perjury that I am acting on my own behalf, and that the foregoing statements are true and correct to the best of my knowledge and belief.

(Signature of Affiant)

Note: This affidavit must be notarized.

**APPLICATION FOR "AUTHORITY TO ORGANIZE"
A DOMESTIC CORPORATION PURSUANT TO PART II,
SECTION 901 BUSINESS LICENSE REGULATIONS**

Date: _____

TO THE SECRETARY OF COMMERCE OF THE COMMONWEALTH:

1) Name of the proposed corporation: _____

2. Proposed location of its principal office: _____

Mailing address: _____

3. Amount of paid-in capital (including paid-in surplus) to be authorized:

4. The proposed line of business to be transacted are: (check the appropriate box and/or boxes)

- | | | |
|---|---|---|
| <input type="checkbox"/> Hotel/Motel | <input type="checkbox"/> Construction | <input type="checkbox"/> Banking/Finance |
| <input type="checkbox"/> Agriculture/Fishing | <input type="checkbox"/> Professional Service | <input type="checkbox"/> Restaurant/Bars |
| <input type="checkbox"/> Retail/Wholesale Trade | <input type="checkbox"/> Manufacturing
(including textile manufacturing) | <input type="checkbox"/> Air Transportation/
Transportation
Services/Shipping |

All others

5. Names of persons acting as organizers:

Name	Title
1) _____	_____
2) _____	_____
3) _____	_____
4) _____	_____

6. Name of individual to act as Resident Manager or General Manager or Registered Agent: _____

7. How much (best estimate in U.S. dollars) will be used for organization and promotion expense? \$ _____

8. This application must be signed by all organizers listed in No. 5 herein.

Name	Proposed Title
1) _____	_____
2) _____	_____
3) _____	_____
4) _____	_____

9. We authorize the Secretary of commerce to do a background check and inquiries as to our business experience and affiliations.

DEPARTMENT OF COMMERCE
BUSINESS LICENSING BRANCH
CALLER BOX 10007
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
SAIPAN, MP 96950

APPLICATION FOR BUSINESS LICENSE

TYPE OF APPLICATION

NEW
 RENEWAL _____

Capital Investment \$ _____

TAX PAYER'S I.D. No. _____

AMENDMENT Business License Number: _____ (Please Specify 1st year of operation) _____

(Check below only those that apply)

--> Location of Business --> Address
 --> Name Change of Business --> Name Change of Ownership
 --> Add activity(ies) --> Delete activity(ies)
 --> Change form of business

FORM OF BUSINESS (Check one only)

Sole Proprietorship Corporation Partnership Non-Profit Organization

Association (Please specify) : _____

Pursuant to the Law of the Commonwealth of the Northern Mariana Islands, the undersigned hereby makes application to engage in or continue engaging in the following business activity(ies):

1. _____ 5. _____
2. _____ 6. _____
3. _____ 7. _____
4. _____ 8. _____

In consideration of the issuance of such license, the applicant must provide the following information: (Answer each item as accurately as possible.) Application understands that willful misstatement(s) or omission(s) of a material fact on this application shall be grounds for revocation of the business license or the imposition of civil and/or criminal penalties.

Applicants Information:

1. _____
(Last Name) (First Name) (Middle Initial)

2. Local address (Village, Apt's name, etc): _____

3. Address: _____

4. Citizenship of Applicant: _____

Business Information:

5. Business Name: _____

6. Business' Mailing Address in CNMI: _____

7. Business' Local Address (Village, Bldg.'s name, etc.): _____

8. Business Phone and/or Fax Number: _____

9. Location of Business (Check one only): Saipan Rota Tinian Northern Islands
(please attach a detail sketch of business location)

10. If form of business is a corporation or the applicant is a Non-CNMI resident, please specify complete name, address and telephone number of resident agent on the space provided below.

(Last Name) (First Name) (Middle Initial)

Mailing Address: _____ Telephone No.: _____

Workers' Compensation - Public Law 6-33 - Requirements: (CHECK ONE)

____ I CERTIFY THAT THERE IS/ARE NO EMPLOYEES(S) IN THE BUSINESS. THAT SHOULD I HIRE ANY EMPLOYEE(S), I WILL COMPLY WITH THE WORKER'S COMPENSATION. LAW TO IMMEDIATELY PROVIDE INSURANCE COVERAGE FOR ALL EMPLOYEE(S) HIRED.

____ I CERTIFY THAT THE BUSINESS HAS EMPLOYEE(S) AND THAT ALL EMPLOYEES ARE COVERED BY WORKER'S COMPENSATION INSURANCE AS REQUIRED BY PUBLIC LAW 6-33.

Applicant's Declaration: I declare under penalty of perjury that the statements above are true and correct, and that I have complied with all Commonwealth Laws and regulations promulgated pursuant thereto and that this declaration was executed at Saipan/Rota/Tinian, Northern Mariana Islands on the date indicated below.

Print Name and Sign Title Date

BELOW FOR OFFICIAL USE ONLY

Conformance Endorsement: The Business Licensing office has reviewed this application and recommends
 approval / disapproval of issuance of business License. If disapproved, state reason(s) below:

License fee: \$ _____ Penalty fee: \$ _____ Total fee(s) \$ _____

Receipt No. _____

Reviewing Officer Date
Final Endorsement: The Approving Official has reviewed this application and therefore approves and Business License

No. _____, effective on _____, this _____ day of _____, 19 _____.



NORTHERN MARIANA ISLANDS RETIREMENT FUND

Tomas B. Aldan
Administrator


P. O. Box 1247 • Saipan, MP 96950
Tel: (670)234-7228 • Fax: (670)234-9624

Edward H. Manglona
Deputy Administrator

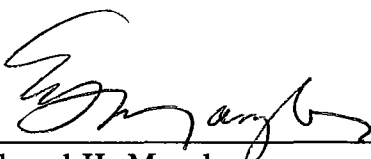
NOTICE OF THE ADOPTED AMENDMENTS TO THE MEMBER HOME LOAN PROGRAM REGULATIONS

The Board of Trustees of the Northern Mariana Islands Retirement Fund hereby notifies the general public that it has amended the Member Home Loan Program Regulations as published in Volume 11, No. 6, dated June 15, 1989, and as amended in Volume 12, No. 3, dated March 15, 1990, Volume 13, No. 4, dated April 15, 1991, Volume 13, No. 10, dated October 15, 1991, Volume 15, No. 3, dated March 15, 1993, Volume 15, No. 9, dated September 15, 1993, Volume 15, No. 12, dated December 15, 1993, Volume 16, No. 04, dated April 15, 1994, Volume 16, No. 05, dated May 15, 1994, and as further amended in Volume 16, No. 09, dated September 15, 1994 of the Commonwealth Register.

Dated this 21ST day of October, 1994.




Dino M. Jones
Chairperson
Board of Trustees
NMI Retirement Fund




Edward H. Manglona
Acting Administrator
NMI Retirement Fund

Date: 10/27/94



Donna J. Cruz
Filed by The Governor's Office

Date: 10/27/94



Soledad B. Sasamoto
Filed by the Registrar of Corp.



NORTHERN MARIANA ISLANDS RETIREMENT FUND

Tomas B. Aldan
Administrator

P. O. Box 1247 • Saipan, MP 96950
Tel: (670)234-7228 • Fax: (670)234-9624

Edward H. Manglona
Deputy Administrator

NOTICIA POT I MA ADOPTA NA AMENDASION
I REGULASION YAN AREKLAMENTO
I MEMBER HOME LOAN PROGAM

I Board of Trustees, NMI Retirement Fund, man nanai noticia para i publico na ma adopta i tinilaika gi regulasion i Member Home Loan Program anai i ma publika gi Volume 11, No. 6, Junio 15, 1989, ya ma amenda gi Volume 12, No. 3, Matso 15, 1990, Volume 13, No. 4, Abrit 15, 1991, Volume 13, No. 10, Octubre 15, 1991, Volume 15, No. 3, Matso 15, 1993, Volume 15, No. 9, Septiembre 15, 1993, Volume 15, No. 12, Diciembre 15, 1993, Volume 16, No. 04, Abrit 15, 1994 ya ma amenda talo gi Volume 16, No. 05, gi Mayo 15, 1994, Commonwealth Register.

Mafecha gi dia 21st Octubre, 1994.

[Signature]
Dino M. Jones
Chairperson
Board of Trustees
NMI Retirement Fund

[Signature]
Edward H. Manglona
Acting Administrator
NMI Retirement Fund

Date: 10/27/94

[Signature]
Donna J. Cruz
Filed by The Governor's Office

Date: 10/27/94

[Signature]
Soledad B. Sasamoto
Filed by the Registrar of Corp.



NORTHERN MARIANA ISLANDS RETIREMENT FUND

Tomas B. Aldan
Administrator

P. O. Box 1247 • Saipan, MP 96950
Tel: (670)234-7228 • Fax: (670)234-9624

Edward H. Manglona
Deputy Administrator

CERTIFICATION OF THE AMENDMENTS REGARDING THE MEMBER HOME LOAN PROGRAM REGULATIONS

I, Edward H. Manglona, the Acting Administrator of the NMI Retirement Fund which is promulgating the Amendments regarding the Member Home Loan Program Regulations published in the Commonwealth Register on September 15, 1994, at pages 12426 to 12430, by signature below, hereby certify that the published Amendments are a true, complete and correct copy of the Amendments formally adopted by the Board of Trustees, NMI Retirement Fund.

I further request and direct this Certification be published in the Commonwealth Register and then be attached by both the Office of the Registrar of Corporations and Offices of the Governor to the Amendment referenced above. I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 21st day of October, 1994 at Saipan, Commonwealth of the Northern Mariana Islands.

A handwritten signature in cursive script, appearing to read "E. Manglona", written over a horizontal line.

Edward H. Manglona
Acting Administrator

Filed by:

A handwritten signature in cursive script, appearing to read "Soledad B. Sasamoto", written over a horizontal line.

Soledad B. Sasamoto
Registrar of Corporations

A handwritten signature in cursive script, appearing to read "Donna Cruz", written over a horizontal line.

Donna Cruz
Office of the Governor



NORTHERN MARIANA ISLANDS RETIREMENT FUND

Tomas B. Aldan
Administrator

P. O. Box 1247 • Saipan, MP 96950
Tel: (670)234-7228 • Fax: (670)234-9624

Edward H. Manglona
Deputy Administrator

NORTHERN MARIANA ISLANDS RETIREMENT FUND ADOPTED MEMBER HOME LOAN PROGRAM REGULATIONS

The Board of Trustees of the NMI Retirement Fund hereby amends the Member Home Loan Rules and Regulations as published in the Commonwealth Register in Volume 11 No. 06, dated June 15, 1989, and as amended in Volume 12, No. 3, dated March 15, 1990, Volume 13, No. 4, dated April 15, 1991, Volume 13, No. 10, dated October 15, 1991, Volume 15, No. 3, dated March 15, 1993, Volume 15, No. 9, dated September 15, 1993, Volume 16, No. 5, dated May 15, 1994, and further amended in Volume 16, No. 09, dated September 15, 1994.

Part I. AUTHORITY

1. By virtue of the authority provided under 1 CMC § 8314(f), and the Administrative Procedures Act, at 1 CMC § 9101, et. seq., the Board of Trustees hereby promulgates these amendments to the Member Home Loan Program Regulations.

Part II. AMENDMENTS

1. To amend Part 4, Section 4.2 of the Member Home Loan Program Regulations, to add a new subsection (h) to read as follows:

"(h). The refinancing of an existing mortgage loan not made under the Member Home Loan Program and convert it to a second mortgage member home loan if the original mortgage was taken out for the purpose of:

(a) Making home improvements; or,

(b) Acquisition or construction of a new principal home."

2. To amend subsection 5.1(b) to delete the phrase "encumbered property or" in the first sentence, and to read as follows:

"(b) Unless the Board finds a compelling justification, otherwise on a case by case review, the Fund shall not purchase or approve a loan secured by property which is not served by any utilities, lacks or has difficult access to or from a public road, or does not conform to all applicable zoning and land use restrictions or building code regulations, is located on a substandard lot, is a lodging unit, or has any other unusual characteristic that the Fund determines to adversely affect its value. The participating lender may request the Fund's prior written approval as

to whether a specific property qualifies for purchase by the Fund before issuing a loan commitment to the applicant. The Board may establish a minimum lot size."

3. To amend Part 7, to add a new section 7.4 to read as follows:

7.4 Second Mortgage Loans on Fee Simple or Leasehold Interests; Minimum and Maximum Loan Amounts; Insurance Required.

- (a) No member home loan secured by a second mortgage on encumbered improved real estate owned in fee simple or under an acceptable leasehold shall exceed:
 - (1) \$150,000; and,
 - (2) Seventy-five percent (75%) of the difference between the appraised value of the real estate and improvements mortgaged to secure it and the original loan amount of the first mortgage.
- (b) No member home loan secured by a second mortgage on encumbered improved real estate owned in fee simple or under an acceptable leasehold shall be made in an amount less than \$15,000.
- (c) No member home loan secured by a second mortgage on encumbered improved real estate owned in fee simple or under an acceptable leasehold shall be given unless:
 - (1) the Borrower obtains the first lienholder's written consent; and,
 - (2) the Fund determines that the first mortgage does not contain any provisions which might jeopardize the security position of the Fund; and,
 - (3) the Fund has made a determination of the borrower's ability to repay the two mortgage loans using the same underwriting criteria as those used for first mortgages, except for the LTVR which utilizes the more stringent requirement set forth in subsection 7.4(a)(2).
- (d) As a condition of the loan, the Borrower of a second mortgage member home loan shall execute an assignment of all rental income due to the Borrower, if any, to the Fund in the event of default.
- (e) In the case of second mortgages, the Borrower is prohibited from securing additional financing from other lending institutions and using the same real estate mortgaged to the Fund, without first obtaining the prior written consent of the Fund. Prior to any consent by the Fund, the Fund shall first determine that the subsequent mortgage does not contain any provisions which might jeopardize the

security position of the Fund or the borrower's ability to repay the three mortgage loans.

- (f) All loans shall be further secured by an insurance or guarantee against default or loss under a mortgage insurance policy and property insurance policy issued by a casualty insurance company. Such policies are subject to the requirements under Section 7.1(d) of these regulations for mortgage or life insurance coverage and under Section 12.3 of these regulations for property insurance coverage.

4. To amend Part 12, to add a new subsection **Subsection 12.4(a)(4)** to include second mortgages and to read as follows:

"(4) Second mortgages on encumbered improved real property owned in fee simple or an acceptable leasehold as permitted under the conditions set forth in **Subsection 7.4.**"

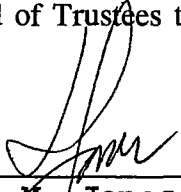
5. To amend **Subsection 13.1(a)** to delete the last sentence of that paragraph and replace it with the following:

"(a) "...The current interest rate approved by the Board for a member home loan is **8.5%** for first mortgages and **10%** for second mortgages."

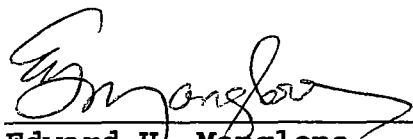
PART III. EFFECTIVE DATE

The effective date of these adopted amendments shall be pursuant to 1 CMC § 9105(b).

Adopted as final amendments to the Member Home Loan Program Rules and Regulations by the Board of Trustees this 13th day of OCTOBER, 1994.



Dino M. Jones
Chairperson
Board of Trustees
NMI Retirement Fund



Edward H. Manglona
Acting Administrator
NMI Retirement Fund