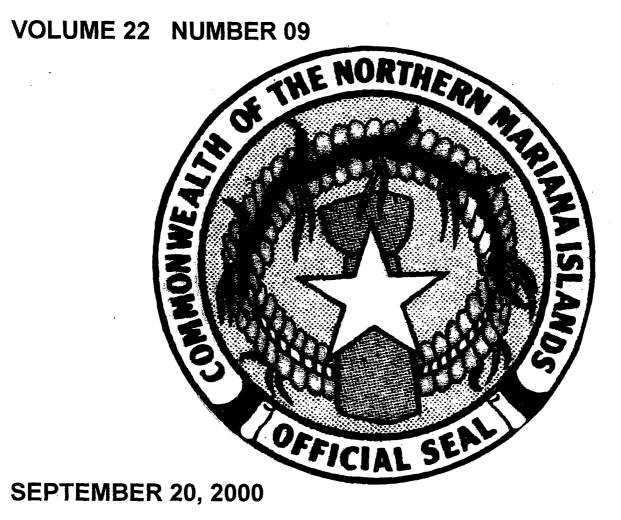
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS SAIPAN MARIANA ISLANDS



COMMONWEALTH

REGISTER

COMMONWEALTH REGISTER

VOLUME 22 NUMBER 09 SEPTEMBER 20, 2000

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NORTHERN MARIANAS HOUSING CORPORATION

P.O. BOX 500514, Saipan, MP 96950-0514

Tels: (670) 234-6866 234-9447 234-7689 234-7670 Fax: (670) 234-9021

PUBLIC NOTICE OF PROPOSED AMENDMENTS TO THE **GRIEVANCE PROCEDURES FOR THE SECTION 8 PROGRAM** OF THE NORTHERN MARIANAS HOUSING CORPORATION

The Board of Directors of the Northern Marianas Housing Corporation (NMHC) hereby notifies the general public that it proposes to revise its Grievance Procedures for the Section 8 Program. Said revisions will add new sections that will set procedures for the review of decisions denying assistance to applicants, adverse actions against program participants, and denial of assistance on the basis of ineligible immigration status.

Anyone interested in making comments on the proposed revisions may do so in writing, addressed to the Executive Director, Northern Marianas Housing Corporation, at P. O. Box 500514, Saipan, MP 96950, no later than thirty (30) days from the date of this publication in the Commonwealth Register.

DATED this 22 nd day of August, 2000.

Juan S llenorio Chairman of the Board

Received by:

Executive Director

Jose I. Delleon Guerrero Special sistant for Administration

Date

Filed and Recorded by:

Soledad B. Sasamoto Registrar of Corporations

"NMHC is an equal employment and fair housing public agency"

Rota Field Office: Tel. (670) 532-94 COMMONWEAdaTHS BC Select

VOLUME 22 NUMBER 09

Tinian Field Office: Tel. SEPTEMBER 20, 2000 FaxA

PUBLIC NOTICE OF PROPOSED AMENDMENTS TO THE GRIEVANCE PROCEDURES FOR THE SECTION 8 PROGRAM OF THE NORTHERN MARIANAS HOUSING CORPORATION

Pursuant to Executive Order No. 94-3, Section 407 of Reorganization Plan No. 2 of 1994, Governor's Directive No. 138; the CNMI Administrative Procedure Act (1 CMC 9101, et. seq.); 2 CMC 4432(i); 2 CMC 4433 (i)(j) & (t); and 2 CMC 4453, the attached revised NMHC Grievance Procedures have been reviewed and approved by the CNMI Attorney General's Office.

Dated this **[Stay** of **September**, 2000.

Office of the Attorney General

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By: Herbert D. S Attorney General

PROPOSED AMENDMENTS TO THE GRIEVANCE PROCEDURES FOR THE SECTION 8 PROGRAM OF THE NORTHERN MARIANAS HOUSING CORPORATION

Citation of Statutory Authority:	Pursuant to Executive Order No. 94-3, Section 407 of the Reorganization Plan No. 2 of 1994, Directive No. 138, the CNMI Administrative Procedure Act at 1 CMC 9101, et. seq., 2 CMC 4432(a), (b), & (c); 2 CMC 4433(i), (k), (s), & (t); and 4 CMC 10203(a)(2), (14), (22), (29), & (32).
Short Statement of	
Goals & Objectives:	To revise NMHC's Grievance Procedures for the Section 8 Program, by adding new sections that will set procedures for the review of decisions denying assistance to applicants, adverse actions against program participants, and denial of assistance on the basis of ineligible immigration status.
Brief Summary of the Rule:	Provides procedures pursuant to the U.S. Housing Act of 1937 and Subpart B of 24 CFR Part 966, to settle resolutions to tenants' grievances against NMHC.
For Further Information Contact:	MaryLou S. Ada, Executive Director, telephone no. 234-9447/7689; fax no. 234-9021, or email to <u>nmhc@gtepacifica.net.</u>

Citation of Related and/or Affected Statutes Regulations and Orders:

NMHC Grievance Procedures for Section 8 Program, as published in the Commonwealth Register, Volume 20, Number 02, February 18, 1999, pages 16534 to 16533.

Submitted by:

n Ah

MaryLou & Ada Executive Director 8/22/2000 Date

NUTISIAN PUPBLIKU PUT MAPROPONEN AMENDASION GI KONDISION YAN MANERAN MANGEHA SEKSIONA 8 NA PROGRAMA PARA NORTHERN MARIANAS HOUSING CORPORATION

I Board of Directors para Northern Marianas Housing Corporation (NMHC) ginen este ha infofotma i pupbliku na ha propopone para u ribisa i Kondision yan Maneran Mangeha Seksiona 8 na Programa. Ι ma mensiona na ribision para u halom nuebo na seksiona i para u na'echo'kondision yan manera para mainan maolek disision gi madirogan inasisten aplikante siha, yan kinentran pattipanten programa, yan madirogan inasiste put rason na ti elihipble gi bandan imigrasion na estao.

Hayi interesao mamatinas komentu put i mapropopone siha na ribision siña ha machogue' gi tinige', ya u manahanao guatu para sigiente na adres, Executive Director, Northern Marianas Housing Corporation, P.O. Box 500514, Saipan, MP 96950, ti mas di trenta (30) dias di mafechan este na publikasion gi Rehistran Commonwealth.

MA FECHA guine gi mina' 22 na dia Agusto, 2000

Juan \$ Tenorio Chairman i Board

Rinisibi as: Jose DeLeøn Guerrero

Special Assistant for Adminstration

Ma file yan Rinekot as:

Soledad B. Sasamoto Rehistradoran Kotporasion

S. Ada

MaryLou Direktoran Eksekatibu

Fecha

NUTISIAN PUPBLIKU PUT MAPROPONEN AMENDASION GI KONDISION YAN MANERAN MANGEHA SEKSIONA 8 NA PROGRAMA PARA NORTHERN MARIANAS HOUSING CORPORATION

Ginen hayi i Aturidat: Sigun i Otden EKsekatibu No. 94-3, Seksiona 407 gi Reorgannization Plan No. 2 1994 na sakkan, Otden No. 138, CNMI Procedure Act 1 CMC 9101, et seq., 2 CMC 4432(a),(b), yan (c); 2 CMC 4433(i),(k),(s) yan (t); yan 4 CMC 10203(a)(2),(14),(22),(29), yan (32). Didode' na Sinangan put minito' yan obyektibu: Para u maribisa i NMHC's Kondision yan Maneran Mangeha Seksiona 8 na Programa, para u halom nuebo siha na seksiona i para u na'echo' i mainan maolek disision gi madirogan inasisten apllikante siha, kinentra kontra pattisipanten programa, yan madirogan inasiste put i rason na ti elihipble gi bandan imigrasion na estao. Didie' na sinangan put Areklamento: Prubiniyi kondision yan manera sigun U.S. Housing Act of 1937 yan Patte gi papa Patte B gi 24 CFR Patte 966, para u ma aksepta i resulasion ginen i tenants put mangeha kontra NMHC. Put mas infotmasion MaryLou S. Ada, Direktoran Eksekatibu, numirun tilifon: -Agang: 234-99447/7689; fax no. 234-9021, pat email gi nunhc gi gtepscifica.net. Sinangan put manachule' yan maninafekta siha na Lai, Regulasion NMHC Kondision yan Maneran MAngeha Programa Seksiona 8, ni yan Otden: mapupblika gi Rehistran Commonwealth, Baluma 20, Numiru 02, Febreru 18, 1999, pahina 16534 asta 16533.

Sinatmiti as:

MaryLox S. Ada Direktoran Eksekatibu 8|28|2000 Fecha

COMMONWEALTH REGISTER

NUTISIAN PUPBLIKU PUT MAPROPONEN AMENDASION GI KONDISION YAN MANERAN MANGEHA SEKSIONA 8 NA PROGRAMA PARA NORTHERN MARIANAS HOUSING CORPORATION

Sigun Otden EKsekatibu No. 94'3, Seksiona 407 gi Reorganization Plan No. 2 1994 na sakkan, Otden Gubetno No. 138; CNMI Procedure Act (1 CMC9101, et. seq.); 2 CMC 4432(i); 2 CMC 4433 (i)(j) yan (t); yan 2 CMC 4453, i chechetton na ribision Kondision yan Maneran Mangeha esta mama ribisa yan apreba ginen Ofisinan Attorney General giya CNMI.

Ma fecha gi mina' _____ na dia este na mes______,2000

Offisinan Attorney General

Ginen as:_

)

Herbert D. Soll Attorney General

ARONGORONGOL TOULAP REEL POMWOL LLIIWEL NGÁLI <u>GRIEVANCE</u> <u>PROCEDURES</u> MELLÓL MILLE <u>SECTION 8 PROGRAM</u> MELLÓL <u>NORTHERN MARIANAS HOUSING CORPORATION</u>

Reel fféer sefaal kkaal nge ebwe schuulong talil kka e ffé iye ayoora afalafal reel ngare iye ebwe amweri fischiiy <u>decision</u> ebwe asefaali alillis ngáliir schoól tingór(<u>applicants</u>), <u>adverse action</u> ngáliir <u>program participants</u>, bwal asefaali alillis ngáliir schóó kka rese fil fáál alléghúl <u>Immigration(ineligible Immigration</u> <u>status).</u>

Inaamwo iyo eghal tipeli ebwe fféér aiyegh ngare mangemang bwelle reel pomwol meta kka ebwe lliiwel sefaal nge ebwe féérú schagh reel ebwe isch ngali <u>Executive Director, Northern Marianas Housing</u> <u>Corporation</u>, reel <u>P.O. Box 500514</u>, Seipel <u>MP</u>. 96950, nge essóbw parelo eliigh(30) ral sangi toolongol arong yeel llól <u>Commonwealth</u> <u>Register.</u>

llol maram ye Eluwel 2000.

Executive Director

Bwughiyal:

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Juan

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Tenorio

Chairman-nil Board

Jose I.//Deleon Guerrero Special Assistant for Administration

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Isaliyal me Recorded Sangi:

Soledad B. Sasamoto Register of Corporation

ARONGORONGOL TOULAP REEL POMWOL LLIIWEL NGÁLI GRIEVANCE PROCEDURES MELLOL MILLE SECTION 8 PROGRAM MELLOL NORTHERN MARIANAS HOUSING CORPORATION

Sangi Bwangil Sangi Executive Order No. 94-3, Talil 407 Allegh: mereel Reorganization Plan No. 2 CMC 1101 ragh we 1994. <u>Directive No. 138</u>, <u>CNMI Administrative</u> <u>Procedures Act</u> mellol 1 <u>CMC</u> 9101, <u>et. seq</u>. 2 CMC 4432(a), (b) bwal (c); 2 CMC 9101, et. seq. 2 <u>CMC</u> 4432(a), (b) bwal (c); 2 <u>CMC</u> 4433(i), (k), (s) bwal (t); bwal 4 <u>CMC</u> 10203(a)(2), (14) (22), (29) bwal (32). Weimwosch Reel Yaal <u>Goals</u> Me Ebwe ffeer sefaal <u>NMHC'S Grievance Procedures</u> Objectives: mellol mille Section 8 Program, reel ebwe aschuulong talil kka e ffe iye ebwe afalafal reel ngare iye ebwe amweri fischiiy mangemang kka ebwe asefaaliiy alillis ngaliir schoo kka rese fil faal alleghúl <u>Immigration</u> (ineligible immigration status) Eghus Tapalal Reel Pomwol Allegh: Ebwe ayoora afalafal sangi aileewal U.S. Housing Act of 1937 bwal peighil(subpart) B of 24 CFR Peigh 966, ebwel aghatchul resolution ngali tenants grievance reel igha ese tipeyeew ngali <u>NMHC</u>. Ngare Eyoor MaryLou S. Ada, Executive Director, Telephone Aiyegh Faingi: <u>No. 234-9447-7689, fax no. 234-9021 ngare e-</u> mail ngali nmhcatgtepacifica, net.

Bwangil Kka Eweewe me-ngare Eghil Ngali Alleghul Me Akkeleel:

<u>NMHC Grievance Procedures</u> reel mille <u>Section</u> <u>8 Program</u>, iwe a <u>published</u> llol <u>Commonwealth</u> <u>Register</u>, Volume 20, Number 02, Maischigh 18, 1999, peigh 16534 ngali 16533.

Mereel MaryLou\S. A Executive Director

8/22/2000 Ral

ARONGORONGO TOULAP REEL POMWOL LLIIWEL NGALI <u>GRIEVANCE PROCEDURES</u> MELLOL MILLE SECTION <u>8 PROGRAM</u> MELLOL <u>NORTHERN MARIANAS HOUSING CORPORATION</u>

Bwelle reel <u>Executive Order No</u>. 94-3; Talil 407 mellol <u>Reorganization Plan No</u>. 02 mellol ragh ye 1994; <u>Governor's</u> <u>Directive No 138; CNMI Administration Procedures Act(1 CMC 9101,</u> <u>et. seq.</u>) 2 CMC 4433(i)(j) bwal (t) bwal 2 CMC 4453, Alleghul mille <u>NMHC Grievance Procedures</u> iye e fféer sefaal nge atakkal amweri sefaali mereel <u>Bwulasiyol CNMI Attorney General</u>.

Ral ye ______ 1101 maramal _____, 2000.

Bwulasiyol Attorney General

Mereel:

Herbert D. Soll Attorney General

NORTHERN MARIANAS HOUSING CORPORATION GRIEVANCE PROCEDURE

I. PURPOSE

This grievance procedure has been adopted to provide a forum and procedure for Applicants for Assistance, Tenants, and Program Participants to seek the just, effective and efficient settlement of grievances against the Northern Marianas Housing Corporation (NMHC).

II. GOVERNING LAW

The law governing this grievance procedure is the U.S. Housing Act of 1937 (42 U.S.C. sec. 1437d (k)) and those regulations adopted by HUD there under, including, but not limited to 24 CFR part 966, 982, and 983.

III. APPLICABILITY

In accordance with applicable federal regulations, this grievance procedure shall be applicable to all individual grievances (as defined in Section IV below) between a Tenant and NMHC. However, this grievance procedure is not applicable to disputes between Tenants not involving NMHC, or to class grievances involving groups of Tenants. Also, this grievance procedure is not intended as a forum for initiating or negotiating policy changes between Tenants, or groups of Tenants, and NMHC.

IV. DEFINITIONS

The following definitions of terms shall be applicable to this grievance procedure:

A. Applicant for Assistance: Any person who has applied to NMHC for assistance, but who is not, at the time of the event which gives rise to the grievance, receiving assistance.

B. Business Days: Monday through Friday of each week, except for legal holidays recognized by the federal or CNMI government.

C. *CFR*: The code of federal regulations, which contains the federal regulations governing this grievance procedure.

D. Complainant: Any Tenant (as defined in this section below) whose grievance is presented to the central office of NMHC, or local NMHC field office in the case of individuals residing on Rota or Tinian, in accordance with the requirements set forth in this procedure.

E. *Drug-related criminal activity*: The illegal manufacture, sale, distribution, use or possession with intent to manufacture, sale, distribute, or use a controlled substance, as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802) as from time to time amended.

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F. *Elements of due process:* The following procedural safeguards are required to be followed in an eviction action or a termination of tenancy in the Commonwealth court:

(1) Adequate notice to the Tenant of the grounds for terminating the tenancy and for eviction, or for taking other adverse action against the tenant;

(2) Right of the Tenant to be represented by counsel;

(3) Opportunity for the Tenant to refute the evidence presented by NMHC, including the right to confront and cross examine witnesses and to present any affirmative legal or equitable defense which the Tenant may have;

(4) A decision on the merits.

G. *Grievance:* Any dispute which a Tenant may have with respect to an action or a failure to act by NMHC in accordance with the individual Tenant's lease, Federal and/or CNMI statute, HUD regulation, or NMHC regulation, which adversely affects the individual Tenant's rights, duties, welfare or status.

H. Hearing Officer: An impartial person selected in accordance with applicable HUD regulation and this grievance procedure to hear grievances and render decisions with respect thereto.

I. *Hearing panel:* A three-member panel composed of impartial persons, selected in accordance with HUD regulation and this procedure to hear grievances and render decisions with respect thereto.

J. HUD: The United States Department of Housing and Urban Development

K. NMHC: The Northern Marianas Housing Corporation, a public corporation organized and existing under the laws of the Commonwealth of the Northern Mariana Islands.

L. *Notice:* As used herein, the term notice shall, unless otherwise specifically provided, mean written notice.

M. Program Participant: Any person receiving rental assistance from NMHC other than those individuals receiving "Project Based" assistance.

N. The "Regulations": The HUD regulations contained in 24 CFR, or elsewhere.

O. Resident organization: An organization of residents, which includes any resident management corporation.

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P. Tenant: The adult person (or persons) other than a live-in aid:

(1) Who resides in an NMHC owned unit and who executed a lease, as lessee with NMHC as lessor of the dwelling unit, or, if no such person(s) resides in the unit,

(2) The person who resides in the unit, and who is the remaining head of the household of the Tenant family residing in the dwelling unit.

The term "Tenant" is limited to those individuals residing in units in which the rental assistance is "Project Based."

V. INCORPORATION IN LEASES

This grievance procedure shall be incorporated by reference in all leases between Tenants and NMHC at all NMHC housing units, whether or not so specifically provided in such leases.

VI. INFORMAL SETTLEMENT OF GRIEVANCES

A. *Initial Presentation*. Any grievance must be personally presented, either orally or in writing, to NMHC's main office, within five (5) business days after the occurrence of the event giving rise to the grievance.

B. Informal Settlement Conference. If the grievance is not determined by NMHC to fall within one of the exclusions mentioned in section III (B) above, then NMHC will, within five (5) business days after the initial presentation of the grievance, informally discuss the grievance with the complainant or their representatives in an attempt to settle the grievance without the necessity of a formal hearing. If the informal settlement conference cannot occur at the time the grievance is initially presented by the complainant, then the complainant will be promptly notified in writing of the time and place for the informal settlement conference.

C. Written Summary. Within ten (10) business days after the informal settlement conference, a summary of the informal discussion shall be prepared by NMHC and a copy thereof shall be provided to the complainant. The summary shall be in writing and shall specify the names of the participants in the discussion, the date of the discussion, the nature of the proposed disposition of the grievance, and the specific reasons for such disposition. This written summary will also specify the procedures by which the complainant may obtain a formal hearing if not satisfied by the proposed disposition of the grievance. A copy of the written summary shall also be placed in complainant's tenant file.

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VII. FORMAL GRIEVANCE HEARING

The following procedures apply to the request for a formal grievance hearing under this grievance procedure:

A. *Request for hearing:* If the Complainant is not satisfied with the results of the informal settlement conference, the Complainant must submit a written request for a formal hearing to NMHC's main office no later than ten (10) business days after the date the Complainant receives the summary of discussion delivered as required under Section VI above.

Complainant's written request for a formal hearing must specify:

(1) The reasons for the grievance;

(2) The action or relief sought by the complainant;

(3) If the complainant so desires, a statement setting forth the times at which the complainant will be available for a hearing during the next ten (10) business days;

(4) Complainant's preference, if any, concerning whether the grievance should be heard by a single hearing officer or by a hearing panel; and

(5) If the complainant has failed to attend an informal discussion conference, a request that the hearing officer or panel waive this requirement.

B. Failure to Request Hearing. If the complainant fails to request a hearing within ten (10) business days after receiving the written summary of the informal settlement conference, NMHC's decision rendered at the informal hearing becomes final and NMHC is not thereafter obligated to offer the complainant a formal hearing.

VIII. SELECTION OF HEARING OFFICER OR PANEL

All grievance hearings shall be conducted by an impartial person or persons appointed by NMHC after consultation with resident organizations, in the manner described below:

A. The permanent appointments of persons who shall serve as hearing officers and hearing panel members shall be governed by the following procedures:

(1) NMHC shall nominate a slate of persons to sit as permanent hearing officers or hearing panel members. These persons may include, but will not be necessarily limited to, members of NMHC Board of Directors, NMHC staff members, residents, or other responsible persons in the community. No persons shall be listed on the slate of members unless such person has consented to serve as a hearing officer or on a hearing panel.

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(2) The slate of potential appointees shall be submitted to all NMHC resident organizations, for written comments. Written comments from the resident organization shall be considered by NMHC before appointments are finally made. Objection to the appointment of a person as a hearing officer or panelist must be considered but is not dispositive as to the proposed appointment with respect to which objection is made.

(3) On final appointment, the persons appointed and resident organizations shall be informed in writing of the appointments. A list of all qualified hearing officers and panelists will be kept at the central office of NMHC and be made available for public inspection at any time.

B. The designation of hearing officers or panel members for particular grievance hearings shall be governed by the following provisions:

(1) All hearings will be held before a single hearing officer unless the complainant (at the time of the initial request for the hearing) or NMHC requests that the grievance be heard by a hearing panel, which shall be comprised of three (3) hearing officers.

(2) Appointments to serve as a hearing officer or panelist with respect to a particular grievance shall be made by NMHC in random order, subject to availability of the hearing officer or panelist to serve in each such case. NMHC may employ any reasonable system for random order choice.

(3) No member of NMHC Board of Directors or staff may be appointed as hearing officer or panelist in connection with the grievance contesting an action which was either made or approved by proposed appointee, or which was made or approved by a person under whom the proposed appointee works or serves as a subordinate.

(4) No person shall accept an appointment, or retain an appointment, once selected as a hearing officer or hearing panelist, if it becomes apparent that such person is not fully capable of impartiality. Persons who are designated to serve as hearing officers or panelists must disqualify themselves from hearing grievances that involve personal friends, relatives, persons with whom they have any business relationship, or grievances in which they have some personal interest. Further, such persons are expected to disqualify themselves if the circumstances are such that a significant perception of partiality exists and is reasonable under the circumstances. If a complainant fails to object to the designation of the hearing officer or panelists on the grounds of partiality, at the commencement or before the hearing, such objection is deemed to be waived, and may not thereafter be made.

In the event that a hearing officer or panel member fails to disqualify himself or herself as required in this grievance procedure, NMHC will remove the panel member or officer from the list of persons appointed for such purposes, invalidate the results of the grievance hearing

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in which such person should have, but did not, disqualify himself or herself, and schedule a new hearing with a new hearing panel or officer.

IX. SCHEDULING OF HEARINGS

A. Hearing prerequisites: A complainant does not have a right to a grievance hearing unless the complainant has satisfied the following prerequisites to such a hearing:

(1) The complainant has requested a hearing in writing.

(2) The complainant has completed the informal settlement conference procedure or has requested a waiver for good cause.

(3) If the matter involves the amount of rent which NMHC claims is due under the complainant's lease, the complainant shall have paid to NMHC an amount equal to the amount due and payable as of the first of the month preceding the month in which the complained of act or failure to act took place. And, in the case of situations in which hearings are, for any reason delayed, the complainant shall thereafter, deposit the same amount of the monthly rent in an escrow account monthly until the complaint is resolved by decision of the hearing officer or hearing panel. Unless waived by NMHC in writing, no waiver will be given by NMHC except in cases of extreme and undue hardship to the complainant, determined in the sole and absolute discretion of NMHC.

B. Time, Place, Notice.

(1) Upon Complainant's compliance with the prerequisites to hearing set forth above, a hearing shall be scheduled by the hearing officer or hearing panel promptly for a time and place reasonably convenient to both the complainant and NMHC, not later than the tenth (10th) business day after Complainant has completed such compliance. (In the case of a panel, if all three appointed members of the panel are not able to agree upon a date and time convenient to all panelists, on or before the last date before the hearing permitted under this procedure, they shall immediately so inform NMHC. If two panelists can agree upon a date and time and time, NMHC shall reappoint a third panelist who shall be available at the time agreed upon by the two who can agree. If none of the panelists can agree upon a time, a new panel shall be appointed.)

(2) A written notification specifying the time, place, and the procedures governing the hearing shall be delivered to the complainant and the appropriate NMHC official, who, unless otherwise designated, shall be the NMHC Manager.

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X. PROCEDURES GOVERNING HEARINGS

A. Fair Hearings.

The hearings shall be held before a hearing officer or hearing panel as described above in Section VIII. The complainant shall be afforded a fair hearing, which shall include:

(1) The opportunity to examine before the hearing any NMHC documents, including records and regulations that are directly relevant to the hearing.

The complainant will be allowed to copy any such document at the complainant's expense. If NMHC does not make the document available for examination upon request by the complainant, NMHC may not rely on such document at the grievance hearing.

NMHC shall also have the right to inspect and copy, at its expense, any documents that the Complainant intends to use at the hearing. Upon the request of NMHC, the Complainant shall make the originals or copies of any documents that NMHC requests, available to NMHC for copying, at NMHC's Central or field office. If the Complainant refuses to so provide said documents, then they may not rely on such documents at the hearing.

(2) The right to be represented by counsel or other person chosen as the complainant's representative and to have such person make statements on the complainant's behalf.

(3) The right to a private hearing unless the complainant requests a public hearing. The right to present evidence and arguments in support of the complainant's complaint, to controvert evidence relied on by NMHC and to confront and cross examine all witnesses upon whose testimony or information NMHC or its management relies; and

(4) A decision solely and exclusively upon the facts presented at the hearing.

B. Prior Decision in Same Matter.

The hearing panel or officer may render a decision without proceeding with the hearing if they determine that the issue has been previously decided in another proceeding.

C. Failure to Appear.

If the complainant or NMHC fails to appear at a scheduled hearing, the hearing officer or hearing panel may make a determination to postpone the hearing for a period not to exceed five (5) business days or may make a determination that the party failing to attend has waived the right to a hearing. In such event, the hearing officer or hearing panel shall notify the complainant and NMHC of the determination.

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D. Required Showing of Entitlement to Relief.

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter NMHC must sustain the burden of justifying NMHC's action or failure to act against which the complaint is directed.

E. Informality of Hearing.

The hearing shall be conducted informally by the hearing officer or hearing panel, and oral or documentary evidence pertinent to the facts and issues raised by the complaint may be received without regard to admissibility under the rules of evidence applicable to judicial proceeding.

F. Orderly Conduct Required.

The hearing officer or hearing panel shall require NMHC, the complainant, counsel, and other participants or spectators, to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer or hearing panel to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate.

G. Transcript of Hearing.

The complainant or NMHC may arrange in advance, and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript.

H. Accommodation to Handicapped Persons.

NMHC must provide reasonable accommodation for persons with disabilities to participate in grievance hearings. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

XI. DECISION OF THE HEARING OFFICER OR HEARING PANEL

At or subsequent to the completion of the grievance hearing, the hearing officer or panel shall make a determination as to the merits of the grievance and the following provisions shall govern:

A. Written Decision.

The hearing panel or officer shall prepare a written decision, together with the reasons for the decision within ten (10) business days after the completion of the hearing.

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(1) A copy of the decision shall be sent to the complainant and NMHC. NMHC shall retain a copy of the decision in the complainant's tenant folder.

(2) A copy of such decision, with all names and identifying references deleted, shall also be maintained on file by NMHC and made available for inspection by any prospective complainant, their representative, or the hearing panel or hearing officer.

B. Binding Effect.

The written decision of the hearing officer or hearing panel shall be binding upon NMHC, which shall take all actions, or refrain from any actions, necessary to carry out the decision unless NMHC's Board of Directors determines, within ten (10) business days, and properly notifies the complainant of its determination, that:

(1) the grievance does not concern NMHC action or failure to act in accordance or involving the complainant's lease, or NMHC's regulations, which adversely affect the Complainant's rights, duties, welfare or status, or

(2) the decision of the hearing officer or hearing panel is contrary to applicable Federal, CNMI, or local law, HUD regulation or requirements of the annual contributions contract between HUD and NMHC.

C. Continuing Right of Complainant to Judicial Proceedings.

A decision by the hearing panel or officer or Board of Directors in favor of NMHC or which denies the relief requested by the complainant, in whole or in part, shall not constitute a waiver of, nor effect in any way the rights of the Complainant to a trial or judicial review in any judicial proceedings, which may thereafter be brought in the matter.

XII. NOTICES

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All notices under this grievance procedure shall be deemed delivered: (1) upon personal service thereof upon the complainant or an adult member of the complainant's household; (2) upon the date receipted for or refused by the addressee, in the case of certified or registered U.S. Mail; or (3) on the fifth (5th) day after the deposit thereof for mailing, postage prepaid, with the U.S. Postal Service, if mailed by first class mail other than certified or registered mail.

If a Tenant is visually impaired, any notice hereunder delivered to such Tenant shall be in an accessible format.

XIII. MODIFICATION

This grievance procedure may not be amended or modified expect by approval of a majority of the Board of Directors of NMHC, present at a regular meeting or a special meeting called for such purposes. Further, in addition to the foregoing, any changes proposed to be made to this grievance procedure must provide for at least thirty (30) days advance notice to tenants and resident organizations, setting forth the proposed changes and providing an opportunity to present written comments. The comments submitted shall be considered by NMHC, before final adoption of any amendments hereto.

However, if any part of this grievance procedure is in conflict with a Federal or CNMI statute, or HUD regulation, then this grievance procedure shall give way to said statute and/or regulation, to the extent necessary to remedy said conflict.

XIV. MISCELLANEOUS

A. *Captions:* Captions or paragraph headings set forth in this grievance procedure are for convenience of reference only and shall not be construed or interpreted to affect the substance of the paragraphs or sections so captioned.

B. *Concurrent Notice:* If a Tenant has filed a request for grievance hearing hereunder in a case involving NMHC's notice of termination of tenancy, the complainant should be aware that the CNMI law notice to vacate and the notice of termination of tenancy required under Federal law run concurrently. Therefore, if the hearing officer or hearing panel upholds NMHC's action to terminate the tenancy, NMHC may commence an eviction action in court upon the later of, the expiration of the date for termination of tenancy and vacation of premises stated in the notice of termination delivered to complainant, or the delivery of the report of decision of the hearing officer or panel to complainant.

XV. EXPEDITED GRIEVANCE PROCEDURE

When action must be taken by NMHC to terminate a tenancy or terminate assistance because of certain types of criminal activity on the part of the Tenant, or those in Tenant's household, or Tenant's guests, the matter shall be heard under an expedited grievance procedures. This procedure may be used in connection with notices of termination of tenancy or assistance based upon two types of criminal activity:

A. Criminal activity that threatens the health, safety, or peaceful enjoyment of NMHC's public housing premises by other residents or employees of NMHC or other resident of the building in which the tenant resides, or

Page 10 of 12

B. In a drug-related criminal activity on or near such premises.

In such cases, the following procedures will be followed by NMHC in connection with grievances brought by complainants:

A. NMHC shall in its notice of adverse action to the tenant specify that it has elected to proceed under the Expedited Grievance Procedure in the event that the tenant shall request a grievance hearing.

B. The complainant shall neither have a right nor an obligation to attend an informal settlement conference under Article VI hereof, and

C. A tenant who desires to request a formal hearing under the Expedited Grievance Procedure shall make such request in writing not later than the end of the third (3rd) business day following delivery of the notice of adverse action. Failure to timely make such written request for hearing shall constitute a waiver of the right to a hearing.

D. Any notice period subsequent to the delivery of a request for formal hearing by a complainant specifying or allowing a period of ten (10) business days or longer hereunder shall be deemed, in the case of the Expedited Grievance Procedure, to specify or allow a period of five (5) business days.

XVI. INFORMAL REVIEW OF DECISIONS DENYING ASSISTANCE TO APPLICANTS.

Any decision by NMHC to deny assistance to an Applicant for Assistance ("Applicant") shall be governed by the procedures set forth in sections I - XV, above, with the term "Applicant" being substituted for the term "Tenant" where applicable, however, an Applicant's right to a hearing shall be limited to the grounds set forth in 24 CFR 982.554 "Informal Review For Applicant" and if an Applicant is not eligible for an informal hearing under 24 CFR 982.554, then they shall also not be eligible for a formal hearing.

XVII. INFORMAL REVIEW OF ADVERSE ACTION AGAINST PARTICIPANTS.

Any decision by NMHC to take adverse action against a Program Participant ("Participant"), shall be governed by the procedures set forth in sections I-XV, above, with the term "Participant" being substituted for the term "Tenant" where applicable. However, a Participant's right to a hearing shall be limited to the grounds set forth in 24 CFR 982.555 "Informal Hearing For Participant" and if a Participant is not eligible for an informal hearing under 24 CFR 982.555, then they shall also not be eligible for a formal hearing.

NMHC may only take adverse action against a Participant in accordance to the terms of 24 CFR 982.555.

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XVIII. RESTRICTIONS ON ASSISTANCE TO NON CITIZENS.

These grievance procedures shall not apply to the denial of assistance on the basis of ineligible immigration status.

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COMMONWEALTH REGISTER

VOLUME 22 NUMBER 09



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NORTHERN MARIANAS HOUSING CORPORATION

P.O. BOX 500514, Saipan, MP 96950-0514

Tels: (670) 234-6866 234-9447 234-7689 234-7670 Fax: (670) 234-9021

PUBLIC NOTICE OF PROPOSED AMENDMENTS TO THE ADMINISTRATIVE PLAN FOR SECTION 8 RENTAL ASSISTANCE PROGRAMS OF THE NORTHERN MARIANAS HOUSING CORPORATION

The Board of Directors of the Northern Marianas Housing Corporation (NMHC) hereby notifies the general public that it proposes to revise its Administrative Plan for Section 8 Rental Assistance Programs. Said revisions will update and streamline the Administrative Plan, to conform with the U.S. Department of Housing and Urban Development's (HUD) recent changes in the admission and occupancy requirements in the Public Housing and Section 8 Housing Assistance Programs, HUD's policy and processing guidelines for Section 8 tenant based assistance for housing conversion actions, the minimum rent requirement, and other miscellaneous items.

Anyone interested in making comments on the proposed revisions may do so in writing, addressed to the Executive Director, Northern Marianas Housing Corporation, at P. O. Box 500514, Saipan, MP 96950, no later than thirty (30) days from the date of this publication in the Commonwealth Register.

ิ่ฎฎnd DATED this day of August, 2000.

Juan S enorio Chairman of the Board

Executive Director

Received by:

Jose I. DeL stant for Administration Special As

Date

Date

by:

Filed and Recorded

Soledad B. Sasamoto Registrar of Corporations

"NMHC is an equal employment and fair housing public agency"

Rota Eield Office: Tel. (670) 5 COMMONWEAL TH RE

VOLUME 22 NUMBER 09

SEPTENEDER 202000 Tel. ROYOF 3074408 Fax (670) 433-3690

PUBLIC NOTICE OF PROPOSED AMENDMENTS TO THE ADMINISTRATIVE PLAN FOR SECTION 8 RENTAL ASSISTANCE PROGRAMS OF THE NORTHERN MARIANAS HOUSING CORPORATION

Pursuant to Executive Order No. 94-3, Section 407 of Reorganization Plan No. 2 of 1994, Governor's Directive No. 138; the CNMI Administrative Procedure Act (1 CMC 9101, et. seq.); 2 CMC 4432(i); 2 CMC 4433 (i)(j) & (t); and 2 CMC 4453, the attached revised NMHC Administrative Plan has been reviewed and approved by the CNMI Attorney General's Office.

Dated this 14 tay of So **-,** 2000.

Office of the Attorney General

Bv: Herbert D Attorney General

PROPOSED AMENDMENTS TO THE ADMINISTRATIVE PLAN FOR SECTION 8 RENTAL ASSISTANCE PROGRAMS OF THE NORTHERN MARIANAS HOUSING CORPORATION

Citation of Statutory Authority:	Pursuant to Executive Order No. 94-3, Section 407 of the Reorganization Plan No. 2 of 1994, Directive No. 138, the CNMI Administrative Procedure Act at 1 CMC 9101, et. seq., 2 CMC 4432(a), (b), & (c); 2 CMC 4433(i), (k), (s), & (t); and 4 CMC 10203(a)(2), (14), (22), (29), & (32).
Short Statement of Goals & Objectives:	To revise NMHC's Administrative Plan for Section 8 Rental Assistance Programs, by updating and streamlining the Plan, to conform with the Department of Housing and Urban Development's (HUD) recent changes in the admission and occupancy requirements in the Public Housing and Section 8 Housing Assistance Programs, HUD's Policy and processing guidelines for Section 8 tenant-based assistance for housing conversion actions, the minimum rent requirement, and other miscellaneous items.
Brief Summary of the Rule:	Provides guidelines for the admission and continued participation of very-low income families that rent from private landlords in providing housing assistance to very-low income families under the Section 8 Rental Certificate and Voucher Programs.
For Further Information Contact:	MaryLou S. Ada, Executive Director, telephone no. 234-9447/7689; fax no. 234-9021, or email to <u>nmhc@gtepacifica.net.</u>
Citation of Related and/or Affected Stat Regulations and Or	
Submitted by:	May for Ath 812212000

MaryLouß. Ada Executive Director

019919000 Date

NUTISIAN PUPBLIKU PUT I MAPROPOPONE SIHA NA AMENDASION PARA PLANUN ADMINISTRASION SEKSIONA 8 PROGRAMAN INASISTEN MANATKILA GI NORTHERN MARIANAS HOUSING CORPORATION

I Board of Directors para i Northern Marianas Housing Corporation ginen este ha infofotma i pupbliku henerat put ha propopone para u ribisa i Planun Administrasion Seksiona 8 Programan inasisten Manatkila, i tinulaika siha para u na nuebo yan streamline i Planun Administrasion, para u akonfotma yan ayu U.S. Department of Husing yan Urban Development (HUD) man nuebo siha na tinulaika gi admision yan nisisdat manokupa gi Public Housing yan SAeksiona 8 gi Programan Inasisten Guma', areklamenton HUD gi kondision giniha gi Seksiona 8 ma asisten tenant gi housing conversion actions, gi mas takpapa na nisisidat, yan hafa kao siha na kosas.

Hayi interesao mamatinas komentu put i mapropopone siha na ribision siña ha matuge' paa ya u ma adres guatu para i Direktoran Eksekatibu, Northern Marianas Housing Corporation, P.O. Box 500514, Saipan, MP 96950, ti mas di trenta (30) dias desde mapublikan este na nutisia gi Rehistran Commonwealth.

DD Ma fecha di mina' na dia, Agusto 2000. Juan S. Tenorio Direktorah Eksekatibu Chairman i Board Rinisibi as: Jose I. DeLeon Guerrero sistant for Administration Special Ma file yan rinekot as: m Soledad B. Sasamoto Rehistradoran Kotporasion

NUTISIAN PUPBLIKU PUT I MAPROPOPONE SIHA NA AMENDASION GI PLANUN ADMINISTRASION SEKSIONA 8 PROGRAMAN INASISTEN MANATKILA PAR I NORTHERN MARIANAS HOUSING CORPORATION

Sigun i Otden Eksekatibu no. 94-3, Seksiona 407 gi Reorganizational Plan No. 2 1994 na sakkan, Otden Gubetno No. 138; i CNMI Administrative Procedure Act (1 CMC, et. seq.); 2 CMC 4432(i); 2 CMC 4433 (i)(j) yan (t); yan 2 CMC 4453, i chechetton na ribision NMHC Administrative Plan manma ribisa yan apreba ginen Ofisinan Attorney General giya CNMI.

Ma fecha gi mina'_____ na dia, guine na mes i_____, 2000.

Ofisinan Attorney General

ginen as:

Herbert D. Soll Attorney General

I MAPROPOPONE SIHA NA AMENDASION GI Planun Administrasion Seksiona 8 programan inasisten Manatkila para I Northern Marianas Housing Corporation

Ginen hayi i	
aturidat:	Sigun i Otden Eksekatibu No. 94-3, Seksiona 407 gi Reorgnaizational Plan No. 2 gi 1994 na sakkan, Otden No. 138, CNMI administrative Procedure Act, 1 CMC 9101, et seq., 2 CMC 4432(a), (b), yan (c); 2 CMC 4433(i), (k), (s) yan (t); yan lokkue' 4 CMC 10203(a)(2),(14), (22), (29), yan (32).
Didide' na sinang Put minito' yan	an
obyektibu:	Para u maribisa i Programan Manasisten Manatkila gi NMHC, u
	marenueba i planun streamlining, para u akonfotma yan ayu i
	ginen Dipatamenton Housing yan Urban Development (HUD) i
	manmatulaika siha gi admision yan maokupan Public Housing
	Seksiona 8, Programan Inasisten Guma', Areklamento yan kondison
	giniha Seksiona 8 tenant-based assistance gi housing conversion
	actions, nisisidat mastakpapa na apas atkilon yan hafa kao siha.
Sumaria put i	
Areklamento:	Prubiniyi direksion para admision yan kontinuasion
111 0/11 111001	pattisipasion i mas takpapa na suetdo na familia komu i atkilon
	ginen praibet landlords para prubbinsion inasisten guma' para
	i mas takpapa suetdon-niha na familia gi papa seksiona 8
	Settifikun Atkilon yan Programan Voucher.

Put mas infotmasion Agang si: Ma

MaryLou S. Ada, Direktoran Eksekatibu, guine na numirun tilifon i 234-9447/7689; Fax no. 234-9021, pat email gi <u>mmhcgi</u> gtepacifica.net.

Didide' na sinangan put i maninafekta siha na Lai, Regulasion yan Otden siha: NMHC

yan Otden siha: NMHC Planun Administrasion Seksiona 8 Settifiku yan Programan Inasisten Manatkila komu mapublika gi Rehistran Commonwealth, Baluma 20, Numiru 02, Febreru 18, 1999, pahina 1671 asta 16533.

Sinatmiti as:

Marylou S. Ada Direktoran Eksekatibu

819212000 Fecha

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ARONGORONGOL TOULAP

LLIIWEL MELLÓL <u>ADMINISTRATIVE PLAN</u> MELLÓL TÁLIL WALUUW(8)<u>ASSISTANCE PROGRAMS</u> MELLÓL <u>NORTHERN MARIANAS HOUSING CORPORATION</u>

<u>Board of Directors(NMHC)</u> eghal aronga toulap bwe eghal fféér pomwol reel ebwe lliiwel sefáál yaal <u>Administration Plan</u> reel mille <u>Section 8 Rental Assistance Program</u>. Reel meta kka ebwe lliiwel sefáál nge ebwe <u>update</u> me <u>streaming</u> li <u>Administrative Plan</u> ebwe ghol ngali <u>U.S. Department Housing</u> bwal <u>Urban Development's(HUD)</u> ikkiwe eghiláál yoor lliiwel reel meta efil mellól <u>admission</u> me <u>occupancy</u> mellól Imwal Toulap me <u>Section 8 Housing Assistance</u> <u>Programs(HUD)</u> Allégh bwal Afalafalal ngali <u>Section 8 tenant-based</u> <u>assistance for housing conversion actions, minimum rent</u> <u>requirement</u>, bwal akkááw meta kka e <u>miscellaneouse</u>.

Inaamwo iyo eghal tipeli ebwe fféér aiyegh ngare mángemáng bwelle reel pomwol meta kka ebwe lliiwel sefáál nge ebwe féérú schagh reel ebwe isch ngali <u>Executive Director, Northern Marianas Housing</u> <u>Corporation</u>, reel <u>P.O.Box</u> 500514, Seipél MP. 96950, nge essóbw pareló eliigh(30) rál sángi toolongol arong yeel llól <u>Commonwealth</u> <u>Register.</u>

Rál ye 22 llól maram ye Eluwel 2000.	
Juan S. Tenorio Chairman-nil Board MaryLouXS. Executive	<u>r</u> D
Bwughiyal: Jose I. Delèon Guerrero Special Assistant for Administration	R
Isáliyal me Recorded sángi: Soledad B. Sasamoto Register of Corporation	R

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COMMONWEALTH REGISTER

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ARONGORONGOL TOULAP POMWOL LLIIWEL NGALI <u>NORTHERN MARIANAS</u> <u>HOUSING CORPORATION REEL</u> MILLE <u>ADMINISTRATIVE PLAN</u> MELLÓL TÁLIL WALUUW <u>RENTAL ASSISTANCE PROGRAM</u>

Bwelle reel <u>Executive Order</u> No. 94-3; Tálil 407 mellól <u>Reorganization Plan No.</u> 02 mellól rágh ye 1994; <u>Governor´s</u> <u>Directive No. 138; CNMI Administrative Procedures Act</u> (1 <u>CMC</u> 9101, <u>et. seg</u>.) 2 <u>CMC</u> 4433(i)(j)&(t) bwal 2 <u>CMC</u> 4453, Alléghúl mille <u>NMHC Administrative Plan</u> iye e fféér sefáál nge atakkal amweri sefááli mereel <u>Bwulasiyol</u> <u>CNMI Attorney General</u>.

Rál ye ______ 1lól maramal _____, 2000

<u>Bwulasiyol Attorney General</u>

Mereel;

Herbert D. Soll Attorney General

POMWOL LLIIWEL MELLÓL <u>ADMINISTRATIVE PLAN</u> BWELLE REEL MILLE <u>SECTION 8 RENTAL ASSISTANCE PROGRAMS</u> MELLÓL <u>NORTHERN MARIANAS HOUSING CORPORATION</u>

Sángi Bwángil Allégh:

Weimwoschol Reel Yaal <u>Goals</u> Me <u>Objective</u>: Sángi <u>Executive Order No</u>. 94-3, Tálil 407 mereel <u>Reorganization Plan No</u>. 2 <u>CMC</u> llól rágh we 1994. <u>Directive No</u>. 138, <u>CNMI Administrative</u> <u>Procedures Act mellól 1 <u>CMC</u> 9101, et. seq. 2 <u>CMC</u> 4432(a), (b) & (c); 2 <u>CMC</u> 4433(i), (k), (s) & (t); bwal 4 <u>CMC</u> 10203(a)(2), (14), (22), (29) & (32).</u>

Ebwe fféér sefáál <u>NMHC's Administrative Plan</u> reel mille <u>Section 8 Rental Assistance Program</u>, reel ebwe <u>update</u> me <u>streamlining li Plan</u>, reel ebwe ghol ngáli <u>Department of Housing</u> bwal <u>Urban Development's (HUD)</u>ikkiwe ghiláál yoor lliiwel reel meta kka efil mellól <u>admission</u> me <u>occupancy mellól Imwal Toulap me Section 8</u> <u>Housing Assistance Programs, HUDS</u> Allégh bwal Afalafalal ngáli <u>Section 8 tenant-based</u> <u>assistance for housing conversion actions,</u> <u>minimum rent requirement</u>, bwal akkááw meta kka e <u>miscellaneouse</u>.

Eyoor afalafal reel mille <u>admimission</u> me ebwe sóbwosóbwosóbwoló yaar fitilong schóó kka yaar <u>income</u> nge eghi sóssól ikka reghal rent iimw mellól falúw kka e <u>private</u> reel eebwe ayoora me ebwe ayoor alillis ngaliir schóó kka eghi sóssól yaar <u>income</u> iye e lo faal Tálil waluuw <u>(8)Rental Certificate</u> me <u>Voucher Programs</u>.

MaryLou S. Ada, Executive Director, Telephone no.234-9447/7689, fax no.234-9021 ngare <u>e-mail</u> reel <u>nmhcatgtepacifica</u>, net.

<u>NMHC Administrative Plan</u> Tálil waluuw(8) <u>Certificate</u> me <u>Rental Assistance Program</u> iye a <u>published</u> llól <u>Commonwealth Register, Volume</u> <u>20, Number 02</u>, Maischigh 18, 1999, peigh 16471 ngali 16533.

On Ad Mereel:

MaryLoù 8. Ada Executive Director <u>8|99|50</u>00 Rái

Eghus Tapalal Reel Pomwol Allégh:

Ngare Eyoor Aiyegh Faingi:

Bwángil kka Eweewe me/ngare Eghil ngali Alléghúl me Akkéléél:

ADMINISTRATIVE PLAN

FOR

RENTAL ASSISTANCE PROGRAMS

COMMONWEALTH REGISTER

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Northern Marianas Housing Corporation

ADMINISTRATIVE PLAN Rental Assistance Programs

PREAMBLE

The United States Department of Housing and Urban Development (HUD), operates a subsidized housing program known as the Section 8 Program. In the Commonwealth of the Northern Mariana Islands (CNMI), this program is administrated by the Northern Marianas Housing Corporation (NMHC), a division of the Commonwealth Development Authority (CDA).

Eligibility to participate in the Section 8 Program is determined by family size and income, in accordance with Federal statutes, regulation, and by NMHC's rules and regulations.

Under the Section 8 Program, as administrated by NMHC, families may reside in units owned by NMHC, or they may reside in privately-owned housing units.

Privately-owned housing units participating in the programs are required to pass minimum housing quality standards (HQS) established by HUD or the local housing code, whichever is more stringent. Contract rentals must be comparable to rentals received for housing units of the same size and type in the same general neighborhood.

LOCAL OBJECTIVES

The rental assistance programs are designed to achieve two major objectives:

- 11.1 To provide decent, safe, and sanitary housing for low income families while maintaining their rent payment at an affordable level.
- 11.2 To provide an incentive to private property owners to rent to low income families by offering timely assistance payments.

PURPOSE OF THE PLAN

The purpose of the Administrative Plan is to establish policies for carrying out NMHC's rental assistance programs in a manner consistent with funding source requirements and local objectives. The Plan covers both admission and continued participation in these programs. Policies are the same for all programs unless otherwise noted.

NMHC is responsible for complying with all changes in program regulations pertaining to these programs. If such changes conflict with this Plan, program regulations will have precedence. The

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original Plan and any changes must be approved by the Board of Directors of NMHC and a copy provided to HUD.

FAIR HOUSING POLICY

It is the policy of NMHC to comply fully with all Federal, Commonwealth and local nondiscrimination laws and with the rules and regulations governing Fair Housing and Equal Opportunity in housing and employment.

NMHC shall not deny any family or individual the opportunity to apply for or receive assistance under the Section 8 Programs on the basis of race, color, sex, religion, creed, national or ethnic origin, age, family or martial status, handicap or disability or sexual orientation.

To further its commitment to full compliance with applicable Civil Rights laws, NMHC will provide Federal/Commonwealth/local information to Certificate and Voucher holders regarding "discrimination" and any recourse available during the family briefing session, and applicable Fair Housing Information and Discrimination Complaint Forms will be made a part of the Certificate and Voucher holder's briefing packet.

No individual with disabilities shall be denied the benefits or be excluded from participation in this program.

ACCOMMODATIONS

NMHC's policies and practices will be designed to provide assurances that all persons with disabilities will be provided reasonable accommodation so that they may fully access and utilize the housing programs and related services.

OWNER OUTREACH

NMHC encourages owners of decent, safe and sanitary housing units to lease to Section 8 families. NMHC maintains a list of interested landlords and units available for the Section 8 Program and updates this list on a regular basis. When listings from owners are received, they will be compiled by NMHC staff by bedroom size.

NMHC staff initiates personal contact with private property owners and managers by conducting formal and informal discussions and meetings.

Printed material is available to acquaint owners and managers with the opportunities available under the program.

PRIVACY RIGHTS

Applicants and participants, including all adults in their households, are required to sign the HUD 9886 Authorization for Release of information. This document incorporates the Federal Privacy Act Statement and describes the conditions under which HUD will release family information.

NMHC's practices and procedures are designed to safeguard the privacy of applicants and program participants. All applicant and participant files will be stored in a secure location which is only accessible by authorized staff.

In accordance with HUD requirements, NMHC will furnish prospective owners with the family's current address as shown in NMHC's records and, if known to NMHC, the name and address of the landlord at the family's current and prior address.

NMHC's policy is to ensure objectivity and consistency in applying the following criteria to evaluate the eligibility of families who apply. Staff will carefully review all information provided by the family. Families will be provided the opportunity to explain their circumstances, to furnish additional information, if needed, and to receive an explanation of the basis for any decision made by NMHC pertaining to their eligibility.

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I. ELIGIBILITY FOR ADMISSIONS

1. ELIGIBILITY FACTORS

To be eligible for participation, an applicant must meet HUD's criteria, as well as any permissible additional criteria established by NMHC.

The HUD eligibility criteria are:

-An applicant must be a "family"

-An applicant must be within the appropriate income limits

-An applicant must furnish Social Security Numbers for household members 6 years or older -An applicant must furnish evidence of Citizenship/Eligible Immigrant Status

2. FAMILY COMPOSITION

The applicant must qualify as a Family.

The definition of a family is two or more persons (with or without children) regularly living together, related by blood, marriage, adoption, guardianship or operation of law; OR two or more persons who are not so related, but regularly living together and can verify shared income or resources; OR two or more persons who intend to share residency and whose income and resources are available to meet the family's needs.

The term family also includes: Elderly family, near elderly family, disabled family, displaced person, single person, the remaining member of a tenant family, a foster care arrangement, or a kinship care arrangement. Other persons including members temporarily absent (i.e. a child temporarily placed in a foster care or a student temporarily away at college), may be considered a part of the applicant family's household if they are living or will live regularly with the family.

Split Households Prior to Certificate/Voucher Issuance

When a family on the waiting list splits into two otherwise eligible families due to divorce or legal separation, and the new families both claim the same placement on the waiting list, and there is no court determination, NMHC will make the decision taking into consideration the following factors:

- 1. Which family member applied as head of household
- 2. Which family unit retains the children or any disabled or elderly members
- 3. Restrictions that were in place at the time the family applied
- 4. Role of domestic violence in the split
- 5. Recommendations of social service agencies or qualified professionals such as the Division of Youth Services (DYS), Division of Mental Health, KARIDAT.

The family unit that retains the minor children or disabled or elderly members will be given priority for remaining at its place on the waiting list.

Documentation of these factors is the responsibility of the applicant families. If either or both of the families do not provide the documentation, they may be denied placement on the waiting list for failure to supply information requested by NMHC.

3. INCOME LIMITATION

To determine if the family is income-eligible, NMHC compares the Annual Income of the family as defined under program regulations to the applicable income limits for the family's size.

For admission to the program (initial lease-up), the family's income must be within the applicable low income limit for the CNMI.

Pursuant to HUD regulations, NMHC is required to target available Section 8 Housing to extremely low income families. In order to meet this requirement, extremely low income families may be given a preference on the waiting list, so that NMHC may meet HUD requirements.

4. SOCIAL SECURITY NUMBERS

Families are required to provide verification of Social Security Numbers for all family members age six (6) years and older prior to admission, if they have been issued a number by the Social Security Administration. This requirement also applies to persons joining the family after admission to the program.

5. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS

In order to receive assistance, a family member must be a U.S. citizen or eligible immigrant. Individuals who are neither may elect not to contend their status. Eligible immigrants are persons who are in one of the six immigrant categories as specified by HUD.

For the Citizenship/Eligible Immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

6. OTHER CRITERIA FOR ADMISSION

NMHC shall apply the following criteria, in addition to the HUD eligibility criteria, as grounds for denial of admission to the program.

1. Certificate Program Family's Total Tenant Payment, computed in accordance with HUD regulations, may not exceed the current Fair Market Rent as set by HUD for the family's certificate size in the area.

2. The family must not have violated any family obligation during previous participation in the Section 8 Program in the previous thirty-six (36) months.

When NMHC denies assistance to an applicant with a disability, the applicant may request a review of the family obligation that was violated, if the violation was a result of the disability.

An exception may be granted by NMHC if the family member who violated the family obligation is not a current member of the household on the application.

- 3. No family member may have committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.
- 4. Family must have paid any outstanding debt owed NMHC by the applicant for any program that NMHC operates, and any balance must be paid in full before admission or demonstrate a satisfactory six-month payment on a Repayment Agreement.
- 5. No member of the family may have been involved in or participated in drug related or violent criminal activity.

NMHC will not be obligated to ferret out information concerning a family's criminal activities as part of the processing of an application for assistance. Initial screening will be limited to routine inquiries of the family and any other information provided to NMHC regarding the matter. The inquiries will be standardized and directed to all applicants by inclusion in the application form. If either as a result of the standardized inquiry or the receipt of a verifiable referral, there is indication that the family or any family member has participated in drug-related criminal activity or violent criminal activity, NMHC may conduct closer inquiry to determine whether the family should be denied admission.

If the family indicates on an application that they have been arrested within the prior five years for drug-related or violent criminal activity, NMHC shall obtain verification through police/court records.

- 6. No family member may have been evicted from public housing for drug-related or violent criminal activity during the three (3) year period prior to receipt of the application by NMHC.
- 7. No family member may have ever engaged in or threatened abusive or violent behavior toward NMHC personnel.

7. CHANGES IN ELIGIBILITY PRIOR TO EFFECTIVE DATE OF THE CONTRACT

Changes that occur during the period between placement on the waiting list and issuance of a certificate or voucher may affect the family's eligibility or Total Tenant Payment. For example, if a family goes over the income limit prior to lease up, the applicant will not be eligible for the program. They will be notified in writing of their ineligible status and of their right to an informal review.

8. INELIGIBLE FAMILIES

Families who are determined to be ineligible will be notified in writing of the reason for denial and given an opportunity to request an informal review, or an informal hearing if they were denied due to noncitizen status.

II. APPLICATION FOR ADMISSION

<u>1. HOW TO APPLY</u>

NMHC will accept and process applications in accordance with applicable Federal regulations. Applications will be received and processed as follows:

- 1. Applications will be taken at NMHC's central office or its offices on Rota and Tinian, as the case may be, at which time all applicants will receive a written statement documenting receipt of the application by NMHC. Unless the waiting list is closed, an application must be accepted even if an informal discussion indicates the applicant or his/her family may not be eligible.
- 2. Before formal acceptance of the application, applicants will be expected to provide on the formal application forms all the information necessary for making eligibility determinations.
- 3. All adult members of the household age eighteen (18) years or older must be present to complete and sign the application and to provide photo identification. This provision can be waived only for good cause. (Good cause would include applicants that are disabled and require that application be completed by mail).
- 4. Each application will be placed on the waiting list by preference category and date and time of the application. This policy will not be subverted do to personal or political favors.

2. APPLICATIONS

The purpose of the application is to permit NMHC to assess family eligibility or ineligibility and to determine placement on the waiting list. The application will contain questions designed to obtain the following information:

- Name and date of birth of all members
- Sex and relationship of all members
- Street address and phone numbers
- Mailing address (if P.O. Box or other permanent address)
- Amount(s) and source(s) of income received by household members
- Information related to qualification for preference
- Social security numbers
- Race/Ethnicity
- Citizenship/eligible immigration status
- Arrests for drug-related or violent criminal activity
- Request for specific accommodation needed to fully utilize program and services

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The information on the application will not be verified until the applicant has been selected for final eligibility determination. Final eligibility will be determined when the full application process is completed and all information is verified.

Applicants are required to inform NMHC within thirty (30) days of changes in family composition, income, and address, as well as any changes in preference status. Applicants are also required to respond to requests from NMHC to update information or to determine continued interest in assistance. If a family fails to respond to a request from NMHC to update information, then NMHC may, after sending a second request by certified mail, then the application will be rejected. No application will be rejected, until the thirty-first (31) day after their receipt of the second request, or if the second request is returned to NMHC by the Post Office, the thirty-first (31) day after mailing by NMHC.

3. OPENING THE WAITING LIST

NMHC will utilize the following procedures for opening the waiting list.

When NMHC opens the waiting list, NMHC will advertise through public notice in the Marianas Variety and Saipan Tribune. Notice will also be posted at each island's Mayor's Office.

The notice will contain the dates, times and locations where families may apply; the programs for which applications will be taken; a brief description of the program; and limitations, if any, on who may apply (special categories of applicants).

4. WHEN APPLICATION TAKING IS SUSPENDED

Decisions to close the waiting list will be based on the number of applications available for particular sizes of units, the numbers of applicants who qualify for local preferences, and the ability of NMHC to house an applicant in an appropriate unit within a reasonable period of time. A decision to close the waiting lists, restricting intake, or opening the waiting lists will be announced by public notice.

During the period when the waiting list is closed, NMHC will not maintain a list of individuals who wish to be notified when the waiting list is reopened.

5. REQUIREMENT TO ATTEND BRIEFING

NMHC utilizes the full application briefing to discuss the family's circumstances in greater detail, to clarify information provided by the family, and provide information about the Section 8 Program. All adult members are required to attend the briefing.

It is the applicant's responsibility to reschedule the interview if she/he misses the briefing. If the applicant does not reschedule or misses two (2) scheduled briefings, NMHC will reject the application.

Reasonable accommodation will be made for persons with a disability who require an advocate or accessible offices. A designee will be allowed to provide some information but only with permission of the person with a disability.

6. VERIFICATION OF INFORMATION

Information provided by the applicant will be verified including information related to family composition, income, allowances and deductions, assets, eligible immigration status, full time student status and other factor related to preferences, eligibility and rent calculation. Verifications may not be more than sixty (60) days old at the time of certificate/voucher issuance.

In order to verify information provided by a family, each adult member must sign a HUD approved consent for the release of information, so that NMHC may verify income and source of income information provided by the family.

III. ESTABLISHING PREFERENCES

The Section 8 waiting list will be maintained in accordance with the following guidelines:

- The application will be a permanent file
- All applicants on the list will be maintained in order of preference. Applications equal in preference will be maintained by date and time.
- All applicants must meet "Very-Low Income" eligibility requirements as established by HUD. Any exceptions to these requirements must have been approved by the HUD Field Office.

THE PREFERENCE SYSTEM

An applicant will not be granted any preference (federal, ranking or local) if any member of the family has been evicted from any federally assisted housing during the past three (3) years because of drug-related criminal activity.

- 1. NMHC reserves the right to choose whether to use Preference in accordance with applicable Federal law. NMHC will provide every applicant with information regarding preferences adopted by the Board of Directors.
- 2. A preference does not guarantee admission. Preferences are used to establish the order of placement on the waiting list. Every applicant must meet Eligibility Factors before being offered a Certificate/Voucher.
- 3. Preferences will be granted to applicants who are otherwise qualified and who, at the time they are certified for admission meet the definitions of the preferences described below.
- 4. Preference System-The following system will be applied in the selection of applicants from the waiting list:
- At this time NMHC has not adopted any local preferences. Further, NMHC is no longer utilizing the "Federal" preferences. All applications will be on a first come first served basis. However, as noted above, NMHC is required to target extremely low income families and must generally target seventy-five (75%) percent of its new admissions to extremely low income families. Therefore, these families will be given "preference" to the extent needed for NMHC to comply with HUD mandates.

IV. OCCUPANCY STANDARDS

1. DETERMINING CERTIFICATE/VOUCHER SIZE

NMHC does not determine who shares a bedroom/sleeping room. NMHC's occupancy standards for determining certificate/voucher size shall be applied in a manner consistent with Fair Housing guidelines.

All standards in this section relate to the number of bedrooms stated on the Certificate or Voucher, not the family's actual living arrangements.

The unit size on the Certificate or Voucher remains the same as long as the family composition remains the same, regardless of the actual unit size rented.

The unit size on the Certificate or Voucher remains the same as long as the family composition remains the same, regardless of the actual unit size rented.

NMHC assigns one bedroom to two people within the following guidelines:

- 0.1 Persons of different generations, adults of the opposite sex (other than spouses or co-heads), children over 3 years of age, and unrelated adults should be allocated a separate bedroom.
- 0.2 Live-in aides will be provided a separate bedroom.
- 0.3 Single person families shall be allocated an efficiency or one bedroom unit.

Guidelines for determining certificate/voucher size:

Certificate/Voucher Size	<u>Persons in Household</u> (Minimum #) (Maximum #)
0 Bedroom	я
	1
1 Bedroom	1
	1
	2
2 Bedrooms	

		2 4
3 Bedrooms		
		3
		6
4 Bedrooms		
		4
		8
5 Bedrooms		
		6
	10	
6 Bedrooms		8
	12	0

2. CHANGES IN UNIT SIZE

NMHC shall grant exceptions from the standards if the family requests and NMHC determines the exceptions are justified by the relationship, age, sex, health or disability of family members, or other individual circumstances.

V. TOTAL TENANT PAYMENT (TTP) DETERMINATIONS

1. INCOME AND ALLOWANCES

<u>INCOME</u>: Income from all sources of each member eighteen (18) years and older of the household is counted.

<u>ANNUAL INCOME</u>: Defined as the gross amount of income anticipated to be received by the family during the twelve (12) months after certification or recertification. Gross income is the amount of income prior to any HUD allowable expenses or deductions. Annual income is used to determine whether or not applicants are within the applicable income limits.

ADJUSTED INCOME: Defined as the Annual Income minus any HUD allowable deductions.

2. DEFINITION OF TEMPORARILY ABSENT

NMHC must compute all applicable income of every family member who is on the lease, including those who are temporarily absent. If a family member is gone from the household for a time period of less than six (6) months, the family member will be considered temporarily absent.

Income of persons permanently absent will not be counted. If a family member leaves the household for a period of six (6) months or more or the family declares them absent in writing, the family member will be considered permanently absent and removed from the lease.

It is the responsibility of the head of household to report changes in family composition. NMHC will evaluate absences from the unit using this policy.

3. INCOME OF PERSON PERMANENTLY CONFINED TO A NURSING HOME

If a family member is permanently confined to a hospital or nursing home and there is a family member left in the household, the income of the family member confined will be excluded and the remaining family member will not receive disabled/handicap or medical expense deductions for the absent family member.

4. AVERAGING INCOME

When Annual Income cannot be anticipated for a full twelve (12) months, NMHC may average known sources of income that vary to calculate an annual income or annualize current income and conduct an interim reexamination if income changes.

An estimate can be made by averaging for those families whose income fluctuates from month to month, this estimate will be used so that the housing assistance payment does not change from month to month.

5. MINIMUM INCOME

There is no minimum requirement. Families who report zero (0) income are required to complete a written certification each thirty (30) days.

6. REGULAR GIFTS AND CONTRIBUTIONS

Any contribution or gift received every month or periodically on a regular basis will be considered a "regular" contribution or gift. This includes rent and utility payments made on behalf of the family and other cash or non-cash contributions. It does not include casual contributions or sporadic gifts.

7. ALIMONY AND CHILD SUPPORT

Regular alimony and child support payments are combined as income.

If the amount of child support or alimony received is less than the amount awarded by the court, NMHC must use the amount awarded by the court unless the family can verify they are not receiving the full amount. Accepted verification includes verification from the agency

responsible for enforcement collection or has a filed an enforcement or collection action through an attorney.

8. LUMP-SUM RECEIPTS

Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses, are not included in income.

Lump-sum payments caused by delays in processing periodic payments (unemployment, AFDC, social Security benefits) are not counted as income. Deferred periodic payments will be treated the same as periodic payments which are deferred due to delays in processing.

9. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE

NMHC will count assets disposed of for less than fair market value during the two (2) years preceding certification or reexamination. NMHC will count the difference between the market value and the actual payment received.

Assets disposed of as a result of foreclosure, bankruptcy, divorce or separation are not considered assets disposed of for less than fair market value.

10. CHILD CARE EXPENSES

Child care expenses for children under age thirteen (13) may be deducted from annual income if they enable an adult to work or attend school full time.

Child care expenses cannot be allowed as a deduction if there is an adult household member capable of caring for the child who can provide the child care. Examples of those adult members who would be considered unable to care for the child include a person with disabilities or older person.

Allowability of deductions for child care expenses is based on the following situations:

<u>Child care to work</u>: The maximum child care expense allowed must be less than the amount earned by the person enabled to work.

<u>Child care for school</u>: The number of hours claimed for child care may not exceed the number of hours the family member is attending school.

<u>Rate of expense</u>: NMHC will survey the local care providers in the community as a guideline. The weekly expense for child care will not exceed comparable local practice.

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11. MEDICAL EXPENSES

Non-prescription medicines must be recommended by a medical physician in order to be considered a medical expense.

Acupressure, acupuncture and related herbal medicines, and chiropractic services will be considered allowable medical expenses if verified by a medical physician.

12. STIPEND OF RESIDENT/TENANT MEMBER OF NMHC BOARD OF DIRECTORS OR RESIDENT ADVISORY BOARD

Any monies received by a tenant for serving on NMHC's Board of Directors or on the NMHC Resident Advisory Board, shall be not be considered as part of a tenant's income.

VI. VERIFICATION PROCEDURES

METHODS OF VERIFICATION AND TIME ALLOWED

NMHC will verify information through four methods of verification acceptable to HUD in the following order:

- 0.1 Third-Party Written Verification;
- 0.2 Third-Party Oral with Written Follow-Up;
- 0.3 Review of Documents; or
- 0.4 Applicant Certification.

NMHC will allow two (2) weeks for return of third-party verifications and two (2) weeks to obtain other types of verifications before using the next method.

For applicants, verifications may not be more than sixty (60) days old at the time of Certificate/Voucher issuance. For participants, they are valid for ninety (90) days from date of receipt.

VII. CERTIFICATION/VOUCHER ISSUANCE AND BRIEFINGS

1. ISSUANCE OF CERTIFICATES/VOUCHERS

When funding is available, NMHC will issue Certificates and Vouchers to applicants whose eligibility has been determined. The issuance of Certificates and Vouchers must be within the dollar limitations set by the ACC budget.

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2. BRIEFING TYPES AND REQUIRED ATTENDANCE

Initial Applicant Briefing

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A full HUD-required briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted in group meetings.

The purpose of the briefing is to explain the documents in the Certificate/Voucher holder's packet to families so that they are fully informed about the program. This will enable them to utilize the program to their advantage, and it will prepare them to discuss it with potential owners and property managers.

NMHC will not issue a Certificate or Voucher to a family unless the head of household has attended a briefing and signed the Certificate or Voucher. Applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for the next briefing. Applicants who fail to attend two (2) scheduled briefings, without a valid reason may be denied assistance.

Briefing Packet

The documents and information provided in the briefing packets for both the Certificate and Voucher programs will comply with all HUD requirements. NMHC also includes other information and/or materials which are not required by HUD.

The family is provided with the following information:

- 1. The term of the certificate or voucher.
- 2. A description of the method used to calculate the assistance payment, information on Fair Market Rents (Certificate program), payments standards (Voucher program), and utility allowances.
- 3. The HUD lease addendum and NMHC sample lease.
- 4. The Request for Lease Approval form and a description of the procedure for requesting approval for a unit.
- 5. The Subsidy Standards and how the Certificate or Voucher size relates to the unit size selected.
- 6. The HUD brochure on lead-based paint hazards.
- 7. Information on federal, Commonwealth and local equal opportunity laws including the pamphlet "Fair Housing, It's Your Right"; the form for reporting suspected discrimination.
- 8. A list of landlords or other parties willing to lease to assisted families or help in the search.
- 9. If the family includes a person with disabilities, NMHC will provide a list of available accessible units.
- 10. The Family Obligations under the program.

- 11. The grounds for termination of assistance because of family action or failure to act.
- 12. When NMHC is required to offer an informal hearing, how to request the hearing, and the hearing procedures.

3. SECURITY DEPOSIT REQUIREMENTS

Security deposits charged by owners shall not exceed one (1) month's rent.

4. TERM OR CERTIFICATE/VOUCHER

During the briefing sessions, each household will be issued a Certificate or Voucher which represents a contractual agreement between NMHC and the Family specifying the rights and responsibilities of each party. It does not constitute admission to the program which occurs when the lease and contract become effective.

Expirations

The Certificate or Voucher is valid for a period of sixty (60) calendar days from the date of issuance. The family must submit a Request for Lease Approval and Lease within the sixty (60) day period.

If the Certificate or Voucher has expired, and has not been extended by NMHC or expires after an extension, the family will be denied assistance. The family will not be entitled to a review or hearing. If the family is currently assisted, they may remain as a participant in their unit if there is an assisted lease/contract in effect.

Extensions

Extensions are allowed at the discretion of NMHC up to a maximum of one hundred twenty (120) days, generally for the following reasons:

- Extenuating circumstances such as hospitalization or a family emergency for an extended period of time which has affected the family's ability to find a unit within the initial sixty (60) day period. Verification is required.
- NMHC is satisfied that the family has made a reasonable effort to locate a unit, including seeking the assistance of NMHC, throughout the initial sixty (60) day period.
- The family was prevented from finding a unit due to disability accessibility requirements or large bedroom size unit requirement.

Extensions are granted in increments of thirty (30) days. All extensions must be approved by the Section 8 Specialist. A maximum of two thirty (30) day extensions are allowed.

Assistance to Certificate/Voucher Holders

Families who require additional assistance during their search may call NMHC's Section 8 Office to request assistance. Certificate and Voucher holders will be notified at their briefing session that NMHC periodically updates the listing of available units and how the updated list may be obtained.

NMHC will assist families with negotiations with owners and provide other assistance related to the families' search for housing.

5. INTERCHANGEABILITY BETWEEN CERTIFICATE AND VOUCHER

If the Family asks to change the form of assistance, NMHC will determine if the requested form of assistance is available and will notify the Family within ten (10) days. If NMHC denies the family's request, an informal hearing will not be offered.

VIII. REQUEST FOR LEASE APPROVAL AND CONTRACT EXECUTION

1. REQUEST FOR LEASE APPROVAL

The Request For Lease Approval (RFLA) and a copy of the proposed Lease must be submitted by the family during the term of the Certificate of Voucher.

The Request for Lease Approval must be signed by both the owner and Certificate/Voucher holder. The lease may be executed up to sixty (60) days prior to contract execution but cannot be executed without approval of NMHC.

NMHC will not permit the family to submit more than one (1) RFLA at a time.

NMHC will review the documents to determine whether or not they are approvable. For the Certificate Program, NMHC will determine that the Gross Rent is within the applicable FMR (unless an exception rent is approved).

The Request For Lease Approval will be approved if:

- 1.1 The unit is an eligible type of housing;
- 1.2 The unit meets HUD's Housing Quality Standards (and any additional local criteria as identified in this Administrative Plan);
- 1.3 The contract rent is reasonable. Rent and utility allowance do not exceed current FMR unless an exception is approved;

1.4 The security deposit amount is approvable; and

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1.5 The proposed lease complies with HUD and NMHC requirements and Commonwealth/Local law.

Disapproval of RFLA

If NMHC determines that the Request For Lease Approval cannot be approved for any reason, the landlord and the family will be notified. NMHC will instruct the owner and family of the steps that are necessary to approve the Request.

The owner will be given ten (10) calendar days to submit an approvable RFLA from the date of disapproval.

When, for any reason, an RFLA is not approved, NMHC will furnish another RFLA form to the family along with the notice of disapproval so that the family can continue to search for eligible housing.

2. ELIGIBLE TYPES OF HOUSING

NMHC will approve any of the following types of housing in the Certificate and Voucher Programs:

All structure types can be utilized.

Manufactured homes where the tenant leases the mobile home and the pad.

Manufactured homes where the tenant owns the mobile home and leases the pad (Certificate Program).

Independent Group Residences.

A family can own a rental unit but cannot reside in it while being assisted, except in the Certificate program for manufactured homes when the tenant owns the mobile home and leases the pad. A family may lease in and have an interest in a cooperative housing development. Families may lease properties owned by relatives, as long as those owners and units meet the other programs requirements. Owners should be aware that Congress is considering action to disqualify housing owned by relatives as eligible housing.

NMHC may not permit a Certificate or Voucher holder to lease a unit which is receiving Project-Based Section 8 assistance or any duplicative rental subsidies.

NMHC will not approve:

A unit occupied by the owner or by any person with an interest in the unit, other than manufactured homes described above;

Nursing homes or other institutions that provide care;

School dormitories and institutional housing; or

Any other types of housing prohibited by HUD.

3. RENT LIMITATIONS

In the Certificate program, NMHC may approve exception rents that are up to ten (10%) percent above the FMR for no more than twenty (20%) percent of budgeted units.

Rent reasonableness will still be used as a measure of whether the rent is approvable.

NMHC manually tracks all units for which an Exception Rent is approved to assure that not more than twenty (20%) percent of the units under the Certificate program (based on the number of units shown on Line 4 of the last budget submitted to HUD) are approved.

For Certificate and Voucher programs, NMHC will make a determination as to the reasonableness of the proposed rent in relation to comparable units available for lease on the private unassisted market, and the rent charged by the owner for a comparable assisted or unassisted unit in the building or premises.

4. DISAPPROVAL OF PROPOSED RENT

In the Certificate Program, if the Gross Rent proposed exceeds the FMR, NMHC may suggest that the owner reduce the Contract Rent or include some or all utilities in Contract Rent.

If the owner accepts the offer of a reduced rent, NMHC will continue processing the Request for Lease Approval and Lease. If the revised rent involves a change in the provision of utilities, a new Request for Lease Approval must be submitted by the owner.

5. INFORMATION TO OWNERS

NMHC is required to provide prospective owners with the address of the applicant and the names and addresses of the current and previous landlord if known.

NMHC will inform owners that it is the responsibility of the landlord to determine the suitability of prospective tenants. Owners will be encouraged to screen applicants for rental payment

history, eviction history, damage to units, and other factors related to the family's suitability as a tenant.

6. OWNER DISAPPROVAL

For purposes of this section, "owner" includes a principal or other interested party.

NMHC will disapprove the owner for the following reasons:

HUD has informed NMHC that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24;

HUD has informed NMHC that the federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending;

HUD has informed NMHC that a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements;

The owner has violated obligations under a housing assistance payment contract under Section 8 of the 1937 Act;

The owner has committed fraud, bribery or any other corrupt act in connection with any federal housing program;

The owner has engaged in drug trafficking;

The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs or with applicable housing standards of units leased with project-based Section 8 assistance or leased under any other federal housing program;

The owner has a history or practice of renting units that fail to meet Commonwealth or local housing codes; or

The owner has not paid Commonwealth or local real estate taxes, fines or assessments.

Information for W-9 Forms

Owners must provide the current address of their personal residence. If families lease properties owned by relatives, the owner's current address will be compared to the subsidized unit's address.

Owners must provide an Employer Identification Number or Social Security Number. Owners must also submit proof of ownership of the property, such as a Deed. A Certificate of Compliance and a copy of the Management Agreement is required if the property is managed by a management agent.

The owner must provide a business or home telephone.

7. CHANGE IN OWNERSHIP

A change in ownership requires execution of a new contract.

NMHC will process a change of ownership only upon the written request of the new owner and only if accompanied by a copy of the escrow statement or other document showing the transfer of title and the Employee Identification Number or Social Security number of the new owner.

IX. HOUSING QUALITY STANDARDS AND INSPECTIONS

Housing Quality Standards (HQS) are the HUD minimum quality standards for housing units participating in tenant-based rental assistance programs. HQS is designed to ensure that the unit is decent, safe and sanitary. HQS standards are required both at initial occupancy and during the term of the lease. HQS standards apply to the building and premises, as well as the unit.

All units must adhere to the acceptability and performance criteria in program regulations and the HUD Inspection Booklet (24 CFR 982.401).

X. OWNER RENTS, RENT REASONABLENESS AND PAYMENT STANDARDS

1. MAKING PAYMENTS TO OWNERS

Once the HAP Contract is executed, NMHC begins processing payments to the landlord. A HAP Register will be used as a basis for monitoring the accuracy and timelines of payments. Changes are made automatically to the HAP Register for the following month.

Checks may not be picked up by the owner at NMHC.

Checks that are not received will not be replaced until a written request has been received from the payee and a stop payment has been put on the check.

2. RENT REASONABLENESS DETERMINATIONS

Rent reasonableness determinations are made when units are placed under HAP Contract for the first time, when owners request annual or special contract rent adjustments under the Certificate Program, and when an owner requests a rent increase in the Voucher Program.

For the Certificate and Voucher Program, NMHC will determine and document on a case-bycase basis that the approved rent:

- 1. Does not exceed rents currently charged by the same owner for an equivalent assisted or unassisted unit in the same building or complex, and
- 2. Is reasonable in relation to rents currently charged by other owners for comparable units in the unassisted market.

At least two comparable units will be used for each rent determination, one of which must be from the first category above if possible. All comparables must be based on the rent that the unit would command if leased in the current market.

The data for other unassisted units will be gathered from newspapers, realtors, professional associations, inquiries of owners, market surveys, and other available sources.

The following items will be used for rent reasonableness documentation:

- Square Footage
- Number of Bedrooms
- Facilities
- Location
- Number of Bathrooms
- Quality
- Amenities
- Date Built
- Unit Type
- Management and Maintenance Services
- Building Material

3. PAYMENT STANDARDS FOR THE VOUCHER PROGRAM

The Payment Standard is initially set by NMHC at the Fair Market Rent in effect at the time the Annual Contributions Contract for the first increment of Voucher funding is approved by HUD. The Payment Standard is used to determine the maximum subsidy which can be paid by NMHC on behalf of the family.

4. ADJUSTMENTS TO PAYMENT STANDARDS

Payment Standards may be adjusted to increase Housing Assistance Payments in order to keep a family's rent affordable. NMHC will not raise the Payment Standards so high that the number of families that can be assisted under available funding is substantially reduced. Nor will NMHC raise Standards if the need is solely to make "high end" units available to Voucher holders.

NMHC will review the Payment Standard annually to determine whether an adjustment should be made for some or all unit sizes. The Payment Standard will be reviewed according to HUD's requirements and if an increase is warranted, the payment standard will be adjusted within 80% of the current Fair Market Rent.

5. RENT ADJUSTMENTS

Certificate Program

Rent adjustments to owners under the Certificate Program are allowed and are effective on the anniversary date of the HAP Contract (unless the unit is in a failed condition at that time) one time per year or the first of the next month subsequent to the owner's request. Owners must request the rent adjustment in writing on the form provided by NMHC. If the request is not received within 60 days of the anniversary date, NMHC will not approve an annual adjustment for that year. The change in rent does not affect the automatic renewal of the lease and does not require a new lease or contract. NMHC will execute a contact lease amendment that is attached to the current lease. A notice of rent change will be sent to the owner and the family.

Rent increases must pass the rent reasonableness test and may not exceed the Adjustment Factor published annually by HUD (even if justified by rent reasonableness).

Disapproval of Requests for Adjustment

If NMHC rejects the owner's request for rent adjustment as exceeding rent reasonableness and the owner rejects NMHC's determination, the owner may offer the tenant a new lease (after receiving NMHC's approval with a sixty-day notice to the tenant). If the tenant refuses or the owner does not offer a new lease, the owner may terminate tenancy for a business or economic reason in accordance with the lease after giving 60 days notice to NMHC and the family as required by program regulations. NMHC will then issue a new Certificate to the family.

Voucher Program

Owners may not request rent adjustments in the Voucher Program that are effective prior to the expiration of the first year of the lease. Rent adjustments are effective the first of the month subsequent to the approval of increase.

XI. RECERTIFICATIONS

1. ANNUAL ACTIVITIES

There are three activities NMHC must conduct on an annual basis. These activities will be coordinated whenever possible:

- 1. Recertification of Income and Family Composition
- 2. HQS Inspection
- 3. Contract Rent Adjustment when requested by Owner (Certificate only)

NMHC produces a monthly listing of units under contract to ensure that timely reviews of contract rent, housing quality, and factors related to Total Tenant Payment can be made.

Annual activities for contracts that did not commence on the first of the month must be completed no later than the first of the month in which the lease was effective.

2. ANNUAL RECERTIFICATION

Families are required to be recertified at least annually for continued eligibility and rent determination.

Recertification Notice to the Family

NMHC will maintain a recertification tracking system and the household will be notified by mail of the date and time for their interview at least 90 days in advance of the anniversary date.

Requirements to Attend

All adult household members will be required to attend the recertification interview. If the head of the household is unable to attend the interview, the appointment will be rescheduled.

Failure to Respond to Notification to Recertify

If the family does not appear for the recertification interview, and has not rescheduled or made prior arrangements with NMHC, NMHC will reschedule a second appointment.

If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, the Section 8 Specialist will schedule a mandatory meeting. Failure to attend this mandatory meeting will result in termination.

(Exceptions to these policies may be made by the Section 8 Specialist if the family is able to document an emergency situation that prevented them from canceling or attending the appointment or for other valid mitigating circumstance.)

Tenant Rent Changes

Any tenant rent changes will be effective on the anniversary date or on the first day of the month following a thirty day notice if there is an increase in rent.

3. **REPORTING INTERIM CHANGES**

NMHC requires program participants to report all changes in household composition to NMHC between annual recertifications. This includes additions due to birth, adoption and court-awarded custody. The family must obtain NMHC approval prior to all other additions to the household.

Interim Recertification Policy

NMHC will conduct interim recertifications when families have an increase in income or change in family size.

Families are required to report all increases and decreases in income/assets of all the household members or increases/decreases in family size to NMHC within ten (10) days of the change. If a family fails to report a change in income/assets, then NMHC may conduct an interim recertification upon obtaining evidence of said change in income/assets/family size. If the recertification results in an increase in rent, then said increase shall be charged retroactively to the date of income/asset/family size change. Failure to report a change in income/asset/family size may provide grounds to terminate assistance.

HA Errors

If NMHC makes a calculation error at admission to the program or at an annual reexamination, an interim reexamination will be conducted to correct the error, but the family will not be charged retroactively.

Duty of Family to Disclose Receipt of Notification From HUD Concerning Family Income

If any member of a family receives notification from HUD as to their income, whether said notice pertains to the amount, source, or other aspect of their income, then the family must notify NMHC of their receipt of the HUD notification within ten (10) days of their receipt of said notification. Failure by the family to notify NMHC of said notification is grounds for termination of assistance.

Upon NMHC receiving notice of a family's receipt of a HUD notification, NMHC shall conduct an interim recertification of the family.

Other Interim Reporting Issues

An interim recertification does not affect the date of the annual recertification.

An interim recertification will be scheduled for families at zero income every thirty (30) days. Zero income families are required to complete a family expense form.

4. NOTIFICATION OF RESULTS OF RECERTIFICATIONS

The HUD form 50058 will be completed and transmitted as required by HUD.

The Notice of Tenant Rent Change is mailed to the owner and the tenant following a recertification even if rent and lease remain the same. Signatures are not required by NMHC. If the family disagrees with the rent adjustment, the family must notify their caseworker to resolve the disagreement.

5. CONTINUANCE OF ASSISTANCE FOR "MIXED FAMILIES"

Under the Non-Citizen Rule, "Mixed" families are families that include at least one citizen or eligible immigrant and any number of ineligible members.

"Mixed" families who were participants on June 19, 1995, shall continue receiving full assistance if they meet the following criteria:

- 1. The head of household or spouse is a U.S. citizen or has eligible immigrant status; and
- 2. All members of the family other than the head of household, the spouse, parents of the head of household, parents of the spouse, and children of the head of household or spouse are citizens or eligible immigrants. The family may change the head of household to qualify under this provision.

If they do not qualify for continued assistance, the member(s) that causes the family to be ineligible for continued assistance may move, the family may choose prorated assistance or NMHC may offer temporary deferral of termination.

XII. MOVES WITH CONTINUED ASSISTANCE/PORTABILITY

1. ALLOWABLE MOVES

A family may move to a new unit if:

0.1 The assisted lease for the old unit has terminated because NMHC has terminated the HAP contract for owner breach, or the lease was terminated by mutual agreement of the owner and the family.

- 0.2 The owner has given the family a notice to vacate, or has commenced an action to evict the tenant, or has obtained a court judgment or other process allowing the owner to evict the family (unless assistance to the family will be terminated).
- 0.3 The family has given proper notice of lease termination (if the family has a right to terminate the lease on notice to owner).

2. RESTRICTIONS ON MOVES

Families will not be permitted to move within NMHC's jurisdiction during the initial year of assisted occupancy.

Families will not be permitted to move outside NMHC's jurisdiction under portability procedures during the initial year of assisted occupancy.

Families will be permitted to move only once in a 12-month period (after the first year of tenancy).

NMHC will deny permission to move if there is insufficient funding for continued assistance. NMHC may deny permission to move if:

- 2.1 The family has violated a Family Obligation.
- 2.2 The family owes NMHC money and/or the owner money.
- 2.3 The family has moved or been issued a Certificate or Voucher twice within the last twelve (12) months.

The Section 8 Specialist may make exceptions to these restrictions if there is an emergency reason for the move over which the participant has no control or for mitigating circumstances beyond the control of the family.

3. PROCEDURE FOR MOVES

Notice Requirements

Briefing sessions emphasize the family's responsibility to give the owner and NMHC proper written notice of any intent to move.

The family must give the owner at least thirty (30) days (not to exceed sixty (60) days) written notice of intent to vacate as specified in the lease and must give a copy to NMHC simultaneously.

For units under a Certificate contract effective before October 2, 1995, if the family vacates the unit without proper notice in writing to the owner, the family will be responsible for any vacancy loss paid by NMHC.

Time of Contract Change

A move within the same building or project, or between buildings owned by the same owner, will be processed like any other move with no overlapping assistance.

In a move, assistance stops at the old unit at the end of the month in which the tenant ceased to occupy. Assistance will start on the new unit on the effective date of the lease and contract. Assistance payments may overlap for the month in which the family moves in certain circumstances as approved by the Section 8 Specialist.

4. PORTABILITY

Portability applies to families moving out of or into NMHC's jurisdiction within the United States and its territories. Under portability, families are eligible to receive assistance to lease a unit outside of the initial HA's jurisdiction. The unit may be located:

- 4.1 In the same state as the initial HA;
- 4.2 In the same metropolitan statistical area (MSA) as the initial HA, but in a different state;
- 4.3 In an MSA adjacent to the MSA of the initial HA, but in a different state; and
- 4.4 In the jurisdiction of an HA anywhere within the United States that administers a tenant based program.

5. OUTGOING PORTABILITY

When a family requests to move outside of NMHC's jurisdiction, the request must specify the area to which the family wants to move.

If the family is moving to a unit located in the same state as the initial HA, in the same MSA, but in a different state, or in an adjacent MSA in a different state, and there is not an HA in the area where the unit is located, the initial HA will be responsible for the administration of the family's assistance.

If there is more than one HA in the area in which the family has selected a unit, the HA will choose the receiving HA.

Restrictions on Portability

5.1 Families will not be permitted to exercise portability during the initial twelve (12) month period after admission to the program, if neither the head of household or

spouse had a domicile (legal residence) in the CNMI at the date of their initial application for assistance.

- 5.2 If the family is in violation of a family obligation.
- 5.3 If the family owes money to NMHC.

Outgoing Portability Procedures

NMHC will provide pre-portability counseling for those families who express an interest in portability. If the family is utilizing portability for their initial lease-up, NMHC will determine if the family is within the very low income limit of the receiving HA. If the receiving HA will absorb and the family will be changing its form of assistance, NMHC will determine if the family is within the low income limit of the receiving HA and advise the family accordingly.

NMHC will notify the Receiving HA that the family wishes to relocate into its jurisdiction and advise the family how to contact and request assistance from the receiving HA.

NMHC will provide the following documents and information to the Receiving HA:

- 1. A copy of the family's Certificate or Voucher, with issue and expiration dates, formally acknowledging the family's ability to move under portability.
- 2. The most recent HUD 50058 form and verifications.
- 3. Declarations and certifications of U.S. citizenship/eligible immigrant status.
- 4. The complete Portability Form (HUD-52665)

The Receiving HA must notify NMHC within six (6) months of the following:

- The Receiving HA decides to absorb the family into their own program.
- The family leases up or fails to submit a Request for Lease Approval by the required date.
- Assistance to a portable family is terminated by the Receiving HA.
- The family requests to move to an area outside the Receiving HA's jurisdiction.

<u>Claims</u>

NMHC will be responsible for collecting amounts owed by the family for claims paid and for monitoring the repayment. NMHC will notify the Receiving HA if the family is in arrears or if the

family has refused to sign a Repayment Agreement, and the Receiving HA will be asked to terminate assistance to the family as allowed by this Administrative Plan.

6. INCOMING PORTABILITY

Absorption or Administration

NMHC will accept a family with a valid Certificate/Voucher from another jurisdiction and absorb the Certificate/Voucher provided that funding is available. The family will be issued a "Portability" Certificate or Voucher by NMHC with the same start date. NMHC may grant extensions in accordance with this Administrative Plan.

NMHC will issue a "Portability Certificate" or "Portability Voucher" according to its own Subsidy Standards. If the Family has a change in family composition which would change the Certificate or Voucher size, NMHC will change to the proper size based on its own Subsidy Standards.

NMHC will decide whether to extend the "Portability Certificate/Voucher" and for what period of time. NMHC's policy on extensions will apply. However, if the Family decides not to lease-up in the CNMI, the Family must request an extension from the Initial HA.

Income and TTF of Incoming Portables

As Receiving HA, NMHC will conduct a recertification interview.

Requests for Lease Approval

A briefing will be mandatory for all portability families.

When the Family submits a Request for Lease Approval, it will be processed using NMHC's policies. If the Family does not submit a Request for Lease Approval or does not execute a lease, the Initial HA will be notified within six (6) months by NMHC.

NMHC will notify the Family of its responsibility to contact the Initial HA if the Family wishes to move outside the CNMI under continued portability.

Terminations

The Initial HA will be responsible for collecting amounts owed by the Family for claims paid and for monitoring repayment. If the Initial HA notifies NMHC that the Family is in arrears or the Family has refused to sign a Repayment Agreement, NMHC will terminate assistance to the Family.

Billing Procedures

NOTE: Billing Procedures are only applicable if funds are not sufficient to absorb incoming Certificates/Vouchers.

As Receiving HA, NMHC will bill the Initial HA monthly for Housing Assistance Payments. The billing cycle for other amounts, including Administrative Fees and Special Claims will be monthly unless requested otherwise by the Initial HA.

NMHC will bill 100% of the Housing Assistance Payment, 100% of Special Claims and 80% of the Administrative Fee (at the Initial HA's rate) and any other HUD-approved fees, for each "Portability" Certificate/Voucher leased as of the first day of the month.

NMHC will notify the Initial HA of changes in subsidy amounts and will expect the Initial HA to notify NMHC of changes in the Administrative Fee amount to be billed.

XIII. DENIAL OR TERMINATION OF ASSISTANCE

1. ____ GROUNDS FOR DENIAL/TERMINATION

If denial or termination is based upon behavior resulting from a disability, NMHC will delay the denial or termination in order to determine if there is an accommodation which would negate the behavior resulting from the disability.

Form of Denial/Termination

Denial of assistance for an applicant may include any or all of the following:

- 1.1 Denial for placement on NMHC waiting list.
- 1.2 Denying or withdrawing a certificate or voucher.
- 1.3 Refusing to enter into a HAP contract or approve a lease.
- 1.4 Refusing to process or provide assistance under portability procedures.

Termination of assistance for a participant may include any or all of the following:

- 1. Refusing to enter into a HAP contract or approve a lease.
- 2. Terminating housing assistance payments under an outstanding HAP contract.
- 3. Refusing to process or provide assistance under portability procedures.

Mandatory Denial and Termination

NMHC must deny assistance to applicants, and terminate assistance for participants:

- 3.1 If any member of the family refuses to sign and submit HUD or NMHC required consent forms for obtaining information.
- 3.2 If no member of the family is a U.S. citizen or eligible immigrant.
- 3.3 If the family is under contract and 180 days have elapsed since NMHC's last housing assistance payment was made.

2. FAMILY OBLIGATIONS FOR RENTAL ASSISTANCE PROGRAMS

- 1. The family must supply any information that NMHC or HUD determines is necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR part 812). "Information" includes any requested certification, release, or other documentation.
- 2. The family must supply any information requested by NMHC or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.
- 3. The family must disclose and verify Social Security Numbers (as provided by 24 CFR part 750) and must sign and submit consent forms for obtaining information in accordance with 24 CFR part 5, 760, 813, and other applicable HUD regulations
- 4. All information supplied by the family must be true and complete.
- 5. The family is responsible for an HQS breach caused by the family as described in 982.404(b).
- 6. The family must allow NMHC to inspect the unit at reasonable times and after reasonable notice.
- 7. The family may not commit any serious or repeated violation of the lease.
- 8. The family must notify the owner and, at the same time, notify NMHC before the family moves out of the unit or terminates the lease on notice to the owner.
- 9. The family must promptly give NMHC a copy of any owner eviction notice.

- 10. The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- 11. The composition of the assisted family residing in the unit must be approved by NMHC. The family must promptly inform NMHC of the birth, adoption or court awarded custody of a child. The family must request NMHC approval to add any other family member as an occupant of the unit.
- 12. The family must promptly notify NMHC if any family member no longer resides in the unit.
- 13. If NMHC has given approval, a foster child or a live-in aide may reside in the unit. If the family does not request approval or NMHC approval is denied, the family may not allow a foster child or live-in aide to reside with the assisted family.
- 14. Members of the household may engage in legal profit-making activities in the unit, but **only if such activities** are incidental to the primary use of the unit as a residence by members of the family and only if the owner agrees.
- 15. The family must not sublease or let the unit.
- 16. The family must not assign the lease or transfer the unit.
- 17. The family must supply any information or certification requested by NMHC to verify that the family is living in the unit, or relating to family absence from the unit, including any NMHC-requested information or certification on the purposes of family absences. The family must cooperate with NMHC for this purpose. The family must promptly notify NMHC of extended absence from the unit.
- 18. The family must not own or have any interest in the unit.
- 19. The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with Federal and/or Commonwealth Housing programs.
- 20. The members of the family may not engage in drug-related criminal activity or violent criminal activity in or about the unit and/or project.
- 21. An assisted family, or members of the family, may not receive Section 8 tenant-based assistance while receiving another housing subsidy, for the same unit or for a different unit, under any duplicative (as determined by HUD or in accordance with HUD requirements) federal, Commonwealth, or local housing assistance program.

Housing Authority Discretion

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, NMHC has discretion to consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, the length of time since the violation occurred and more recent record of compliance and the effects of denial or termination of assistance on other family members who were not involved in the action or failure to act.

NMHC may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit. NMHC may permit the other members of the family to continue in the program.

3. ENFORCING FAMILY OBLIGATIONS/EXPLANATION & TERMS

Explanations and Terms

<u>"Promptly</u>" when used with the Family Obligations always means "within ten (10) days." Denial or termination of assistance is always optional except where this Plan or HUD or NMHC regulations state otherwise.

<u>HQS Breach</u>: The Inspectors and Section 8 Specialist will determine if an HQS breach as identified by HUD regulations is the responsibility of the family. Families may be given extensions to cure HQS breaches by the Section 8 Specialist.

<u>Lease Violations:</u> The following criteria will be used to decide if a serious or repeated violation of the lease will cause a termination of assistance:

- If the owner terminates tenancy through court action for serious or repeated violation of the lease.
- If there are police reports, neighborhood complaints or other third party information, and NMHC has verified the information.

Notification of Eviction: If the family requests assistance to move and they did not notify NMHC of an eviction within ten (10) days of receiving the Notice of Lease Termination, the move will be denied.

Proposed Additions to the family will be denied to:

- Persons who have been evicted from public housing for drug-related or violent criminal activities.

- Persons who have previously violated a family obligation as stated in this plan, or HUD or NMHC regulations.
- Persons who have been a head of household or spouse whose assistance has been terminated under the Certificate or Voucher program.
- Persons who do not meet NMHC's definition of family,
- Persons who commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
- Persons who currently owe rent or other amounts to NMHC or to another HA in connection with Section 8 or public housing assistance under the 1937 Act.
- Persons who have engaged in or threatened abusive or violent behavior toward NMHC personnel.

<u>Family Member Move Out:</u> Families are required to notify NMHC if any family member leaves the assisted household. When the family notifies NMHC, they must furnish the following information:

- The date the family member moved out.
- The new address, if known, of the family member.
- A statement as to whether the family member is temporarily or permanently absent.

Limitation on Profit-making Activity in Unit:

If the business activity area results in the inability of the family to use any of the critical living areas, such as a bedroom utilized for a business and which is therefore not available for sleeping, it will be considered a violation.

If NMHC determines that the use of the unit as a business is not incidental to its use as a dwelling unit, then said business use of the unit must cease, or assistance may be terminated.

<u>Interest in Unit</u>: The owner may not reside in the assisted unit regardless of whether s/he is a member of the assisted family, unless the unit is a mobile home and the family owns the mobile home and rents the pad under the Certificate Program.

<u>Fraud:</u> In each case, NMHC will consider which family members were involved, the circumstances, and any hardship that might be caused to innocent members.

In the event of false citizenship claims, NMHC will give the family member the opportunity to elect not to contend their status in lieu of termination of the entire family.

Drug-related or Violent Criminal Activity:

Drug-related criminal activity means:

- The manufacture, sale or distribution, or the possession with intent to manufacture, sell or distribute, a controlled substance (as defined in the Federal Controlled Substance Act);
- The use or possession (other than with intent to manufacture, sell, or distribute) of a controlled substance.
- Drug-related criminal activity does not include the prior use or possession of a controlled substance if the family member had an addiction to the substance and has recovered or is recovering from the addiction and does not currently use or possess the substance.

Violent criminal activity includes:

- Any criminal activity, that has as one of its elements, the use, attempted use, or threatened use, of physical force against a person or property; and
- The activity is being engaged in by any Family member.

Notice of Denial or Termination of Assistance

In any case where NMHC decides to deny or terminate assistance to the family, NMHC must give the family written notice which states:

- The reason(s) for the proposed denial/termination,
- The effective date of the proposed denial/termination,
- The family's right, if they disagree, to request an Informal Hearing to be held before termination of assistance.
- The date by which a request for an informal hearing must be received.

NMHC will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the Termination of Assistance. The notice to the owner will not include any details regarding the reason for termination of assistance.

4. PROCEDURES FOR NON-CITIZENS

Termination due to Ineligible Immigrant Status

Assistance may not be terminated while verification of the participant family's eligible immigration status is pending.

Participant families in which all members are neither U.S. citizens nor eligible immigrants must have their assistance terminated. They must be given an opportunity for a hearing.

Temporary Deferral of Termination of Assistance

Ineligible families who were participants as of June 19, 1995, may request a temporary deferral of termination of assistance in order to allow time to locate affordable housing and thereby preserve the family.

Temporary deferral of termination of assistance is also available to mixed families who were participants on June 19, 1995, who elect not to accept prorated assistance, and are not eligible for Continued Assistance. NMHC must allow the mixed family time to find housing for ineligible members or for the entire family by deferring the termination.

Mixed families who choose temporary deferral of termination of assistance may change to prorated assistance at the end of any deferral period, if they have made a good-faith effort to locate housing.

Criteria for Approving Temporary Deferral of Termination of Assistance

NMHC will grant temporary deferral so long as the family makes reasonable efforts to find affordable housing.

Affordable housing is defined as housing that is standard and of appropriate size, based on HQS, and for which the rent plus utilities is no more than twenty-five (25%) percent greater than the NMHC calculated Total Tenant Payment.

To determine whether a family is eligible for temporary deferral of termination of assistance or for a renewal of temporary deferral of termination of assistance, NMHC will:

Require a search record to document the family's efforts to locate housing before granting or extending temporary deferral of termination of assistance.

Length of Deferral

The initial temporary deferral is granted for an interval not to exceed six (6) months. Additional deferrals can be made up to a maximum of three (3) years. A notice is sent to the family at the beginning of each deferral period reminding them of their ineligibility for full assistance and their responsibility to seek other housing.

The family will be notified in writing sixty (60) days before the end of the three (3) year maximum deferral period that there cannot be another deferral, and will be offered the option of prorated assistance if they are a mixed family and have made a good-faith effort to locate affordable housing.

False or Incomplete Information

When NMHC has clear, concrete, or substantial documentation (such as a permanent resident card or information from another agency) that contradicts the declaration of citizenship made by an applicant or participant, an investigation will be conducted and the individual will be given an opportunity to present relevant information.

If the individual is unable to verify their citizenship, NMHC may give him/her an opportunity to provide a new declaration as an eligible immigrant or to elect not to contend their status. NMHC will then verify eligible status to deny, terminate, or prorate as applicable.

NMHC will deny or terminate assistance based on the submission of false information or misrepresentations.

Procedure for Denial or Termination

If the family (or any member) claimed eligible immigrant status and the INS primary and secondary verifications failed to document the status, the family may make an appeal to the INS and request a hearing with NMHC either after the INS appeal or in lieu of the INS appeal.

After NMHC has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable) or, for participants who qualify, for Temporary Deferral of Termination of Assistance.

5. \$0 ASSISTANCE TENANTS

Old Contracts

For contracts which were effective prior to October 2, 1995, NMHC is liable for unpaid rent and damages if the family vacates during the allowable twelve (12) month period after the last HAP payment. NMHC must perform all of the functions normally required, such as reexaminations and inspections. The participant will be notified of the right to remain on the program at \$0 assistance for twelve (12) months. If the family is still in the unit after twelve (12) months, the Housing Assistance Payment contract will be terminated.

New Contracts

For contracts effective after October 2, 1995, NMHC has no liability for unpaid rent or damages, and the family may remain in the unit at \$0 assistance for up to one hundred eighty (180) days after the last HAP payment. If the family is still in the unit after one hundred eighty (180) days, the Housing Assistance Payment contract will be terminated. If within the one hundred eighty (180) day time frame an owner rent increase or a decrease in the Total Tenant Payment causes the family to be eligible for a housing assistance payment, NMHC will resume assistance payments for the family.

In order for a family to move to another unit during the one hundred eighty (180) days, the rent for the new unit would have to be high enough to necessitate a housing assistance payment.

6. OPTION NOT TO TERMINATE FOR MISREPRESENTATION

If the family has misrepresented any facts that caused NMHC to overpay assistance, NMHC may choose not to terminate and may offer to continue assistance provided that the family executes a Repayment Agreement and makes payments in accordance with the agreement or reimburses NMHC in full.

7. MISREPRESENTATION IN COLLUSION WITH OWNER

If the family willingly and knowingly commits fraud or is involved in any other illegal scheme with the owner, NMHC will deny or terminate assistance and report the activities to the HUD Regional Inspector General for investigation.

In making this determination, NMHC will carefully consider the possibility of overt or implied intimidation of the family by the owner and the family's understanding of the events.

XIV. OWNER RESTRICTIONS

It is the policy of NMHC to recruit owners to participate in the program, and to provide owners with prompt and professional service in order to maintain an adequate supply of available housing throughout the jurisdiction of NMHC. These regulations define when NMHC must disallow an owner from participating in the rental assistance programs and HUD provides NMHC with discretion to disapprove or otherwise restrict the participation of owners in certain categories.

1. OWNER RESTRICTIONS AND PENALTIES

If an owner commits fraud or abuse or is guilty of frequent or serious contract violations, NMHC will restrict the owner from future participation in the rental assistance programs for a period of time commensurate with the seriousness of the offense. NMHC may also terminate some or all contracts with the owner.

2. OVERPAYMENTS TO OWNERS

If the landlord has been overpaid as a result of fraud, misrepresentation or violation of the Housing Assistance Payment Contract, NMHC may terminate the contract and arrange for restitution to NMHC and/or family as appropriate.

NMHC will make every effort to recover any overpayments made as a result of landlord fraud or abuse. Payments otherwise due to the owner may be debited in order to repay NMHC or the tenant as applicable.

XV. CLAIMS, MOVE-OUT AND CLOSE-OUT INSPECTIONS

1. OWNER CLAIMS

Under HAP Contracts effective prior to October 2, 1995, owners may make "special claims" for damages, unpaid rent, and vacancy loss (vacancy loss cannot be claimed in the Voucher Program) after the tenant has vacated the unit.

Owner claims for payment for unpaid rent, damages or vacancy loss will be reviewed for accuracy and completeness and compared with records in the file. NMHC establishes standards by which to evaluate claims, but the burden of proof rests with the owner.

If vacancy loss is claimed, NMHC will ascertain whether or not the family gave proper notice of their intent to move. The file will also be reviewed to verify owner compliance at the time the contract was terminated.

NMHC will pay properly filed claims to the owner as a function of the contract, but the tenant is ultimately responsible to reimburse NMHC for claims paid to the owner.

2. UNPAID RENT

Unpaid rent only applies to the tenant's portion of rent while the tenant is in residence under the assisted lease. It does not include the tenant's obligation for rent beyond the termination date of the HAP contract.

3. VACANCY LOSS IN THE CERTIFICATE PROGRAM

Vacancy loss is applicable to the Certificate Program only. Vacancy loss is paid if the move was in violation of the notice requirements in the lease.

In order to claim vacancy loss, the unit must be available for lease and the landlord must:

- 1. Notify NMHC within ten (10) days upon learning of the vacancy, or prospective vacancy, and
- 2. Pursue all possible activities to fill the vacancy including the following:
 - Seeking eligible applicants by listing the unit with NMHC
 - Advertising the availability of the unit
 - Not rejecting potentially eligible applicants except for good cause

In the event that a unit becomes vacant because of death, NMHC will permit the owner to keep the HAP for the month in which the tenant died.

If the tenant moves after the date given on their notice of intent to vacate, the landlord may claim vacancy loss by providing acceptable documentation that there was a bona fide prospective tenant to whom the unit could have been rented.

4. DAMAGES

Certificate Program

Maximum NMHC liability is the lesser of:

- the total amount of damage claim, or
- two (2) month's contract rent minus the security deposit actually collected or that could have been collected under program regulations

Voucher Program

Maximum NMHC liability is the lesser of:

- the total amount of damage claim, or
- one (1) month's contract rent minus the security deposit actually collected or that could have been collected under program regulations

To ensure valid claim processing, NMHC will conduct a thorough Move-In Inspection noting "conditions" as well as HQS deficiencies, take pictures of questionable items, and send a report of all items to the owner and the tenant.

The owner must be present during the Move-Out Inspection and only damages claimed by the owner are reimbursable.

All claims for damages must be supported by actual bills for materials and labor and a copy of the canceled checks or other receipts documenting payment. Estimates are not acceptable.

5. MOVE-OUT AND CLOSE-OUT INSPECTIONS

There will be no Move-Out Inspections of units with contracts effective on or after October 2, 1995.

The owner must notify NMHC of the move-out and request an inspection within ten (10) days of learning of the move out in order to submit a claim for damages.

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If the contract was terminated due to owner breach, or the owner was in violation of the contract at the time that it was terminated, there will be no entitlement to claims and therefore no inspection.

NMHC will not conduct a Move-Out Inspection on tenant's request if the owner does not also request an inspection. It is the tenant's responsibility to document the condition of the unit at move-out.

A damage claim will not be approved unless the Move-Out Inspection is requested and completed prior to any work being done.

6. PROCESSING CLAIMS

NMHC reviews claims for unpaid rent, damages, or vacancy loss and makes a preliminary determination of amount payable. The family is informed that a claim is pending by notice sent to their last known address. The notification will state the preliminary determined amount, the type of claim, and describe the procedure for contesting the claim.

NMHC will offer the family ten (10) days to contest the claim. If the family disputes the claim, NMHC will schedule a claim review with the owner and tenant in order to resolve the differences.

If the family misses the claim review, another will not be scheduled unless there are extenuating circumstances.

At the claim review, if the family demonstrates that the claim, or part of it, is invalid, NMHC will adjust the amount.

After a determination is made, NMHC will notify the family in writing of the decision. If it is determined that the family owes money and the owner's claim is valid, the family will be notified to pay the approved claim to the owner within ten (10) days. If payment is not made to the owner by the tenant, NMHC will pay the claim and NMHC will pursue collection to be repaid either in a lump sum or through a payment agreement. The notice will warn the family that their assistance may be terminated and they may be denied future participation in the program if they do not reimburse NMHC as required.

XVI. COMPLAINTS AND APPEALS

1. COMPLAINTS TO NMHC

NMHC will respond promptly to complaints from families, owners, employees, and members of the public. All complaints will be documented. NMHC may require that complaints, including HQS violations, be put in writing.

All complaints will first be referred to the applicable Section 8 Assistant. If the complaint cannot be resolved by the assistant, then it will then be referred to the Section 8 Specialist. If the Section 8 Specialist is unable to resolve the matter to the family's satisfaction, then the family may pursue the matter in accordance to NMHC's Greviance Procedures.

2. PREFERENCE DENIALS

When NMHC denies a preference to an applicant, the family will be notified in writing of the specific reason for the denial and be offered the opportunity to meet with NMHC staff to discuss the reasons for denial and to dispute NMHC's decision.

3. **REVIEWS AND HEARINGS**

All greviances shall be heard in accordance with NMHC's Greviance Procedures. A copy of NMHC's Greivance Procedures shall be given to each family during their initial briefing.

4. INFORMAL REVIEWS FOR APPLICANTS

Reviews are provided for applicants who are denied assistance before the effective date of the HAP Contract. The exception is that when an applicant is denied assistance based on citizenship or eligible immigrant status, the applicant is entitled to an informal hearing.

When NMHC determines that an applicant is ineligible for the program, the family must be notified of their ineligibility in writing. The notice will contain the reason(s) they are ineligible, the procedure for requesting a review if the applicant does not agree with the decision and the time limit for requesting a review.

NMHC must provide applicants with the opportunity for an Informal Review of decisions denying:

- Listing on NMHC's waiting list
- Issuance of a Certificate or Voucher
- Participation in the program

Informal Reviews are not required for established policies and procedures and NMHC determinations such as:

- Discretionary administrative determinations by NMHC
- General policy issues or class grievances
- A determination of the family unit size under NMHC occupancy standards
- Refusal to extend or suspend a Certificate or Voucher
- Disapproval of lease
- Determination that a unit is not in compliance with HQS

Determination that a unit is not in accordance with HQS due to family size or composition

5. INFORMAL HEARINGS

NMHC will provide a copy of the hearing procedures in the family briefing packet.

When NMHC makes a decision regarding the eligibility and/or the amount of assistance, applicants and participants must be notified in writing. NMHC will give the family prompt notice of such determinations, which will include:

- The proposed action or decision of NMHC
- The date the proposed action or decision will take place
- The explanation of the basis for NMHC's decision
- The procedures for requesting a formal hearing if the family disputes the action or decision
- The time limit for requesting the formal hearing
- To whom the formal hearing request should be addressed

NMHC must provide participants with the opportunity for an Informal Hearing for decisions related to any of the following:

- Determination of the family's annual or adjusted income and the computation of the housing assistance payment
- Determination to terminate assistance for any reason
- Determination to pay an owner claim for damages, unpaid rent or vacancy loss
- Termination of the Certificate or Voucher holder in the event of the break-up of the family

NMHC must always provide the opportunity for an informal hearing before termination of assistance.

6. FORMAL HEARINGS

If a family is entitled to a Formal Hearing, as set forth by HUD or NMHC regulation, or by NMHC's Grevance Procedures, then the same shall be conducted in accordance with said procedures. NMHC shall make every effort to resolve all complaints in the review or informal hearing stage.

XVII. MINIMUM RENT

1. MINIMUM RENT

NMHC will charge a family no less than a minimum monthly rent of twenty-five (\$25.00) dollars per month, except for in the case of financial hardship.

2. FINANCIAL HARDSHIP EXEMPTION FROM MINIMUM RENT

NMHC shall grant an exemption from payment of minimum rent if the family is unable to pay the minimum rent because of financial hardship. Financial hardship includes these situations:

(A) When the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program, including a family that includes a member who is a non citizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for title IV of the Personal Responsibility and Work Opportunity Act of 1996;

(B) When the family would be evicted because it is unable to pay the minimum rent;

(C) When the income of the family has decreased because of changed circumstances, including loss of employment;

(E) When a death has occurred in the family; and

(F) Other circumstances determined by NMHC or HUD.

3. REQUESTING A HARDSHIP

(A) If a family requests a financial hardship exemption, NMHC shall suspend the minimum rent requirement beginning the month following the family's request for a hardship exemption until NMHC determines whether there is a qualifying financial hardship, and whether such hardship is temporary or long term.

(B) NMHC shall promptly determine whether a qualifying hardship exists and whether it is temporary or long term.

(C) If NMHC determines that a qualifying financial hardship is temporary, NMHC shall not impose the minimum rent during the ninety (90) day period beginning the month following the date of the family's request for a hardship exemption. At the end of the ninety (90) day suspension period, NMHC must reinstate the minimum rent from the beginning of the suspension. The family must be offered a reasonable repayment agreement, on terms and conditions established by NMHC, for the amount of back rent owed by the family.

(D) If NMHC determines there is no qualifying financial hardship exemption, NMHC shall reinstate the minimum rent, including back rent owed from the beginning of the suspension. The family must pay the back rent on terms and conditions established by NMHC.

(E) If NMHC determines a qualifying financial hardship is long term, NMHC shall exempt the family from the minimum rent requirements so long as such hardship continues. Such exemption shall apply from the beginning of the month following the family's request for a hardship exemption until the end of the qualifying financial hardship.

(F) The financial hardship exemption only applies to payment of the minimum rent, and not to the other elements used to calculate the total tenant payment (as determined pursuant HUD regulation).

4. EFFECTIVE DATE

This section shall have a rolling effective date, such that it shall become effective as to a particular family, on the first month falling after their next certification after the adoption date of this regulation. For new families admitted after these regulations are adopted, this section shall immediately apply.

D:\Client Files\NMHC\NMHC Admin Plan.wpd



COMMONWEALTH PORTS AUTHORITY

Main Office: SAIPAN INTERNATIONAL AIRPORT P.O. BOX 1055 • SAIPAN • MP 96950 Phone: (1-670) 664-3500/1 FAX: (1-670) 234-5962 E-Mail Address: cpa.admin@saipan.com

NOTICE OF ADOPTION OF AMENDMENTS TO PART V (PILOTAGE) OF THE HARBOR RULES AND REGLATIONS

The Commonwealth Ports Authority (CPA), pursuant to its rule-making authority under 2 CMC §2122(j), and in accordance wit the provisions of 1 CMC §§ 9102, 9104(a), and 9105, hereby gives notice that the proposed amendments to Part V (Pilotage) of the Harbor Rules and Regulations, which would govern the licensing of harbor pilots in the Commonwealth, as published in the Commonwealth Register, Vol. 22, No. 5, on May 19, 2000, at pages 17236 through and including 17252, were adopted by the CPA Board of Directors at its regular meeting on August 1, 2000.

There were several changes made to the regulations as adopted. First, vessels homeported in the Commonwealth, including tugs and tows, are exempted from the pilotage requirements. Second, a harbor pilot license is made effective for two years. The original license fee, and for each two-year renewal, is \$600.00 for Saipan, and \$300.00 for Rota and Tinian each. Third, a harbor pilot need not be a CNMI resident. Fourth, the term "homeported vessel" is defined. Fifth, a homeported vessel master or operator, if new to the CNMI, is required to undergo the same number of familiarization trips as a harbor pilot applicant, before operating a vessel. Because of the various changes made to the proposed regulations, the regulations, as adopted, are hereby republished in their entirety. Copies of the new regulations may be obtained in person from the Office of the Executive Director, Commonwealth Ports Authority, Saipan International Airport, or by mail at P. O. Box 501055, Saipan, MP 96950-1055.

The adopted regulations become effective ten (10) days after publication of this notice in the Commonwealth Register.

Issued by: CARLOS H. SALAS, Executive Director Received by: IOSE . DELEON GUERRERO Assistant, Administration Special Filed by: SOLEDAD B. SASAMOTO **Registrar of Corporations**

DATE

DATE

Certification by the Office of the Attorney General

Pursuant to 1 CMC § 2153, as amended by Public Law 10-50, the rules and regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CNMI Attorney General's Office.

HERBERT D. SOLL Attorney General

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By: EI A. SATTLER **Assistant Attorney General**

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Main Office: SAIPAN INTERNATIONAL AIRPORT P.O. BOX 1055 • SAIPAN • MP 96950 Phone: (1-670) 664-3500/1 FAX: (1-670) 234-5962 E-Mail Address: cpa.admin@saipan.com

NUTISIA POT MA'ADOPTAN I AMENDASION SIHA

GI PATTE CINCO (V) (POT LICENSIA PARA PILOTUN BATKU) GI PAPA I REGULASION YAN AREKLAMENTON PANTALAN

I Commonwealth Ports Authority (CPA), sigun gi aturidat para u famatinas areklamento gi papa 2 CMC § 2122(j) yan sigun gi prubinsion siha ginen 1 CMC § 9102, 9104(a) yan 9105, ginen este ha nutitisia I pupbliku na I ma'proponi na amendasion siha gi Patte Cinco (V) (pot licensia para pilotun batku) gi papa I Regulasion yan Areklamenton I Pantalan, ni para u gobetna I para man-lisensia pilotun batku gi Commonwealth, ni ma'pupblika gi Commonwealth Register, Vol. 22, No. 5, gi dia Mayu 19, 2000, gi pajina 17236 asta 17252, ma'adopta ni I CPA Board of Directors gi regulat na meeting gi Agostu 1, 2000.

Guaha siha unus cuantos na tinilaika man-ma'fatinas ni este I esta Finenina, batku homeported gi Commonwealth. ma'adopta na regulasion. kontodu tugs van tows, man'ma exempted ni este na pilotage requirements. Segundo, I lisensian pilotun batku para u effectibu dos anos. I finenina na apas lisensia, yan kada dos anos an ma'rinueba, para Saipan sias-cientos pesos (\$600.00), yan trescientos pesos (\$300.00) kada uno para Rota yan Tinian. Munatres, I pilotun batku ti nisisario na u residentin CNMI. Muna-quatro, I term "homeported vessel" ma explika. Muna-cinco, I kapitan osino I operator I homeported na batku, yangin nuebo-ha namatu gi CNMI, ni sisario na u undergo familiarization trips pareho-ha yan I aplikantin I pilotun batku, antes di u operate I batku. Put I tinilaika siha ni man'mafatinas ginen I man'maproponi na regulasion, I regulasion ni ma'adopta mapupblika talo enteramente. Kopian I nuebo na regulasion sina machule personatmente gi Ofisinan I Executive Director, Commonwealth Ports Authority, Saipan International Airport, pat sino by mail at P. O. Box 501055, Saipan, MP 96950-1055.

I ma'adopta na regulasion para u effectibu dies (10) dias despues di ma'pupblika este na nutisia gi Commonwealth Register.

Issued by₂ Carlos H. Salas, Direktot Eksekatibu

Rinisibi as:

Jose I./Deleon Guerrero Special Assistant for Administration

Date

SAIPAN INTERNATIONAL AIRPORT/SEAPORT COMMONSAL AIRPORT/SEAPORT VOLUME 22 FU BUBSER, Rota, MP 96951 SEPTEMBER, 700 2000, 700 2000, 700 2000, 700 2000

Ma file as: Soledad B. Sasamoto

Date

Rehistradoran Kotporasion

Certification by the Office of the Attorney General

Sigun gi 1 CMC § 2153 ni inamenda ni Lai Pupbliku 10-50, I areklamento yan regulasion ni manachetton guine esta ma'atan yan ma'apreba suficienti gi legat na manera yan I mafotma'-na nui CNMI Attorney General's Office.

HERBERT D. SOLL Attorney General

By:

Elliot A. Sattler Assistant Attorney General Fecha

COMMONWEALTH PORTS AUTHORITY



Main Office: SAIPAN INTERNATIONAL AIRPORT P.O. BOX 1055 • SAIPAN • MP 96950 Phone: (1-670) 664-3500/1 FAX: (1-670) 234-5962 E-Mail Address: cpa.admin@saipan.com

ARONGORONGOL TOULAP REEL ADOPTION-NUL LLIIWEL KKAAL NGALI PART V (PILOTAGE) MELLOL ALLEGHUL PANTALAN

Commonwealth Ports Authority (CPA) bwelle reel bwangil iye e lo faal 2 CMC §§2122(j) bwal reel igha eghol ngali aileewal 1 CMC § 9102, 9102(b) bwal 9105, eghal isisiwow arong ngaliir toulap bwelle reel pomwol lliiwel kkaal ngali part V (Pilotage) mellol Alleghul Pantala, ie ebwe lemeli lisensiyal pilots mellol pantalanil Commonwealth, iwe a published mellol Commonwealth Register, Vol. 22, No. 05, 11ol aramal Ghuuw 19, 2000 reel peigh 17236 11ofosch ebwal toolong 17252 ikkiwe a adopted lo mereel CPA Board of Directors sangi otol yaar yeelagh llol maram we Eluwel 01, 2000.

Eyoor akkaaw lliiwel mellol allegh kkaal ikka a adopted lo. Mesammwal, waa kka e ffeetagh mellol Commonwealth, e toolong tugs, bwal tows, e exempted meereel yaal reqirements pilotage. Aruwowal, yaar license pilot nge ebwe fisch llol ruwow raagh schagh. Sangi fasil abwossul license, bwal igha ebwe ghal lliiwel llol ghal ruwow raagh, nge ebwe \$600.00 mewool Seipel me \$300.00 mewool Luuta bwal Ailuuwal, ese bwal fil bwe harbor pilot nge ebwe CNMI citizen. Tchileol. Afawuwal, faal mille homported nge atakkal aweewe. Alimwowal, homported vessel master ngare operator, ngare e ffeelong llol CNMI effil ebwe metaf reel alongal asseragh kkaal reel igha I eschey harbor pilot applicant, mmwal ebwe asseragh waa. Bweigha reel akkaaw lliiwel ngali pomwol alleghul kkaal, allegh kkaal, ikka adopted lo alongal iyeey a published sefaal alongal. Kopiyal allegh kka effe nge emmwel ebwe bweibwogh mereel Bwulasiyol Executive Director, Commonwealth Ports Authority, Saipan International Airports ngare eew, mail ngali P. O. Box 501055, Seipel, MP 96950-1055.

Allegh kkaal ikka a adopted lo ebwe lleghefisch lo llol seigh (10) ral mwiril yaal publication arong yeel mellol Commonwealth Register.

Mereel: Carlos H. Salas, Executive Director **Bwughiyal**: Jose I. Deleon Guerrero nt for Administration Special ssista

<u>8/16/2000</u> Ral 9/18/**

Isaliyal:

Soledad B. Sasamoto Registrar of Corporations

Appelughulugh Mereel Bwulasiyol Attorney General

Sangi 1 CMC § 2153 iwe a lliiwel sangi aileewal PL10-50, allegh kkaal nge atakkal amweri me alughulugh mereel Bwulasiyol CNMI Attorney General's Office.

HERBERT D. SOLL Attorney General

Mereel: _

Elliot A. Sattler Assistant Attorney General Ral

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CERTIFICATE OF ADOPTION OF AMENDMENTS TO PART V (PILOTAGE) OF THE HARBOR RULES AND REGULATIOS

I, Carlos H. Salas, Executive Director of the Commonwealth Ports Authority (CPA), the agency promulgating the amendments to Part V (Pilotage) of the Harbor Rules and Regulations, which were published in the Commonwealth Register at Vol. 22, No. 5, on May 19, 2000, at pages 17236 through and including 17252, by my signature below, do hereby certify that the final version of such amendments were adopted by the CPA Board at its regular meeting on August 1, 2000.

The regulations, as adopted, contain certain changes to the proposed version that was earlier published. First, all vessels homeported in the CNMI are being exempted from the pilotage requirements. Second, a pilot's license will be valid for two years at a time; and the two-year license fee is \$600 for Saipan and \$300 for Rota and Tinian each. Other changes were also made, such as the definition of homeported vessels, and the deletion of the CNMI residency requirement for pilots. Because of these changes, I hereby request that the final regulations, as adopted by CPA, be re-published in their entirety, together with this Certificate of Adoption.

I declare under penalty of perjury that the preceding statements of adoption of the final rules and regulations are true and correct and that this declaration was executed on the $_/6^{\cancel{4}}$ day of $_August$, 2000, at Saipan, Northern Mariana Islands.

H. SALAS

Executive Director

1.1.1.4.5

SEPTEMBER 20, 2000

PAGE 17476

AMENDMENT TO PART V (PILOTAGE) OF THE COMMONWEALTH PORTS AUTHORITY THE HARBOR RULES AND REGULATIONS

Part V of the Commonwealth Ports Authority ("Authority") Harbor Rules and Regulations relating to Pilotage is hereby amended to, among other things, provide for the licensing of harbor pilots by the Authority and to waive the pilotage requirement for vessels homeported in Guam and the Northern Mariana Islands.

- 1. Part 5.11 of the Harbor Rules and Regulations is hereby amended to read:
 - 5.11 (a) Vessels, including tugs and tows, which are homeported in the Northern Mariana Islands and which operate inter-island within the Marianas chain of islands, are not required to have a pilot, provided that the vessel master or operator (1) meets all the requirements of federal and Commonwealth laws to operate such vessel and (2) is familiar with the physical characteristics of the harbors of the Commonwealth.
 - **(b)** For purposes of these regulations, a "homeported vessel" is a vessel that operates on a regular schedule between the harbors of the Northern Marianas and Guam, is licensed to do business in the Commonwealth, pays taxes in the Commonwealth. and maintains office in the an Commonwealth.
 - (c) A vessel master or operator of a homeported vessel who is new to the Commonwealth and is not familiar with its harbors shall undergo the same number of familiarization trips required of a harbor pilot applicant and shall first be certified by the Port Manager before he is permitted to operate a vessel in the harbors of the Commonwealth.
- 2. New Parts 5.12 to 5.25 to provide for the licensing of harbor pilots by the Authority are hereby adopted and shall read as follows:
 - 5.12 (a) All vessels which, under these regulations, require a pilot to guide the vessel within the harbors of the Commonwealth shall be guided, as they enter or leave a harbor, by a pilot duly licensed by the Commonwealth Ports Authority to provide such service.
 - (b) The pilot shall guide the movement of a vessel from the outer limit of the harbor entrance or from anchorage to the dock, or

from the dock to the outer limit of the harbor entrance or the vessel anchorage site.

- (c) No person may pilot a vessel within a harbor of the Commonwealth unless that person possesses a valid pilot's license issued by the Authority.
- (d) A license shall specify the pilotage district or harbor where the pilot may serve.
- (e) A pilot's license shall be valid for two (2) years from the date of issue, and shall be subject to renewal every two (2) years. A two-year license fee shall be paid by the licensee upon issuance and for each renewal, as follows: for Saipan, \$600; for Rota, \$300; for Tinian, \$300. The fee may be paid in full or in two installments; one-half upon issuance or renewal, and one-half within one-year later.
- 5.13.1 In order to serve as a harbor pilot, a person must file with the Authority a harbor pilot application on a form furnished by the Authority, and shall meet the following qualifications:
 - (a) An applicant must be at least 21 years of age;
 - (b) Must be either a U.S. citizen, or a lawful permanent resident of the United States, or a citizen of one of the Freely Associated States of Micronesia;
 - (c) Must be physically capable of performing the duties of a pilot, as determined by a duly-licensed physician;
 - (d) Must be mentally fit and competent to serve as a harbor pilot;
 - (e) Must have normal vision, or vision that is correctable to 20/20, for both eyes, as certified by a licensed optometrist;
 - (f) Must successfully pass all U.S. Coast Guard examination and requirements required to pilot a vessel;
 - (g) Must successfully complete the required number of harbor familiarization trips required by the Authority, and provide proof thereof;
 - (h) Must satisfy at least one of the following:

Harbor Pilot Regulations Page 3 of 9

- (1) Holds a valid U.S.C.G. First Class Pilot License for vessels of unlimited Tonnage and endorsed for one, or more of the pilotage districts of the CNMI and must document, to the satisfaction of the Board, at least 30 safe vessel movements, within the preceding year (25% of movements must be at night), in any port of the United States, or former Trust Territory of the Pacific Islands, as a harbor pilot working under the authority of his U.S.C.G. First Class Pilot License; or
- (2) Possesses a U.S. Coast Guard Master or First Mate's License of unlimited tonnage on steam or motor vessels upon oceans (excluding fishing vessels); or
- (3) Possesses a U.S. Coast Guard Master or First Mate's license of not less than 1600 gross ton on steam or motor vessels upon oceans (excluding fishing vessels); or
- (4) Possesses a valid U.S. Coast Guard License with a rating as Master on Steam or Motor Vessel of 500 gross tons including freight or towing vessels (excluding fishing vessels); and, two-thirds of the required number of vessels movement for that pilotage district have been on vessels of 500 gross tons or more; or
- (5) Previously held a Trust Territory deck officer's license for vessels over 500 gross tons and can demonstrate to the satisfaction of the Authority one-year sea time as Master or Mate of steam or motor vessel of 500 gross tons or more; or
- (6) Previously held a CNMI Harbor Pilot's license for vessels of at least 500 gross tons for the ports in the CNMI and can document to the satisfaction of the Board, at least an average of 10 vessel movements per year in the immediately preceding 5 years in the applicable pilotage district.
- (i) Must speak, write and comprehend the English language to the satisfaction of the Authority; and
- (j) Pays a non-refundable application fee of \$100.00, at the time the application is submitted.

- 5.14 (a) Each harbor pilot applicant shall take and pass, or provide satisfactory evidence that the applicant has passed, the U.S. Coast Guard written examination and is licensed, holds or possesses any of the licenses set forth in Part 5.13 (h) (2) to (h) (4) inclusive, is familiar with the International Rules of the Road, and possesses a working knowledge of the physical characteristics of the harbor for which the applicant seeks a pilot license for.
 - (b) Applicants applying for a harbor pilot license under Part 5.13
 (h) (5) and (6) shall obtain a U.S.C.G. First Class Pilot license for the harbor in which applicant seeks a license.
 - (c) Applicants who are applying for a harbor pilot license pursuant to Part 5.13 (h) (1) are exempted from the U.S.C.G. examination requirement.
- 5.15 Any person who is applying for a harbor pilot license and who needs to take the U.S. Coast Guard written examination shall make arrangements directly with the U.S Coast Guard regarding the date, time, and location to take the examination and shall request the U.S. Coast Guard to send the results of the exam directly to the Authority. The Authority shall accept the passing criteria established by the U.S. Coast Guard and the results of the examination.
- 5.16 (a) All applicants applying for a harbor pilot license must undergo the following minimum number of familiarization trip for a harbor pilot district:
 - (1) For the Port of Saipan, at least 12 trips;
 - (2) For West Harbor Rota, at least 6 trips; and
 - (3) For San Jose Harbor, Tinian, at least 6 trips.
 - (b) One familiarization trip shall consist of one vessel movement in the harbor included in the pilotage district without any accident, collision or similar incident.
 - (c) At least half of the required familiarization trips shall be conducted between one hour after sunset and one hour before sunrise.

- (d) All of the required familiarization trips shall be on self propelled vessels of at least 300 gross tons or larger, with operational radar.
- (e) All familiarization trips by an applicant must be made under the supervision of a licensed harbor pilot for the pilotage district.
- (f) All familiarization trips shall be documented and signed by the licensed harbor pilot supervising the trips on a form provided by the Authority.
- (g) After completion of the required number of familiarization trips, the Authority shall evaluate the applicant's performance in ship handling skills on the basis of the evaluation forms and other relevant information and decide whether the applicant should be licensed or whether additional familiarization trips should be required. The Authority may require that a pilot applicant perform additional familiarization trips if the supervisory pilot's evaluations indicate that the applicant needs additional experience in ship handling.
- 5.17 (a) The following applicants and pilots must have a physical examination by a CNMI licensed physician as follows:
 - (1) For all applicants within 30-days of application; and
 - (2) For all licensed pilots on an annual basis, or as determined by the Port Manager.
 - **(b)** The physical examination required of all applicants or pilots shall demonstrate that a person is in all respect physically fit to perform the duties of a pilot. The examination shall assure that the person's abilities as a pilot are not impaired by evesight, hearing or other bodily function and shall include examination of the pilot's eyes (including tests for color blindness, depth perception, night vision, disease, field of vision and reflexes); ears; heart; blood pressure; blood components; pulse; speech capabilities; history of diseases (including diabetes, cancer, arthritis, arrhythmia, asthma, bronchitis, emphysema, ulcers, alcoholism and other illnesses) and any other medical information which the physician feels is relevant. The Authority reserves the right to impose unannounced mandatory testing for drug or alcohol use.

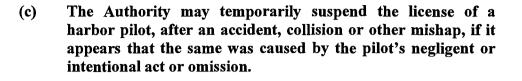
- (c) The applicant or the pilot shall file with the Authority on a form supplied by the Authority the examining physician's Statement of Fitness:
 - (1) Within 60 days of the applicant filing the completed application form with the Authority;
 - (2) Within 60 days of the date of a pilot's annual physical examination or physical examination for renewal.
- (d) If the physician's Statement of Fitness indicates that the applicant is not physically or mentally fit to perform the duties of a pilot, the Authority shall not issue or renew a license.
- (e) In the case of the annual physical exam, should the physician's Statement of Fitness indicate that the pilot is not capable of performing the duties of a pilot, the Authority shall temporarily suspend such license until a further physical examination has been completed and indicates that the pilot is capable of performing his duties as a pilot.
- (f) In the case of the renewal of a pilot's license, should the pilot be temporarily physically incapacitated at the time his license is due to be renewed, the Authority shall not renew such license until a further physical examination indicates that the pilot is capable of performing his duties as pilot.
- 5.18 (a) Each pilot shall renew his or her pilot's license every two years upon the anniversary date of issue. All licensed pilots seeking to renew their license shall complete the application form provided by the Authority and file it at least sixty (60) days prior to the expiration date of the license. Upon approval of the license renewal application the renewal fee shall be paid to the Authority as provided for in Part 5.12 (e) above.
 - (b) In addition to filing the application to renew one's pilot license, the applicant must also meet the following renewal requirements:
 - (1) Have completed the following vessel movements on self propelled vessels of 300 gross tons or more in the applicable pilotage district during the time he was licensed (half of the trips shall be conducted after

Harbor Pilot Regulations Page 7 of 9

> sunset). At least half of the trips shall have been completed during the immediately preceding 12 months from the date the application for renewal is filed with the Authority:

Port of Saipan	-	6
San Jose Harbor, Tinian	-	3
West Harbor, Rota	-	3

- (2) Pass a general physical examination within sixty (60) days prior to the renewal date. The physician shall submit to the Authority a Statement of Fitness stating whether and under what conditions the pilot is capable of providing pilotage services.
- (c) If an applicant for renewal fails to meet the required number of trips in the pilotage district, the Authority shall require the applicant to complete additional familiarization trips under the supervision of a licensed pilot prior to renewing the pilot's license. During such time if the time for the pilot's license renewal has already passed, such pilot shall not pilot a vessel without the supervision of a licensed pilot.
- (d) A pilot who fails to renew his or her license and fails to complete the requirements contained in Part 5.19 (b) above before the license expiration date, shall be assessed the renewal fee and a \$50.00 monthly delinquent fee for each month the license is not renewed.
- (e) A pilot whose license has expired for over 60-days must file a new application and receive approval from the Authority for reinstatement.
- 5.19 (a) In every case where a vessel piloted by a CPA-licensed harbor pilot collides with another vessel, collides with a dock, meets any casualty, or is injured or damaged in any way, the pilot shall file a written report with the Authority immediately upon returning to shore but in no event not later than 24hours after the incident. The report shall apprise the Authority of all relevant facts relating to the incident.
 - (b) Any pilot who shall fail, neglect, or refuse to make a written report to the Authority within the time period the report is required to be filed, shall have his license suspended or revoked as the Authority may determine.



- 5.20 Pursuant to applicable CNMI law, including but not limited **(a)** to the CNMI Administrative Procedure Act, the Authority shall have the power, on its own motion, at its discretion, or upon the written request of any interested party, to investigate the performance of a pilot subject to these regulations and issue a reprimand, or suspend, withhold, or revoke the license of any pilot, for misconduct, incompetence, inattention to duty, intoxication, drug use, or failure to perform his or her duties under these regulations, or for violation of any of the rules or regulations or order of the Authority for the government of pilots, including training requirements, or for misrepresentation in the application process. The Authority may require that a pilot satisfactorily complete a specific course of training or treatment prior to reinstatement of one's pilot's license.
 - (b) The Authority shall have the right to suspend or revoke the license of any pilot convicted of a felony offense in any U.S. jurisdiction, a crime related to the harbor pilot profession, or for a crime involving the use of illegal drugs or alcohol, or the use of alcohol or drugs while on duty, including missing an assignment due to alcohol or illegal drug use.
 - (c) The Authority shall have the right to suspend or revoke the license of any pilot who files false information or a fraudulent report with the Authority.
 - (d) Any pilot whose license has been revoked must reapply with the Authority to obtain a new license.
- All harbor pilots must complete a Coast Guard-approved, 5.21 (a) unlimited radar observation training course prior to issuance of a pilot license. If a pilot, licensed under the authority of these regulations, conducts the movement of a vessel required to have a pilot under regulations promulgated by the Commonwealth Ports Authority but does not hold a valid active unlimited radar observation training course certificate completion, that pilot's license is subject to of

revocation/suspension proceedings under the authority of these regulations.

- (b) The Authority shall not renew a pilot's license if the applicant's unlimited radar observation certificate has expired.
- 5.22 All persons who pilot a vessel in violation of these regulations shall be subject to criminal or civil penalties as provided by law, as well as suspension or revocation of one's pilot license.
- 5.23 The Authority reserves the right to require satisfactory completion of a drug-screening test by an applicant prior to issuance or renewal of a license. The Authority also reserves the right to conduct random drug testing/screening for all persons holding a harbor pilot license issued by the Authority.
- 5.24 All harbor pilot licenses duly issued by the CNMI Board of Professional Licensing prior to the enactment of Public Law 11-99 shall continue being effective until they expire; provided that all harbor pilots duly licensed by the CNMI Board of Professional Licensing shall hereafter be under the jurisdiction of the Commonwealth Ports Authority and shall be governed by these regulations and applicable Federal and Commonwealth law, including any lawful order issued by the Port Manager or Harbor Master, or the Executive Director of the Commonwealth Ports Authority.
- 5.25 Whenever in these Harbor Rules and Regulations reference is made to the "Harbor Superintendent" that term shall be construed to mean the Port Manager of the seaport in question.
- 3. The foregoing amendments to Part V (Pilotage) of the Harbor Rules and Regulations shall become effective upon adoption by the Authority of the final version thereof and publication in the Commonwealth Register, in accordance with 1 CMC § 9105 of the CNMI Administrative Procedure Act.

7/31/00



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS Medical Profession Licensing Board

PUBLIC NOTICE

NOTICE OF ADOPTION OF THE RULES AND REGULATIONS FOR LICENSING HEALTH CARE PROFESSIONALS CHAPTER IX: PHYSICAL THERAPY

NOTICE IS HEREBY GIVEN that the Medical Profession Licensing Board of the Commonwealth of the Northern Mariana Islands, in accordance with the authority vested in it pursuant to 3 CMC §2214(a), adopts Chapter IX, Physical Therapy, of the Rules and Regulations for Licensing Health Care Professionals. These amended Regulations were originally published in the March 20, 2000 Commonwealth Register, Volume 22, Number 3, at pages 17056-17071.

At the time the Regulations were published, the public was asked to provide comments and make suggestions for the modifiation or improvement of the Regulations. Comments were received and considered by the Medical Profession Licensing Board, however no changes are being made to the proposed Regulations. Copies of Chapter IX, Physical Therapy, of the Rules and Regulations for Licensing Health Care Professionals may be obtained from the office of the Secretary of the Medical Profession Licensing Board, located on the ground floor of the Commonwealth Health Center.

HELEN TARO'ATALIG, M.Ø. CHAIRPERSON Medical Profession Licensing Board

Filed By:

Soledad B. Sasamoto Registrar of Corporations

Date: 9/8/00

Date: 9/18

Date: 9/18/00

Jose //DeLeon Guerrero Governor's Special Assistant For Administration

Certification by Office of the Attorney General

Pursuant to 1 CMC §2153 as amended by PL 10-50, Chapter 9 of the Rules and Regulations for Licensing Health Care Professionals was reviewed and approved as to form and legal <u>sufficiency</u> by the CNMI Office of the Attorney General.

Herbert Attorney General

Date: 91500

CERTIFICATION OF ADOPTION OF THE RULES AND **REGULATIONS FOR LICENSING HEALTH CARE PROFESSIONALS** CHAPTER IX: PHYSICAL THERAPY

I, Helen Taro-Atalig, M.O., the Chairperson of the Medical Profession Licensing Board which is promulgating Chapter IX, Physical Therapy, of the Rules and Regulations for Licensing Health Care Professionals, published in the March 20, 2000 Commonwealth Register, Volume 22, Number 3, at pages 17056-17071, by signature below, hereby certify that the Regulations as previously published, are a true, complete, and correct copy of the Regulations now adopted by the Medical Profession Licensing Board. I further request and direct that this Certification be published in the Commonwealth Register and then be attached by both the Office of the Registrar of Corporations and by the Office of the Governor to the Rules and Regulations for Licensing Health Care Professionals.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on the 13 day of September, 2000 at * Saipan, Commonwealth of the Northern Mariana Islands.

For Januar Starley By: Janice Stanley

HELEN TARO-ATALIG, M.O. **CHAIRPERSON** Medical Profession Licensing Board

NOTICE OF ADOPTION OF PROPOSED REGULATIONS OR AMENDMENTS WITH NUMEROUS CHANGES OR AMENDMENTS

I, Lucy DLG. Nielsen, Secretary of the Department of Finance which is promulgating the Regulations regarding the Control of Public Funds published in the Commonwealth Register Vol. 22 Number 03 on March 20, 2000, at pages 17072 to 17084, by signature below hereby certify that as published such regulations are a true, complete and correct copy of the Regulations regarding the Control of Public Funds previously proposed by the Department of Finance which, after the expiration of appropriate time for public comment, have been adopted with extensive modification or amendment. By signature below, I hereby certify that the Amended Regulations regarding the Control of Public Funds attached hereto and published herewith, are a true, correct and complete copy of the Amended Regulations regarding the Control of Public Funds attached hereto and published herewith, are a true, correct and complete copy of the Amended Regulations regarding the Control of Public Funds adopted by the Department of Finance. I further request and direct that this Notice and Certification of Adoption be published in the Commonwealth Register.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 12^{12} day of September 2000 at Saipan, Commonwealth of the Northern Mariana Islands.

LUCY DLG(INIELSEN Secretary of Finance

Pursuant to 1 CMC §2153 as amended by P.L. 10-50 the Regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the CLML Attorney Feneral's Office.

Dated this 15th day of September 2000. HERB SOLL Attorney General FILED-BY: JOSE I. DELEON GUERRERO SOLEDAD B. SASAMOTO **Registrar of Corporations** Special Assistant for Administration

Special Assistant for Administration Date: G/Ig/S

PROPOSED REGULATIONS FOR THE CONTROL OF PUBLIC FUNDS

Section 1100.1 <u>Authority.</u>

The authority for the promulgation and issuance of the Control of Public Funds is by virtue of Article X, Section 8 of the Commonwealth of the Northern Mariana Islands Constitution and 1 CMC §§ 2553 and 2557.

Section 1100.2 Purpose.

The purpose of these Regulations is to establish policies and procedures and to provide uniform standards for the control of public funds as mandated under Article X, Section 8 of the Northern Mariana Island Constitution.

Section 1100.3 Definitions.

- (a) <u>Commonwealth or CNMI</u>. The Commonwealth of the Northern Mariana Islands, which lie within the area north of the 14 degrees north latitude, south of 21 degrees north latitude, west of 150 degrees east longitude and east of 144 degrees longitude, as extended by the Marine Sovereignty Act (commencing at Section 1101 of Title 2 of the Commonwealth Code).
- (b) <u>Department</u>. The Department of Finance of the Government of the Commonwealth of the Northern Mariana Islands.
- (c) <u>Director</u>. The Director of Finance and Accounting of the Department of Finance or his designee.
- (d) <u>Division</u>. The Division of Finance and Accounting of the Department of Finance.
- (e) <u>Expenditure</u>. For purposes of these regulations, expenditure means the cost of goods delivered or services rendered, whether paid or unpaid, including current operation costs authorized by an appropriations act.
- (f) <u>Finance</u>. The Department of Finance of the CNMI.
- (g) <u>Finance and Accounting</u>. The Division of Finance and Accounting of the CNMI.
- (h) <u>Government Employee</u>. An individual who is an employee of the Commonwealth government, whether part-time or full-time.
- (i) <u>Government Official.</u> Any person holding any elected office of the Commonwealth; a mayor or municipal council member; a department head, activity head and their deputies; Judges of the Commonwealth Judiciary; any CNMI government official with expenditure authority who is authorized by law to administer, obligate, or expend funds; or any appointed, non-employee member of the Commonwealth

government, including members of the boards, commissions, and task forces.

- (j) <u>Government Vehicle.</u> All motor vehicles: (1) as defined in the CNMI Vehicle Code,
 9 CMC section 1102(w); (2) owned or leased by the CNMI government; and (3) vehicles purchased or leased from federal funds where the CNMI government is the grantee.
- (k) <u>Individual</u>. Unless otherwise provided, a natural person, an estate (including a bankruptcy estate established under the United States Code), a trust, or a fiduciary acting for a natural person, trust, or estate.
- (1) <u>Official Representation</u>. Expenditures authorized by an appropriation act to be incurred by the authorized government official for entertainment of off-island government guests, or for other expenses to promote goodwill or the public interest and which are permitted pursuant to these regulations.
- (m) <u>Official Representation and Justification Documentation Form (DOF-OR Form)</u>. The Department of Finance form for submission of Official Representation expenditures with justification to support the expenditure.
- (n) <u>Official Justification for Reimbursement Documentation Form (DOF-OJ Form)</u>. The Department of Finance form for submission of official justification for reimbursement of expenditures.
- (o) Person. Any individual, firm, corporation, company, joint venture, association, partnership, receiver, club, syndicate, cooperative association, or any other entity.
- (p) <u>Personal Expenditure</u>. An expenditure of public funds for an activity in which a government official directly benefits.
- (q) <u>Political Expenditure</u>. An expenditure of public funds for an activity, not related to the official duties of the government official, in which he or she directly or indirectly benefits through the enhancement of his or her public image.
- (r) Procedure for Official Representation Delegation of Authority to Incur Expenses. The procedure in which elected officials designated under the definition in subsection (l) "Official Representation" may authorize other CNMI Government employees to incur expenses for official representation on their behalf as described in Section 1100.10 of these regulations.
- (s) <u>Public Purpose</u>. The term, "Public Purpose," means "public purpose" as defined under Public Law 11-84 and as amended by Public Law 12-2, and shall include, but not be limited to, any purpose which meets one or more of the following criteria:
 - 1) The benefits are equally available to the entire community;
 - 2) The service or commodity supplied is one needed by a large number of the community pursuant to customs and traditions as applicable;

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- 3) The enterprise bears directly and immediately upon the public welfare;
- 4) The needs to be met by its nature requires a united effort under unified control and cannot be served well by separate individuals;
- 5) Where benefits accrue to individuals, the community has an interest in having those individuals benefitted (for example, sports teams, school and school-related activities, recognition of individuals and organizations, funerals, or other recognized cultural or community events);
- 6) The activity or service is in line with the historical development of the Commonwealth and with the general purpose of its constitution and laws;
- 7) A special emergency exists, such as may be brought about by war or public calamity, (for example, typhoons);
- 8) The expenditure is reasonably related to the operation of government or its objective in the promotion of the public health, safety, morals, general welfare, security, prosperity, and the contentment of a community of people or residents within the locality, (for example, fiestas and other community celebrations, expenses related to or hosting off-island visitors attending governmental events, meetings, conferences, or state funeral expenses);
- 9) Notwithstanding any other provision of this act or other law to the contrary, expenditures authorized and regulated by legislative rules are expressly declared to be for a public purpose, unless proved by clear and convincing evidence that the expenditure in fact was for a personal or political activity.

To determine whether a specific appropriation or expenditure is for a public purpose the foremost test shall be whether it confers a direct benefit to a culturally or traditionally significant part of the community as opposed to an incidental or secondary benefit and whether the community has an interest in having the individual or individuals benefitted. Tradition and custom as well as the particular facts and circumstances of each case shall be taken into consideration when determining whether a public purpose is being served by a specific appropriation or expenditure. Each and every governmental, agency, departmental, commission, board, authority and public corporation official or employee with expenditure authority shall be governed by this test.

- (t) <u>Secretary</u>. The Secretary of the Department of Finance of the Government of the Commonwealth of the Northern Mariana Islands.
- (u) <u>Travel Authorization Form</u>. The Travel Authorization ("TA") Form is a form which includes the itinerary, purpose of the travel, authorized funding, and supporting documentation.
- (v) <u>Travel Voucher Form</u>. The Travel Voucher ("TV") Form is a CNMI government travel voucher claim form submitted to Finance and Accounting after the completion of the travel. The filing of the form is mandatory when funds for travel allowances, per diem, honorarium, or other expenses have been approved and requested.

Section 1100.4 <u>Department of Finance Policy for Official Representation Expenses Incurred</u> for Entertainment and Promotions.

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- (A) <u>Documentation required</u>. Official Representation and Official Justification for entertainment and promotional expenses and other governmental business must be completely documented and must, at a minimum include (1) the name and position of persons entertained, (2) nature and purpose of the expense and its direct relationship to CNMI Government business, (3) description of matters discussed and (4) original receipts and supporting documents.
- (B) Examples of personal or political expenditures that are not allowable. Because all official representation expenditures and other governmental expenses must be for a public purpose, the following are examples of expenditures which are not consistent with the CNMI Constitution mandate that an expenditure of public funds be only for a public purpose; therefore they will be routinely rejected if submitted for payment or reimbursement.
 - 1) Personal items such as food or clothing, personal membership fees, and contributions in cash or donation of any tangible or intangible item or product to any person [other than those which meet the definition of "Public Purpose" in Section 1100.3 (r)].
 - (2) Travel expenditures of individuals for medical treatment, including but not limited to airline tickets, hotel accommodations, meals, gifts, and related expenses.
 - (3) Travel expenditures for individuals, who are not government employees, including but not limited to airline tickets, hotel accommodations, gifts, meals and related expenses.
 - (4) Expenses for private individual's utility: water, electricity, gas, telephone, and similar payments.
 - (5) Expenses for sponsorship of CNMI sports teams.
 - (6) Expenses for fund raising activities for private individuals.
 - (7) Any expenditures associated with political campaign functions.

Section 1100.5 Official Representation and Justification Documentation Forms.

In order to help document official representation and other governmental expenditures, the CNMI Government has devised forms called the "Official Representation & Justification Documentation Form (DOF-OR Form)" and the "Official Justification for Reimbursement Documentation Form (DOF-OJ Form)" which set forth the minimum applicable requirements to adequately support payment or reimbursement of expenses for official representation and other expenses requiring justification. Those persons either charging or submitting claims for payment or reimbursement of official representation must complete the applicable form and

attach it to their copies of vendor receipts. In this way all pertinent details concerning the basis for the expense will be documented and available for review by any examining authority. DOF may require additional information if necessary.

Section 1100.6 <u>Unallowable or Undocumented Official Representation and Other</u> <u>Expenditures.</u>

Unallowable or undocumented official representation and other expenditures will not be reimbursed or paid by the CNMI Government. In cases where payments for such unallowable or undocumented expenses have been made from CNMI Government funds such as travel or other advances, imprest funds or other government funds, the responsible party who incurred the expense will pay or reimburse the CNMI Government for these expenditures. If not paid in a timely manner, such costs may be recovered, after notice, through payroll deductions, or other means authorized by law.

Section 1100.7 <u>Department of Finance Official Representation and Official Justification</u> <u>Procedures for Processing.</u>

The staff of Finance and Accounting will review vendor billings and receipts covering items of official representation, and other items requiring a justification prior to payment or reimbursement by the CNMI Government for items such as entertainment, celebrations, business luncheons, meals, gifts, fiestas, funerals, school-related expenses, sports teams, or promotional activities. All documentation is subject to verification for completeness. The person incurring such expenses is responsible for the preparation and submission of an "Official Representation and Justification Documentation Form" (DOF-OR Form) or an "Official Justification for Reimbursement Documentation Form" (DOF-OJ Form) which details all the pertinent information to justify either payment or reimbursement of the expense. In addition, the expenditure authority must declare and certify that the expenditure was incurred for a public purpose. As such expenses are incurred, the person incurring such expenses must prepare one of these forms and attach it to all supporting documentation and submit it to the Division of Finance and Accounting. This form is matched to the vendor statement and related invoices and reviewed for completeness as to all pertinent details. If it is determined to be incomplete, the Director of Finance and Accounting is advised and the person submitting the form will be sent a memorandum detailing the deficiencies and potential personal liability if the incomplete form is not revised or not corrected. If the form is complete, it is attached to the vendor statement/invoice as additional supporting documentation of the expense. The procedure is the same in the case of a person submitting an expense report and claiming reimbursement of an expense for official representation or official justification.

Section 1100.8 <u>Procedure for Disallowance and Collection of Official Representation and</u> <u>Other Expenditures</u>.

When an official representation or other expenditure is unauthorized or has not been properly supported, the request for payment or reimbursement will be disallowed. In the case where the expenditure has been paid, the government official or employee who incurred the expense will be notified and required to promptly repay or reimburse the CNMI Government. If payment or reimbursement has not been made within thirty (30) days of notification of liability, notice of payroll deduction will be sent indicating that deduction will occur from any paycheck and/or other

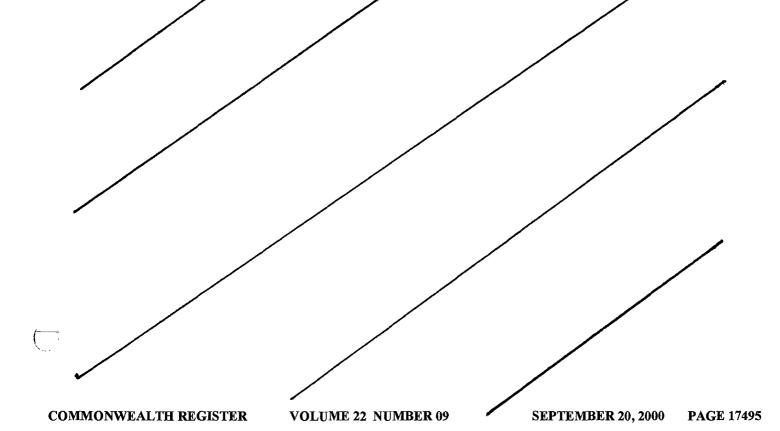
reimbursement due to the government official or employee until the obligation is repaid in full. If still unpaid, then payroll deduction will begin on the next pay period.

Section 1100.9 Forms for Official Representation and Justification Documentation.

The Official Representation and Justification Documentation Form (DOF-OR Form) and Official Justification for Reimbursement Documentation Form (DOF-OJ Form) are as proscribed and from time to time may be modified or amended by the Secretary of Finance. No substitute form will be accepted.

Section 1100.10 Procedure for Official Representation Delegation.

Elected officials or other public officials designated under the definition in section 1100.3(l), "Official Representation" may authorize other CNMI Government employees to incur expenses for official representation on behalf of the elected official or other public officials with expenditure authority under official representation by providing written approval to the employees prior to the employee undertaking such representation with such written approval specifically stating the reason that the employee will incur the official representation expense, the names and positions of persons to be entertained and date(s) of entertainment. The delegations to incur official representation expenses should be authorized on a case by case basis and the written approvals included as part of the supporting documentation for the expense. The delegation will be reviewed and accepted or rejected by the Office of the Secretary of Finance on the same terms and conditions as if the form had been submitted directly by the elected official or other public official.



Section 1100.11 <u>Department of Finance Policies and Procedures for use of Personal Vehicle</u> for Government Business.

Reimbursement Procedure for Use of Personal Vehicle for Government Business. The Department of Finance will reimburse expenses for private vehicles used for government business under the standard mileage rate method. The Department generally does not reimburse vehicle expenses for government-owned vehicles or heavy equipment vehicles. This method does not include reimbursement for fuel, oil, fluids, repairs, labor, maintenance, car payments, rental or lease payments, depreciation, insurance, tires, license or similar fees, parking fees, moving or parking violations, car wash expenses, loan interest, taxes or other interest paid on the vehicle.

Section 1100.12 Standard Mileage Rate Method.

The standard mileage rate is the rate established by the Office of the Governor for each mile of government use. The government official or employee shall submit to Finance and Accounting a request approved by the appropriate department or activity head for mileage reimbursement for private vehicles used for government business along with a copy of a properly filled out vehicle log record with an original signature for the period covering the reimbursement.

Section 1100.13 Vehicle Log Records.

Except for vehicles assigned to and used by official government guests; emergency vehicles used by the Department of Public Safety, Civil Defense, Commonwealth Utilities Corporation, Department of Public Health or Commonwealth Ports Authority; and other authorized law enforcement officers, all vehicles shall be equipped with continuous vehicle trip log forms at all times when in use by government officials or employees.

- (a) The government official or employee who requests reimbursement for government use of a private vehicle shall prepare and keep a vehicle log book which shall be maintained by the operator of the private vehicle used for government use and which shall provide basic trip information such as date, time, places of travel, purpose of travel, beginning and ending speedometer readings, total miles driven, the signature of the vehicle operator and vehicle identification data.
- (b) These log forms shall be placed in every government vehicle and private vehicle used for government use and maintained by the vehicle operator.
- (c) Monthly, the government official or employee shall account for the accuracy of the log forms, sign the log sheets, and transmit a copy of the log when requesting reimbursement of expenses of private vehicles used for government use.
- (d) Failure to maintain these records will be grounds for refusal for reimbursement of expenses for private vehicles used for government use.

Section 1100.14 Delegation.

The Department of Finance may delegate, in writing, its authority to enforce the regulatory and control mechanisms regarding public fund expenditures to autonomous agencies whose enabling legislation authorizes them to handle their own financial and accounting matters, provided that the proposed regulations must closely mirror the Department of Finance's regulations for the control of public funds. The proposed regulations for the control of public funds must be previously reviewed and approved by the Secretary of Finance.

Section 1100.15 Severability.

If any provision of these regulations shall be held invalid by a court of competent jurisdiction, the validity of the remainder of the regulations shall not be affected thereby.

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Commonwealth of the Northern Mariana Islands Office of the Governor Department of Lands and Natural Resources Lower Base P.O. Box 10007 Saipan, Mariana Islands 96950 September 1, 2000

Cable Address: Bod. VAI Saipan Telephone: 322-9830/9834/9854 Jax: 322-2633

<u>NOTICE OF EMERGENCY AND ADOPTION OF AMENDMENTS</u> <u>TO THE NON-COMMERCIAL FISH AND WILDLIFE REGULATIONS</u>

EMERGENCY: The Commonwealth of the Northern Mariana Islands Secretary of Lands and Natural Resources finds that under 1 CMC Section 9104(b), the public safety and Marine requires the adoption of emergency regulations amendments to Section 120 "Marine Reserves" of the Non-Commercial Fish and Wildlife regulations. The Secretary further finds that the public interest, welfare and safety mandate adoption of regulation amendments upon fewer than thirty (30) days notice, and that these amendments shall become effective immediately after filing with the Registrar of Corporations, subject to the approval of the Attorney General and the concurrence of the Governor and shall remain effective for 120 days.

REASON FOR EMERGENCY: An Agreement For Special Recreational Concession at Managaha Island between the Commonwealth and Tasi Tours and Transportation. Inc. has been in effect since July 2, 1989, giving Tasi the exclusive right to operate all commercial concessions including the right to sell or rent water sports equipment, the conduct of tours on the island and sale of goods etc. Since on or about August 3, 2000, P.L. 12-12, The Managaha Marine Conservation Act of 2000 (MMCA) has been in effect with management policies prohibiting swimming, diving, snorkeling, motorized or non-motorized watercraft, other human activity and other uses, except as provided by regulation. The Department of Lands and Natural Resources is preparing amended regulations for the MMCA to resolve the apparent conflict between the above Act, Tasi Concessionaire Agreement, existing regulations and Article XIV, Section 2 of the Commonwealth Constitution, which created the right to use Managaha for cultural and recreational purposes. At least 120 days will be required by the Department of Lands and Natural Resources to promulgate the appropriate permanent regulations under the Administrative Procedures Act. As in the past, Conservation Officers (COs) must be able to freely enforce marine reserve area regulations, without prohibitions above. Removal of sand and substrate must be stopped. COs and others must be able to continue rescuing persons from the dangerous currents off Managaha Island. The emergency regulations attached hereto must be immediately adopted for the public safety and public interest and welfare reasons above.

CONTENTS: The attached emergency regulations provide for the continuing cultural and recreational use of Managaha Island and marine resources within the conservation area.

INTENT TO ADOPT: These regulations are intended to be permanent, pursuant to 1 CMC Section 9104(a)(1), and therefor publication in the Commonwealth Registrar, notice and opportunity for comment and a hearing is mandated. Comments on the contents of these regulations may be sent to the Secretary of Lands and Natural Resources and the Director of Fish and Wildlife, P.O. Box 10007, Saipan MP 96950 or by fax (670) 322-2633. Page 1 of 2 pages

Eugene A. Santos, Acting Secretary of	Date: September <u>61</u> 2000
Lands and Natural Resources CONCURRED BY: Pedro P Tenorio, Governor	_ Date: September <u>0</u> /2000
monto	Date: September 21, 2000 (filing date)

AUTHORITY: Promulgation of these regulations is authorized by P.L. 6-13.

Soledad B. Sasamoto, Registrar of Corporations

Pursuant to 1 CMC Section 2153, as amended by P.L. 10-50, the emergency regulations attached hereto have been reviewed and approved by the Office of the Attorney General.

ubert D. Joll

Date: September [, 2000

Herbert **D**. Soll, Attorney General

Page 2 of 2 pages/Managaha Emer. Regs.

Amendment to the Department of Lands And Natural Resources' Non-Commercial Regulations

Amend Part 5: Section 120 as follows:

In subsection 120.2

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- by inserting "s" after "Reserve"
- by striking "has" and inserting "have"
- by inserting "and Saipan" after "in Rota"
- by inserting a new section (b) "Managaha Conservation Area: consisting of the island of Managaha and its surrounding waters marked by boundaries at 15°15'5.30"N, 145°42'45.07"E and 15°14'19.34"N, 145°43'38.46"E and 15°13'40.63"N, 145°42'39.56"E and 15°14'4.99"N, 145°41'27.49"E"

In subsection 120.3 by replacing "subsection 120.4" and replacing with "subsections 120.5 and 120.6"

By renumbering subsection 120.4 as 120.5

By inserting a new section 120.4 as follows:

120.4 Recreational and Cultural Use of Marine Reserves

Recreational and cultural use of the marine reserves is allowed and encouraged to the extent that such activities are compatible with the marine conservation and management objectives of the conservation area. The Director may place limitations on recreational and cultural use of a marine reserve, or any portion thereof, if such use would have a detrimental impact on species, habitats, or environmental conditions within the marine reserve. Limitations shall be effective on the date on which notice of such limitation is published in the local newspaper and/or posted at the boundary of the marine reserve (in the case of Managaha Marine Reserve notice may be posted at the point of disembarkation on the island). Any limitation on any activity for which a permit has been issued by the Division, or which is conducted under contract or other agreement with any CNMI agency, shall be implemented in accordance with the requirements of the permit or contract.

By inserting a new subsection 120.6 as follows:

120.6 <u>Special Exemption on Conducting Commercial Activities in the Managaha</u> <u>Conservation Area:</u>

The prohibition on conducting commercial activities in subsection 120.3(5) above shall not apply to those activities that are categorized as concessions under the Agreement for Special Recreational Concession between Marianas Public Lands Corporation and Tasi Tours Transportation, Inc. (as amended on 29 April 1992). Concessions operated under the Agreement must be conducted in accordance with these regulations. The Division may place limits on the type, location, and geographic extent of any concession activities in accordance with P.L. 12-12 if the Division determines that limitation of these activities is necessary to meet the management objectives for the Managaha Conservation Area.

ATTACHMENT TO 8/25/2000 NOTICE OF EMERGENCY AND ADOPTION OF AMENDMENTS TO NON-COMMERCIAL FISH AND WILDLIFE REGS.

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