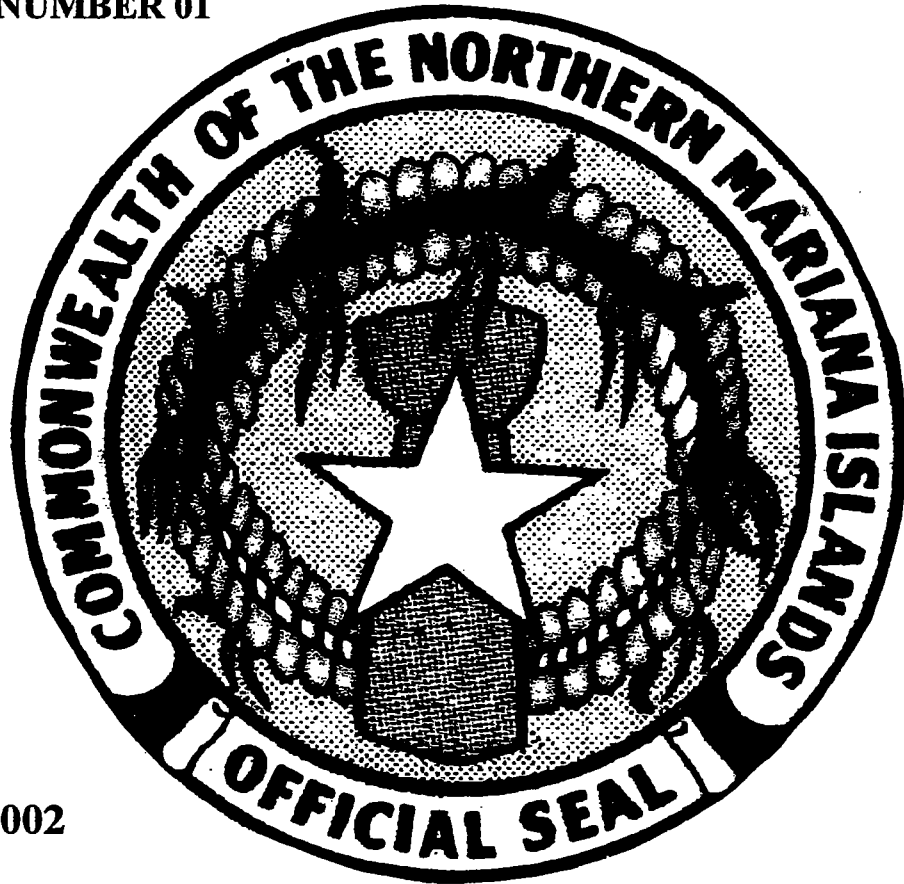


COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
SAIPAN, MARIANA ISLANDS 96950

VOLUME 24 NUMBER 01



January 29, 2002

COMMONWEALTH

REGISTER

COMMONWEALTH REGISTER

Volume 24 Number 01

JANUARY 29, 2002

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PUBLIC NOTICE

**NOTICE OF PROPOSED AMENDED
RULES AND REGULATIONS
OF THE
DEVELOPMENT CORPORATION DIVISION
OF THE
COMMONWEALTH DEVELOPMENT AUTHORITY**

The Development Corporation Division (DCD) of the Commonwealth Development Authority (CDA) of the Commonwealth of the Northern Mariana Islands hereby notifies the general public of its intent to adopt the amended Rules and Regulations. These Rules and Regulations are promulgated under Public 449, as amended and in accordance with the Administrative Procedures Act, 1 CMC §9101, et.seq.

Pursuant to Sections 6(2) and 7(k) of the CDA Act (Public Law 449), as amended, the DCD and the CDA Board of Directors is amending the DCD Rules and Regulations which was published in its entirety, and adopted, in the Commonwealth Register, Volume 16, Number 5, dated May 15, 1994, and Volume 16, Number 8, dated August 15, 1994, respectively.

Copies of the proposed amended Rules and Regulations are available at the office of the Commonwealth Development Authority, Gualo Rai, Saipan, MP 96950.

The Executive Director of the Commonwealth Development Authority urges the general public to submit written comments and recommendations regarding the above-mentioned amended Rules and Regulations within thirty (30) days after the publication of this notice in the Commonwealth Register. Comments on the proposed amended Rules and Regulations may be sent to the Executive Director of the Commonwealth Development Authority, P. O. Box 502149, Saipan, MP 96950 or by e-mail at cda@irecnmi.com.

Dated this 3rd day of January 2002.

A handwritten signature in cursive script, reading "Maria Lourdes S. Ada".

Maria Lourdes S. Ada, Executive Director

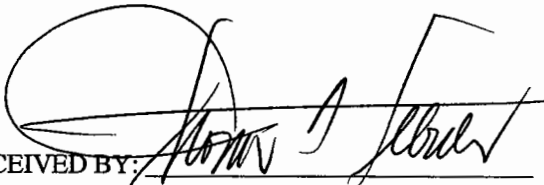
CERTIFICATION BY THE OFFICE OF THE ATTORNEY GENERAL:

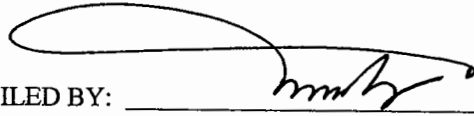
Pursuant to 1 CMC § 2153 as amended by Public Law 10-50, the above certification hereto have been reviewed and approved as to form and legal sufficiency by the Office of the Attorney General.

Dated this 28th day of January, 2002.

ROBERT T. TORRES
Acting Attorney General

By: 
ALLAN L. DOLLISON
Assistant Attorney General


RECEIVED BY: THOMAS TEBUTEB
Special Assistant for Administration
Date: 1/28/02

FILED BY: 
SOLEDAD B. SASAMOTO
Registrar of Corporations
Date: 1/28/02



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**NUTISIA PUT PRINIPONEN AMENDASION SIHA GI
AREKLAMENTO YAN REGULASION
DEVELOPMENT CORPORATION DIVISION
GI HALOM
COMMONWEALTH DEVELOPMENT AUTHORITY**

I Development Corporation Division (DCD) gi halom Commonwealth Development Authority (CDA) Commonwealth i Sangkattan Siha na Islan Marianas ginen este ha nutitisia i pupbliku henerat gi intension-ña para u adapta i manma amenda siha na Areklamento yan Regulasion. I Areklamento yan Regulasion siha manmafatinas gi papa fuetsan Lai Publiku 4-49, yan ma amenda sigun kondision yan manera ginen i Administrative Procedures Act, I CMC papa seksiona 9101, et. seq.

Sigun i Seksiona 6(2) yan 7(k) gi Akton (CDA) Lai Publiku 4-49, komu ma amenda, i DCD yan CDA Board of Directors para u ma amenda i Areklamento ya Regulasion DCD ni mapupblika enteramente, yan ma adapta, gi Rehistan Commonwealth, Baluma 16, Numiru 5, yan ma fecha Mayu 15, 1994, yan Baluma 16, Numiru 8, ni mafecha Agosto 15, 1994, ya u ma attatiyi.

Kopian i priniponen amendasion Areklamento yan Regulasion sina ha para hayi interes u fanule gi Ofsinan Commonwealth Development Authority, giya Gualo Rai, Saipan, MP 96950.

I Direktoran Eksekatibun Commonwealth Development Authority ha sosoyu i pupbliku henerat para u fana 'halom komento yan rekomendasion ya u ma tuge' put i ma mensiona este na amendasion Areklamento yan Regulasion halom trenta (30) dias despues di ma publika este na nutisia gi Rehistran Commonwealth. Todu komentu yan rekomendasion siha u ma adres guatu para i Direktoran Eksekatibu Commonwealth Development Authority, P.O. Box 502149, Saipan, MP 96950 osino gi e-mail cda@itecnmi.com.

Ma fecha guine gi Eneru dia 3, 2002.

Maria Lourdes S. Ada, Direktoran Eksekatibu

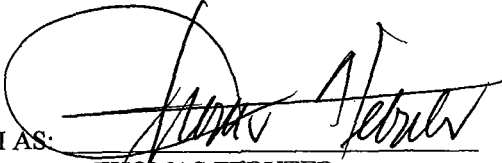
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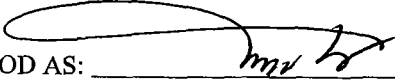
Sigun gi 1 CMC Seksiona 2153 ni inamenda ni Lai Publiku 10-50, I mapropopone siha na regulasion ni chechetton guine esta manma inan maolek yan apreba para u fotma ligat yan suficiente ginen i Ofisinan Hinerat.

Ma fecha guine gi mina' 28 na dia, mes ENERU, 2002.

ROBERT T. TORRES
ACTING ABUGADUN HINERAT

GI AS: /s/
ALLAN L. DOLLISON
KUENTAN ABUGADUN HINERAT

RINISIBI AS: 
THOMAS TEBUTEB
Especiesat Na Ayudante I Atministrasion
Fecha: 1/28/02

MA RINEKOD AS: 
SOLEDAD B. SASAMOTO
Rehistradoran Kotporasion
Fecha: 1/28/02



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ARONGORONGOL TOULAP

ARONGORONG REEL POMWOL ALLÉGH
KKAAL MELLÓL
DIVISION-NUL DEVELOPMENT CORPORATION
MELLÓL BWULASIYOL
COMMONWEALTH DEVELOPMENT AUTHORITY

Division-nul Development Corporation mellól bwulasiyol Commonwealth Development Authority mewóól Commonwealth metawal wóól falúwal Marianas ekki arongaar toulap reel igha ekki pomwoli ebwe fféer lliiwel mellól allégh kkaal. Allégh kkaal nge iye e toowow sáangi alléghúl toulap (Public Law) 449, iye a lliiwel me ghol ngáli Administrative Procedures Act, CMC §9101, et. seq.

Sáangi táil 6(2) me 7(k) mellól CDA Act (Alléghúl toulap 449), iye a liiwel, DCD bwal CDA Board of Directors eghal fféer lliiwel mellól alléghúl DCD iwe atakkal published alongal bwal adopted ló mellól Commonwealth Register, Volume 16, Number 8, rál ye 15, llól maramal elúwel 1994.

Schéel pomwol lliiwel reel allégh kkaal nge eyoor mellól bwulasiyol Commonwealth Development Authority, arabwal, Seipél, MP 96950.

Executive Director mellól Commonwealth Development Authority echal amwescheliir toulap reel rebwe isisilong yaar aiyegh ngare mánagemáng bwelle reel lliiwelil allégh kkaal llól eliigh (30) rál mwiril yaal toolong arong yeel llól Commonwealth Register. Aiyegh ngare mánagemáng reel pomwol lliiwel kkaal ebwe isisilong ngáli Executive Director mellól Commonwealth Development Authority, P.O. Box 502149, Seipél, MP 96950 or e-mail cda@itecnmi.com.

Rál ye 3rd llól maramal Schoow (January), 2002.

Maria Lourdes S. Ada
Executive Director

1/28/02

Rál ye e toolong bwulasiyol
Sów lemelem

1/28/02

Rál ye e toolong register

THOMAS TEBUTEB

Schóól angaang ye eyoor bwángil mellól
bwulasiyol sów lemelem

SOLEDAD B. SASAMOTO

Registrar of Corporations



Commonwealth of the Northern Mariana Islands
COMMONWEALTH DEVELOPMENT AUTHORITY

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PROPOSED AMENDED RULES AND REGULATIONS
OF THE DEVELOPMENT CORPORALTION DIVISION OF THE
COMMONWEALTH DEVELOPMENT AUTHORITY

Statutory Authority: Public Law 4-49, as amended.


Goals and Objectives: The attached amended Rules and Regulations are intended to address the changing banking procedures and economic conditions, and the demands of our growing community.

Brief Summary of the Proposed Amended Rules and Regulations: The proposed amended DCD Rules and Regulations were formulated to restate, enhance, and clarify the existing regulation. The amended policy defines more particularly policies on the CDA loan guaranty program and bank participation. The proposed amendments were formulated to ensure that the interest of both the borrower and DCD/CDA are protected.

Contact Person: Interested parties may contact Maria Lourdes S. Ada, Executive Director of the Commonwealth Development Authority with questions at (670) 234-6245/7146/7145. Written comments may be directed to the Commonwealth Development Authority, P.O. Box 2149, Saipan, MP 96950, or delivered at its office at Wakin's Building, Gualo Rai, Saipan, or e-mail at cda@itecnmi.com, within thirty (30) days of publication of this proposed amended rules and regulations.

Related or Affected Statutes, Regulations, and Orders: The proposed amendment would affect other sections of the existing DCD Rules and Regulations.

Date: January 3, 2002



Maria Lourdes S. Ada, Executive Director
Commonwealth Development Authority



Commonwealth of the Northern Mariana Islands
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**MAPROPONEN AMENDASION SIHA GI AREKLAMENTO YAN REGULASION
DIBISION DEVELOPMENT CORPORATION GI HALOM
COMMONWEALTH DEVELOPMENT AUTHORITY**

Aturidat Lai: Lai Pupbliku 449, ni ma amenda.

Minito' yan Objektibu: I amendasion siha ni manhalom yan chechetton gi Areklamento yan Regulasion DCD maintensiona para u yama atension pupbliku put i tinulaikan kinalamten banking yan kondision ekonimia, yan i dimanda put i dumadangkulo i komunidad.

Didide' na sinagan put i Mapropoponi siha na Amendasion gi Areklamento yan Regulasion: I Mapropoponi siha na amendasion gi Areklamento yan Regulasion DCD machogue' para u agon yumama, atbansa yan na klaru i presenti na regulasion. I ma amenda na Areklamento ha difina mas pattikulatmente ayu siha na areklamenton CDA put programan magarantian inayao salape yan pattisipao ginen banku. I manmapropopone siha na amendasion manmachogue' para u asigura proteksion interes entalo i manayao yan DCD/CDA.

Petsona para u ma agang: I maninteresante siha na petsona siña ma agang si Maria Lourdes S. Ada, Direktoran Eksekatibu para Commonwealth Development Authority yanggen guaha kuestion guine na numirun tilifon i (670) 234-6245/7145/7146. I manmatuge' siha na komento siña ha' manahanao yan adres guatu para i Commonwealth Development Authority, P. O. Box 502149, Saipan, MP 96950, osino chule' guatu gi Ofisina ni gaige gi Wakins Building, Gualo Rai, Saipan, osino gi e-mail gi cda@itecnmi.com, gi halom trenta (30) dias despues di mapupblika i manmapropopone siha na amendasion areklamento yan regulasion.

I Maninafekta siha na Areklamento/Regulasion yan Otden: I mapropopone siha na amendasion u afekta otro siha na seksiona gi presente na Areklamento yan Regulasion DCD.

Fecha: Eneru 3, 2002

Maria Lourdes S. Ada, Direktoran Eksekatibu
Commonwealth Development Authority



Commonwealth of the Northern Mariana Islands
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POMWOL LIIWEL REEL ALLÉGHÚL LLÓL DEVELOPMENT CORPORATION
DIVISION MELLÓL COMMONWEALTH DEVELOPMENT AUTHORITY

Bwángil Allégh: Alléghúl Toulap (Public Law) 4-49, iye a lliiwel.

Goals me Objectives: Lliiwel kkaal ikka e schuulong iye e appasch ngali alléghúl DCD nge ebwe address-li mwóghútúghúl llól banks igha e lilliiwel ló me economic conditions, bwal reel demands mereer mwóghútúghútúur toulap.

Weimwosh reel Pomwol Lliiwel reel Allégh kkaal: Reel pomwol lliiwel kkaal a fasil lliiwel reel alléghúl llól DCD igha e fféer reel ebwe apasa sefáali, alisi me affatal allégh kka ayoor iyeey. Allégh kkaal ikka a lliiwel nge e aweeweel me e lap ngaliischgah alléghúl llól CDA loan guaranty program bwal bank participation. Pomwol lliiwel kkaal nge e fféerétá reel ebwe allúghúghúúw bwe yaal interest schóol tingór (borrower) bwal DCD/CDA re aléghélégh.

Iyo Ubwe Faingi: Iyo parties kka re tipeli nge rebwe faingi schagh Maria Lourdes S. Ada, Executive Director mellól Bwulasiyol Commonwealth Development Authority ngare eyoor aiyegh reel telephone number kkaal, (670) 234-6245/7145/7146. Iachil mángemáng ngare aiyegh nge ubwe afanga ngali Commonwealth Development Authority reel address yeel, P.O. Box 502149, Saipan, MP 96950 ngare eew bwughiito reel bwulasiyo ye e lo reel Wakin's Building, Amairaw, Seipél, ngare eew, e-mail ngali cda@itecnmi.com, nge ebwe llól ótol eliigh rál igha e toowow publication bwelle reel pomwol lliiwel reel allégh kkaal.

Alléghúl me Akkúléél ikka e Affected: Pomwol lliiwel kkaal nge affect-li akkáaw táilil ikka ayoor iyeey sáangi mellól alléghúl DCD.

Rál: Shoow (January) 3, 2002

Maria Lourdes S. Ada
Executive Director
Commonwealth Development Authority

COMMONWEALTH DEVELOPMENT AUTHORITY
DEVELOPMENT CORPORATION DIVISION

RULES AND REGULATIONS

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CHAPTER ONE

SCOPE, POWERS, AUTHORITY, AMENDMENTS AND EFFECTIVE DATE

- 1.1 **Scope.** These rules and regulations govern the administration of the Development Corporation Division (“DCD”) of the Commonwealth Development Authority (“CDA”), subject to any limitations set forth in the CDA Act (i.e. 4 CMC §10101, *et seq.*). These rules and regulations apply to all the activities in which DCD is engaged and supersede and replace any and all previously issued or amended rules and regulations of DCD.
- 1.2 **Powers.** As a mandated division of CDA, DCD is hereby invested with those powers reasonably necessary and incidental to the fulfillment of its purposes, which purposes are as outlined in 4 CMC §10102(b). The powers of DCD include, but are not limited to, those powers set forth in 4 CMC §10203 and are subject only to any limitations set forth in the CDA Act.
- 1.3 **Authority.** These Rules and Regulations are prescribed by virtue of the authority given CDA under 4 CMC §10203(a)(2) and (a)(30); and are duly published and adopted in accordance with those procedures set forth in the Administrative Procedure Act (1 CMC §9101, *et seq.*).
- 1.4 **Amendments.** These Rules and Regulations may be amended from time to time upon recommendation of the Board of Directors.
- 1.5 **Effective Date.** The effective date of these Rules and Regulations shall be as set forth in 1 CMC §9105(b).

CHAPTER TWO

GENERAL DEFINITIONS

Unless the context otherwise requires, in these Rules and Regulations:

- 2.1 **Agriculture.** Agriculture means the science, art, and business of cultivating the soil producing crops and raising livestock.
- 2.2 **Board of Directors.** Board of Directors means the board of directors of DCD.
- 2.3 **Chairman.** Chairman means the chairman of the Board of Directors.
- 2.4 **Commonwealth.** Commonwealth means the Commonwealth of the Northern Mariana Islands.

- 2.5 **EDLF.** EDLF means the Economic Development Loan Fund.
- 2.6 **Executive Director.** Executive Director means the Executive Director of CDA.
- 2.7 **Farmer.** Farmer means a farm operator, owner or worker who cultivates or produces a crop as an Occupation.
- 2.8 **Fisherman.** Fisherman means one who fishes as an Occupation.
- 2.9 **Governor.** Governor means the Governor of the Commonwealth.
- 2.10 **Loan.** Loan means the delivery by DCD to, and the receipt by a Loan Applicant of, a sum of money upon agreement by that Loan Applicant to repay it to DCD with interest.
- 2.11 **Loan Applicant.** Loan Applicant means a person, partnership, association, or corporation seeking a loan or guaranty from CDA.
- 2.12 **Loan Guaranty.** Loan Guaranty means a promise by DCD to answer for repayment of a debt or performance of an obligation of an Applicant, if that Applicant is primarily liable to a financial institution other than CDA and fails to make payment or perform the obligation.
- 2.13 **Occupation.** Occupation means the principal or regular employment or activity in which one engages.
- 2.14 **Public Auditor.** Public Auditor means the Public Auditor of the Commonwealth.
- 2.15 **Rancher.** Rancher means an owner or manager of a ranch who raises livestock as an Occupation.

CHAPTER THREE

BOARD OF DIRECTORS

- 3.1 **Composition of the Board.** The affairs of DCD shall be governed and controlled by the Board of Directors, which shall be composed of the seven (7) members of the CDA Board of Directors; members of the Board of Directors shall serve until their terms of office with the CDA Board expire.
- 3.2 **Quorum, Manner of Acting.** Five (5) members of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. The act of the majority of the members present at a meeting at which a quorum is present shall be the

act of the Board of Directors. A member who is unable to attend a particular meeting may authorize in writing another member in attendance to cast the absent member's vote upon any item of business properly noticed. This proxy representation may not be used for more than three consecutive meetings and may not be used to establish a quorum.

- 3.3 **Board Leadership.** At the first meeting of each year, the Board of Directors shall elect a Chairman and Vice Chairman from amongst their members as the first item of business at that meeting. A member elected shall serve a one (1) year term or until his or her term as a member of the Board of Directors ends, whichever is less. A member may be elected for successive terms. Any vacancies in leadership created by resignation, removal or death shall be filled by election at the next regular or special meeting called for that purpose.
- 3.4 **Chairman.** The Chairman shall preside over the meetings of the Board of Directors. He or she shall also have such powers and shall perform such duties as may from time to time be specified in resolutions or other directives of the Board of Directors. In the absence of such specifications, he or she shall have the necessary powers and authority and shall perform and discharge the duties normally associated with chairmen of similar public corporations.
- 3.5 **Vice Chairman.** The Vice Chairman shall assume the duties and responsibilities of the Chairman in his or her absence; and shall also have such powers and shall perform such duties as may from time to time be specified in resolutions or other directives of the Board of Directors.
- 3.6 **Resignation.** A member may resign at any time by delivering written notice of his or her resignation to the Chairman of the Board of Directors. Written notice must also be provided the Governor if he or she is also resigning from the CDA Board. The acceptance of such resignation shall not be necessary to make it effective and shall take effect at the time specified therein. Upon resignation, the member shall cease to sit on the Board of Directors and shall not be included in any quorum count.
- 3.7 **Removal.** A member may only be removed before the expiration of his or her term by the Governor and on grounds of gross neglect or dereliction of duty, breach of fiduciary duty, conviction of a felony or mental or physical incapacity. Upon removal, the member shall cease to sit on the Board of Directors and shall not be included in any quorum count.
- 3.8 **Quarterly Meetings.** The Board of Directors shall meet at least once each quarter at a time and place designated by the Chairman. An agenda for and notice of the meeting shall be delivered to each member at least fourteen (14) days prior to the meeting.
- 3.9 **Special Meetings.** The Chairman may convene other or special meetings of the Board of Directors on seventy-two (72) hours written notice to each member, which notice shall include the proposed agenda and the time and place for the meeting.

- 3.10 **Open and Closed Meetings.** All meetings of the Board of Directors shall be open to the public during discussion of policies, procedures, and administrative and other non-confidential matters; and shall be closed to the public during discussion of personnel, financial, credit confidences, or any other privileged information related to or concerning Loan Applicants, projects and other matters of a confidential nature.
- 3.11 **Action Without Meeting.** For urgent or in emergency situations, any action required or permitted to be taken at a meeting may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed and approved by at least five (5) members. Such consent shall have the same force and effect as shall be as binding as if the same had been acted upon or consented to at a meeting of the Board of Directors duly convened and held.
- 3.12 **Minutes of Meeting.** The Board of Directors shall cause to be kept written minutes of the proceedings of each of its meetings. The Board of Directors shall designate a secretary to keep its minutes and records who may or may not be a member of the Board of Directors.
- 3.13 **Compensation.** The members of the Board of Directors shall be compensated pursuant to 1 CMC §8247 and may be reimbursed in accordance with the Commonwealth law for any extraordinary expenses incurred in the performance of their duties.
- 3.14 **Disclosure of Conflict.** Any member who is directly or indirectly interested in any arrangement, transaction or business matter entered into, proposed or under consideration by the Board of Directors shall, as soon as possible after the relevant facts have come to his or her attention, disclose the nature of the interest to the Board of Directors. Any disclosure shall be recorded in the minutes of the meeting and, except as otherwise provided by a resolution, the conflicted member shall not take part after the disclosure in any deliberation or decision relating thereto, but may be counted as present for the purpose of forming a quorum for any such deliberation or decision. A wilful failure to disclose a conflict of interest shall be a breach of duty and cause for immediate removal of the member from the Board of Directors. In addition to the disclosure under this section, the member must fully comply with the Government Ethics Code, Conflict of Interest sections as codified in 1 CMC § 8532 and 8533.
- 3.15 **Contracting Authority.** The Executive Director and the Chairman, or the Vice Chairman if the Chairman is absent, shall have the contracting authority for all matters pertaining to the operations of DCD, including, but not limited to, the execution of loan documents, guarantees and other necessary agreements, contracts and checks. In the absence of the Chairman and Vice Chairman, the Chairman or Vice Chairman of the CDA Board of Directors is authorized to act in his or her stead. At all times, the contracting officers shall comply with applicable procurement regulations.

CHAPTER FOUR

DUTIES OF THE BOARD

- 4.1 Oversight Authority. The Board of Directors shall oversee the administration of all Loans and other fund allocations to ensure that there is compliance with all Loan agreement provisions and fulfillment of the statutory purposes of DCD and those duties set forth in these Rules and Regulations.
- 4.2 Loan Decisions. Except in the limited cases where the Executive Director can approve or disapprove a Loan application or Loan of \$25,000.00 or less, the Board of Directors shall make all decisions concerning Loans, Loan applications and other proposals for funding of programs and projects where the aggregate liability of the Loan Applicant would remain at or below \$500,000.00. Loans, Loan applications, and other proposals for funding of programs and projects where the aggregate liability of the Loan Applicant would exceed \$500,000.00 shall be analyzed by the Board of Directors but must be forwarded to the CDA Board of Directors for a final decision.
- 4.3 Annual Reports. The Board of Directors shall prepare a report of its activities at the end of each fiscal year and shall submit the same to the CDA Board of Directors for incorporation into the CDA Annual Report to be forwarded to the Governor and Legislature.
- 4.4 Operating Budget. The Board of Directors shall prepare an annual operating budget for DCD and shall submit such budget for approval by the CDA Board of Directors.
- 4.5 Policies. As it deems it necessary, the Board of Directors may by resolution make policies regarding all DCD matters including, but not limited to, matters discussed in these Rules and Regulations, Loan applications, documents, forms, fees and administration, the form and manner of accepting and making payments; and the manner in which specific documents and notices are served and received by DCD.

CHAPTER FIVE

OFFICERS

- 5.1 CDA Officers. The officers of CDA shall also serve as the officers of DCD and shall exercise those duties and powers given to them under 4 CMC §10306 for the benefit of DCD.
- 5.2 Delegation of Duties. The Board of Directors may from time to time delegate to an officer or its officers any of its power or authority given under these Rules and Regulations. Any

officer to whom any powers or authority is so delegated may exercise the same in the same manner and with the same effect as if they had been conferred on him or her directly by these Rules and Regulations.

CHAPTER SIX

LOAN ELIGIBILITY AND AVAILABILITY

- 6.1 **Eligibility Policy.** It is the policy of DCD that it shall not compete with any private banks or other financial institutions in the funding of private economic projects. It is, therefore, recommended that borrowers first seek financial assistance from established banks and other financial institutions before submitting a Loan application to DCD.
- 6.2 **Persons.** Eligible Loan Applicants who are persons must be United States citizens or nationals and must have been domiciled in the Commonwealth for at least two (2) continuous years immediately preceding the submission of their Loan application.
- 6.3 **Partnerships and Associations.** Eligible Loan Applicants who are partnerships or associations must be wholly owned by United States citizens or nationals who have been domiciled in the Commonwealth for at least two (2) continuous years immediately preceding the submission of the Loan application.
- 6.4 **Corporations.** Eligible Loan Applicants who are corporations: must be organized under the laws of the Commonwealth and at least fifty-one percent (51%) of their capital stock issued, outstanding and entitled to vote must be owned and held by United States citizens or nationals who have been domiciled in the Commonwealth for at least two (2) continuous years immediately preceding the submission of the Loan application; and must distribute profits to its stockholders in direct proportion to the number of shares held by each stockholder.
- 6.5 **Farmer, Rancher, Fisherman.** Eligible Loan Applicants who are Farmers, Ranchers or Fishermen must be, by definition and Occupation, Farmers, Ranchers or Fishermen.
- 6.6 **Farm and Ranch Loans.** A Farm or Ranch Loan is a Loan made for the purpose of: purchasing farm and ranch equipment such as tractors, plows and other attachments for tractors, tillers, hand tools, related shop tools, repair parts, seeds, plants, fertilizers, farm chemicals, planters, livestock and poultry or specialized equipment and fixtures designed solely for the raising of crops, livestock, poultry or egg production; building shelters for farm machinery, livestock or poultry; and/or providing reasonable, one-time, start-up operating funds. Over the road vehicles such as trucks and pick-ups may be included in a Farm or Ranch Loan; however, such vehicles must be used at least sixty percent (60%) of the time (in hours) for actual farming and ranching activities. Sedans and other enclosed motor vehicles,

such as extra cab pick-ups, shall not be included.

- 6.7 **Fishing Loans.** A Fishing Loan is a Loan made for the purpose of: purchasing boats, boat trailers, ships, fishing gear, safety equipment, ship-to-shore radios, cooler boxes and other directly related fishing equipment; and/or providing reasonable, one-time, start-up operating funds. Fishing loans are limited to commercial fishing ventures, sport fishing does not qualify. Over the road vehicles such as trucks and pick ups may be included in a Fishing Loan; however, such vehicles must be used at least sixty percent (60%) of the time (in hours) for actual fishing activities, such as the launching or dry storage of fishing boats. Sedans and other enclosed motor vehicles, such as extra cab pick-ups, shall not be included.
- 6.8 **Commercial Loans.** All Loans that are not considered Farm, Ranch or Fishing Loans are considered Commercial Loans.
- 6.9 **Percentage of Available Cash, Direct Loan.** DCD shall not make any direct Loan if, at the time for approval, such Loan would exceed twenty-five percent (25%) of the total uncommitted cash then available to Loan Applicants under the particular category of Loans for which the Loan Applicant applied.
- 6.10 **Percentage of Available Cash, Loan Guaranty.** DCD shall not guarantee any bank loan or participate in any Loan Guaranty if, at the time for approval, such Loan Guaranty would exceed twenty-five percent (25%) of total uncommitted cash then available to Loan Applicants under the particular category of Loans for which the Loan Applicant applied.
- 6.11 **Percentage of Available Cash, Exceptional Cases.** In exceptional cases meriting special consideration, the limits set forth in Sections 6.9 and 6.10 may be exceeded provided the Loan or Loan Guaranty is of high economic benefit to the Commonwealth (as determined by a statement on economic priorities issued by CDA) and the Loan is fully and sufficiently secured. In such exceptional cases, DCD may enter into a syndicated financial arrangement in an effort to limit the exposure of DCD to only twenty-five percent (25%) of its then uncommitted cash.
- 6.12 **Ancillary Services.** DCD may provide ancillary services to a borrower, in connection with a Loan or other financing activities by DCD, when it would not be practical for such services to be provided by another financing institution.

CHAPTER SEVEN

CREDITWORTHINESS AND RESTRICTIONS

- 7.1 **Determination of Creditworthiness.** In all cases, the Board of Directors shall be responsible

for determining the creditworthiness of each Loan Applicant.

7.2 **Requirements and Criteria.** In making its determination, the Board of Directors must evaluate the Loan application based on the following general credit requirements and credit underwriting criteria:

- (1) The Loan Applicant must be of good financial and moral character;
- (2) Evidence pertaining to the credit worthiness of the Loan Applicant obtained under the Fair Credit Reporting Act (15 U.S.C. §1681) or other applicable laws;
- (3) The Loan Applicant must demonstrate an ability to operate a successful business;
- (4) The Loan Applicant must be willing to provide DCD with evidence of a reasonable investment of equity in cash or in-kind of not less than twenty percent (20%) of the total project cost to ensure that the Loan Applicant has an appropriate stake in the venture;
- (5) The Loan Applicant must show that the proposed loan is of sound business and economic potential to the respective community in which it will operate; and
- (6) The Loan Applicant must show that the past earnings, if any, and future prospects and potential earnings of the business or project indicates the ability to repay the Loan and other fixed debt, if any, out of earnings.

7.3 **Restrictions.** No Loan Applicant shall be qualified or granted a Loan if:

- (1) The Loan Applicant was a controlling shareholder or a manager of an association or a corporation that, at any time during the three (3) years immediately preceding the filing of the Loan application and during the period of control or management by the Loan Applicant, had been adjudicated bankrupt, filed for bankruptcy or been placed under receivership;
- (2) The Loan Applicant is in default of any debt, loan or any financial obligation at the time of filing the Loan application or if the Loan Applicant has a record of defaulting on previous loans or other credit extensions without justification;
- (3) Within three (3) years of the date of the Loan application, any property of the Loan Applicant was actually foreclosed upon, or taken and sold at foreclosure sale to satisfy any debt owed to a creditor by the Loan Applicant;
- (4) The Loan proceeds are to be used for a hobby, personal entertainment or personal pleasure; or
- (5) The Loan is not fully secured by sufficient securities or collateral.

7.4 **Additional Restrictions.** In addition to the above restrictions, the Board of Directors shall not make or approve a Loan or Loan Guaranty:

- (1) If funds are otherwise available on reasonable terms from other sources, including but not limited to personal resources, commercial banks, savings and loan associations and credit unions;
- (2) If Loan proceeds are to be used for illegal and/or immoral activities;
- (3) For the purpose of refinancing a debt not connected with the Loan;
- (4) For the purpose of providing short term financing, except as necessary in connection

with medium or long-term assistance by DCD.

CHAPTER EIGHT

LOAN APPLICATION REQUIREMENTS AND REVIEW

- 8.1 **Application Review.** Loan applications shall be considered and reviewed only after they are complete. A Loan application shall not be considered complete until all necessary documents, including, but not limited to, security and collateral documents and government permits, have been obtained and received and all applicable fees have been paid. A Loan application may be conditionally considered and reviewed in limited situations where, due to the prohibitive costs of such documents, all that is lacking is evidence of clear title or other necessary land reports.
- 8.2 **Application Fee.** DCD may, when the Loan application is made, charge each Loan Applicant an application fee not to exceed \$100.00. The application fee shall be credited to the closing costs if the Loan is made. If the Loan application is not approved, or the borrower cancels the Loan application prior to approval, the deposit fee will not be returned to the Loan Applicant.
- 8.3 **Incomplete Application.** A pending Loan application shall be deemed to have been removed from consideration if incomplete and if the Loan Applicant has been notified in writing of such defect and has not corrected the defect within thirty (30) days of such notification.
- 8.4 **Loan Approval.** No Loan Applicant shall be deemed to have been granted a Loan unless and until the Executive Director, or his or her designee, so notifies the Loan Applicant in writing and the Loan Applicant indicates his acceptance in writing. Notice by any other DCD employee or member of the Board of Directors, verbally or otherwise, shall be invalid and have no effect and may subject said person to disciplinary action.
- 8.5 **Rejection of Application.** The Executive Director and the Chairman are authorized to cancel a conditionally approved Loan if the conditions set out in the approval letter are not fulfilled within ninety (90) days after the receipt of such letter by the Loan Applicant.
- 8.6 **Loan Interest Rates.** DCD shall review and from time to time recommend to the CDA Board of Directors the rates of interest to be assessed its borrower or any particular borrower. A recommended rate may not exceed the rate authorized by law; and in recommending interest rates DCD shall consider the costs of capitalization, its own administrative expenses in relation to its Loans, overall prevailing market rates, and other economic indicators. DCD may also recommend special interest rates for projects and other undertakings which serve particular socio-economic needs, but with due regard for the overall need of DCD to recover its costs.

- 8.7 **Loan Fees.** Loan Applicants shall pay all fees necessary or incidental to their Loans. Such fees may include, but are not limited to, recording fees, notary fees, returned check fees, appraisal fees, certified public accounting fees in the event such is required by the Board of Directors and any legal fees incurred by DCD for the drafting of documents necessary for the Loan. In the case of direct Loans and at the request of the Loan Applicant, loan fees may be included in the total Loan amount; in the case of a Loan Guaranty, the Loan Applicant shall be required to remit all Loan Fees to DCD prior to the execution of the Guaranty agreement.
- 8.8 **Loan Closing Service Charge.** In addition to any Loan Fees, DCD shall assess each Loan Applicant a processing service charge equal to one-half ($\frac{1}{2}$) of one percent (1%) of the total amount of the Loan plus all applicable legal fees but not less than \$125.00. In the case of direct Loans and at the request of the Loan Applicant, the service charge may be included in the total Loan amount; in the case of a Loan Guaranty, the Loan Applicant shall be required to remit the service charge to DCD prior to the execution of the Guaranty agreement.
- 8.9 **Loan Revision and Fee.** Subject to the approval of the Board of Directors, a borrower may request and receive a loan revision. As a condition of every loan revision, the borrower shall be assessed and shall pay a loan revision fee equal to one quarter ($\frac{1}{4}$) of one percent (1%) of the outstanding balance of the Loan plus any applicable legal fees but not less than \$125.00.
- 8.10 **Posting and Revision of Fees.** All fees and charges may be reviewed and revised by the Board of Directors. The fees set forth in these Rules and Regulations shall continue in force and effect until reviewed and revised by the Board of Directors. Publication of any revised fees or new fees shall be by posting a schedule of revised fees in the offices of CDA. No amendment of these Rules and Regulations or further publication in the CNMI Register of any revised or new fees shall be required.
- 8.11 **Borrower Records.** The Board of Directors may, as deemed necessary, require its borrowers to keep records and accounts in accordance with sound and generally accepted business practices, and may require them to furnish necessary information regarding their business operations and accounts. DCD retains the right to inspect its borrowers' finances, as well their operations, records, and books of accounts. The Board of Directors is further authorized to retain an independent accounting firm to perform the compilation and preparation of financial reports of a borrower, with the costs incurred being borne by the borrower.

CHAPTER NINE

CONSTRUCTION LOAN REQUIREMENTS

- 9.1 **Construction Requirements.** In addition to all other submission requirements, a Loan Applicant seeking to construct a building with Loan proceeds is required to submit the

following documents:

- (1) Complete plans and specifications of the building or improvements to be constructed approved by a certified professional engineer;
- (2) A schematic drawing of the building and its proposed location;
- (3) A certification from the Commonwealth Utility Corporation that adequate water service and electricity are available on the premise where the project will be situated;
- (4) A certification from other appropriate government agencies that the proposed project will not have a negative impact to the existing community and environment including the effect of any applicable zoning laws;
- (5) A signed copy of the construction contract between the builder and the owner showing, among other things, that DCD is not subject to any liability before, during or after construction is completed;
- (6) An original copy of the performance and payment bond covering the total amount contracted;
- (7) An original copy of the workmen's compensation insurance policy; and
- (8) A signed copy of the construction management contract between the construction manager and the owner. The manager must be licensed to do business in the Commonwealth and must possess a thorough knowledge in construction management. A provision in the construction management contract should provide that the manager must ensure that the project is thoroughly inspected by qualified inspectors and conforms to approved plans and specifications. In addition, the contract shall contain a provision imposing personal liability on the manager for non-performance under the management contract.

CHAPTER TEN

LOAN GUARANTY AND PARTICIPATION

- 10.1 **Loan Guaranty.** DCD may guarantee up to ninety percent (90%) of the principal amount of a loan extended to a qualified Loan Applicant by a lender other than DCD. DCD must approve of the lender's administration and default policies before agreeing to guarantee any loan. DCD shall set aside as a reserve not less than twenty-five percent (25%) of the amount of a guaranteed loan. A Loan Guaranty must meet and satisfy the same criteria as a direct Loan.
- 10.2 **One Percent Interest Rate.** The lender shall impose a one percent (1%) per annum interest rate, which shall be collected by the lender for DCD. This interest rate shall be in addition to the interest rate to be charged by the lender under the terms and provisions of its loan, and shall be assessed and collected first, before the interest rate to be charged by the lender. The lender shall collect and remit the one percent (1%) per annum interest rate to DCD on a quarterly basis.

- 10.3 **Loan Guaranty Documents.** The Board of Directors shall approve and adopt a standard Guaranty agreement for use with all participating lenders. The Guaranty agreement shall include terms and conditions deemed reasonable and necessary for the protection and purposes of DCD.
- 10.4 **Examination of Account.** Upon its request and at all reasonable times, DCD shall be entitled to examine and audit the borrower's account with lender and copies of any security instruments or loan documents held by lender which relate to disbursements or advances made, or to be made, under the Loan Guaranty.
- 10.5 **Loan Participation Program.** The Board of Directors may jointly participate with banks or other financial institutions in financing a loan to an eligible Loan Applicant. The terms and conditions of the financial participation must be approved by the Board of Directors. DCD and the bank or lending institution shall share the collateral interest on any security for the loan in direct proportion to their loan exposure. The period of repayment may not be more than the period authorized by these Rules and Regulations.
- 10.6 **Private Projects.** The Board of Directors may elect to participate in an ongoing or new private sector project or undertaking to further the purpose of DCD. In determining whether or not to participate, the following shall be considered: (1) whether there are any other private sector lending institutions in the Commonwealth which may participate; (2) to what extent DCD is committing its financial and technical resources for the particular project; (3) if the project is new to the Commonwealth, or an island in the Commonwealth, would such participation protect the future participation of Commonwealth citizens; and (4) is it in the best interest of the Commonwealth for DCD to participate. If a determination is made to participate, the Board of Directors shall ensure that DCD's interests are fully secured and that the total amount of funding made available for any given private project is determined solely by the Board of Directors.

CHAPTER ELEVEN

SECURITY

- 11.1 **Security Policy.** DCD shall secure its Loans and Loan Guaranties in accordance with sound lending practices, provided that in doing so, DCD shall have due regard for its purposes to promote economic development in the Commonwealth.
- 11.2 **First Mortgage on Real Estate.** Wherever possible, all Loans shall be secured by a fee-simple, first mortgage or deed of trust interest in real estate and improvements. The allowable Loan to be secured by any fee simple real estate first mortgage on unimproved bare land shall not exceed fifty percent (50%) of the appraised value of the land. The allowable Loan to be

secured by any fee simple real estate first mortgage on improved land shall not exceed sixty percent (60%) of the appraised value of the land, including improvements and proposed improvements.

- 11.3 **Second Mortgage on Real Estate.** Secondary mortgages are discouraged, but may be allowed if a Loan application has a strong economic feasibility and potential for success, the Loan Applicant has a good credit rating and excellent repayment ability, and the total outstanding principal debt of the holder of the first security interest and the proposed second mortgage shall not exceed more than fifty percent (50%) of the appraised value of the land for unimproved bare land or sixty percent (60%) of the appraised value of the land for improved land and proposed improvements.
- 11.4 **Third Mortgage on Real Estate.** A third mortgage interest on leasehold or fee simple property is not permissible as primary collateral for a Loan. However, it may be permitted if DCD also secures a first or second mortgage on other leasehold or fee simple property and if the total outstanding principal debt of the holder(s) of the first and second security interests and the proposed third mortgage shall not exceed more than fifty percent (50%) of the appraised value of the land for unimproved bare land or sixty percent (60%) of the appraised value of the land for improved land and proposed improvements.
- 11.5 **Leasehold Mortgage.** The total loan allowable on the first leasehold mortgage interest given as security shall not exceed fifty percent (50%) of the improvements and/or proposed improvements, excluding the value of the land. A second leasehold mortgage interest is permissible provided that the total outstanding obligations on the first and second liens shall not exceed fifty percent (50%) of the improvements and/or proposed improvements, excluding the value of the land.
- 11.6 **Chattel Mortgage and Inventories.** Loans may further be secured by a chattel mortgage or a security interest on personal and/or business properties provided that such Loan amounts shall not exceed forty percent (40%) of the value of such personal and/or business properties, or of the purchase price thereof, whichever is lower, and provided that DCD receives a first lien on the chattel mortgage or security interest. Crops or agricultural products such as livestock, poultry and fish may not be used as security for any Loan due to their perishable nature.
- 11.7 **Additional Security.** In addition to any one or combination of the above securities, the Board of Directors may require individual guaranties from the shareholders of a corporation, partners in an association or partnership, and an assignment of receivables and/or assignment of life or mortgage insurance from each Loan Applicant. All guarantors, endorsers or other cosigners are subject to the same credit underwriting standards as the principal Loan Applicant.

- 11.8 **Appraisals.** The Board of Directors in determining the sufficiency of any real or personal property offered as security shall use the current market value of the property, and may require a complete appraisal report or letter of appraisal (curbstone appraisal) by an appraiser approved by DCD. Loan Applications in excess of \$25,000 must be accompanied by a complete appraisal report. The Board of Directors shall examine the qualifications of the appraiser to determine whether or not this work product is acceptable, and up to date with current valuation trends. Where appropriate, appraisal reports on real property shall be done by a real estate appraiser, whose work product is acceptable to a financial institution in the Commonwealth other than the DCD.

CHAPTER TWELVE

INSURANCE

- 12.1 **Property Insurance.** All Loans having real estate improvements as security shall have the necessary insurance policies insuring the improvements against any damage due to earthquake, fire, typhoon, and any other casualty up to the full insurable value of the improvements.
- 12.2 **Title Insurance.** All Loans having real estate as security should have title insurance policies naming DCD as the loss payee. In a circumstance where title insurance is not obtainable or its absence is justified, then an attorney's title opinion or such other assurances deemed acceptable to the Board of Directors shall be obtained by the Loan Applicant. The expense of title insurance, casualty insurance and title opinions shall be paid solely by the Loan Applicant.
- 12.3 **Bonding.** With respect to construction Loans, a Loan Applicant shall be required to produce a performance and payment bond covering the full value of the improvements and construction cost.
- 12.4 **Life Insurance.** All fishing, farming and agricultural borrowers are required to maintain adequate life insurance in an amount equal to or greater than the outstanding balance of their Loan principal, interest and fees. Depending on the planned use of the Loan proceeds and/or the risks involved with the business ventures, DCD may also require general commercial Loan borrowers to maintain life insurance in amounts DCD deems sufficient to adequately cover the Loan proceeds and/or risks involved. On all life insurance policies covering Loans, DCD shall be named as the first or primary beneficiary. Upon approval of a Loan application, DCD shall inform the Loan Applicant of any life insurance requirement. In the event the Loan Applicant has an existing life insurance policy, with coverage in excess of the Loan amount, the borrower may assign the benefits of the existing policy to DCD to satisfy the life insurance requirement. No loan proceeds shall be disbursed to any borrower, until the requisite life insurance has been obtained and the first year's premium has been paid in full.

12.5 **Insurance Companies.** Loan Applicants may, at their volition, purchase insurance from any one of the several life insurance firms currently providing insurance and term declining balance insurance to DCD borrowers. DCD shall keep a list of such firms for easy reference. Should a borrower choose to purchase insurance from one of the firms on the list, the following shall apply:

(1) Upon approval of the Loan Applicant's insurance application by the insurance firm, the first year's premium may be paid, at the time of closing of the Loan, out of the first disbursement of loan proceeds;

(2) Subsequent yearly premiums shall be paid by the borrower in accordance with the insurance policies terms and conditions;

(3) Should a borrower fail to pay any of the subsequent yearly premiums, DCD may pay such premium on behalf of the borrower;

(4) Should DCD pay such premium on behalf of the borrower, then the borrower's Loan shall be restructured to include the premium payment by DCD, and any related fees, in the principal amount owed. In the event a loan is restructured, the borrower shall be advised by DCD of the new monthly payment amounts.

(5) Borrowers may, at any time during the term of their Loans, select a different insurance firm, as long as the newly selected insurance firm can satisfactorily meet the insurance requirements of DCD; and

(6) The insurance firm and the borrower are required to notify DCD, in a timely manner, when an insurance policy is in danger of expiring due to unpaid premiums; and when an insurance policy lapses due to nonpayment.

12.6 **Lapsed Insurance Coverage.** In the event any borrower fails to obtain life insurance, title insurance, property insurance or any other insurance required under the Loan documents or policies, or to maintain such insurance coverage, then the borrower shall be called in to meet with the DCD Loan Manager, and the following shall apply:

(1) The Loan Manager shall inform the borrower that, unless the necessary insurance is obtained or the policy is reinstated, the Loan will be declared to be in default.

(2) If a borrower is unable to reinstate or obtain the required insurance policy on his or her own, then the borrower may select a life insurance firm from the list of those providing term declining balance insurance to DCD borrowers.

(3) Upon approval of the borrower's insurance application by the insurance firm, DCD may pay the first year's premium, on behalf of the borrower, and the Loan may be restructured to reflect the new principal amount including the premium paid by DCD.

CHAPTER THIRTEEN

DISBURSEMENTS

13.1 **Check Signing Authority.** All checks issued by DCD shall contain two signatures, one of

which shall be the Executive Director (or other official of DCD with check signing authority as approved by the Board of Directors of CDA) and the other by the Chairman (or Vice Chairman or the Chairman or Vice Chairman of the CDA Board of Directors in the absence of the Chairman or Vice Chairman). In the absence of both Chairmen and Vice Chairmen, the Board of Directors shall appoint one among its members to sign jointly with the Executive Director or other official of DCD.

- 13.2 **Disbursement Requirements.** No funds shall be disbursed unless the Loan application is complete and all documents have been fully reviewed and executed by all necessary parties and all fees and charges have been paid or added to the total loan amount. All disbursements are subject to the accounting procedures and policies set forth under the CDA Act and these Rules and Regulations.
- 13.3 **Retained Proceeds.** In the event an approved Loan is for a construction project and the contractor is not bonded, the standard withholding of ten percent (10%) of the project cost may be increased at the discretion of the Board of Directors. With each incremental payment, an amount equal to a minimum of ten percent (10%) of the incremental payment shall be withheld to assure that all subcontractors, materialmen and suppliers have been paid. Such withheld portion shall be released only after the project has been completed, upon finding by the Chairman, or his or her designee, that all the materialmen, subcontractors, and other suppliers have been paid.
- 13.4 **Incremental Disbursements.** Each construction increment shall be done according to plans and specifications and must be approved by the Loan Applicant or owner. Upon receipt of such approval, then such increment shall be inspected by the Executive Director, or his or her designee, to determine that the work has been performed according to the plans and specifications. Upon approval of each increment by the Executive Director, or his or her designee, funds may accordingly be disbursed, subject to the ten percent (10%) withholding set forth above.
- 13.5 **Purchase of Equipment and Materials.** In the event that disbursements involve the purchase of equipment, materials or other properties then disbursements shall be made only upon the Loan Applicant producing satisfactory receipts, purchase orders, or other types of evidences of purchase. No further disbursement shall be made without first satisfying the previous disbursements with supporting documents.
- 13.6 **DCD Discretion.** The Executive Director shall exercise his or her sound discretion in authorizing the release or disbursement of any loan proceeds and may provide for payments directly to vendors.

CHAPTER FOURTEEN

PROFESSIONALS

- 14.1 **Approved Professionals.** All professionals who seek to be paid out of proceeds from a Loan, or who provide their services in connection with the Loan approval process, including without limitation, Accountants, Architects, Attorneys, Appraisers, Contractors, Engineers, Insurers, Lenders and Surveyors, must meet certain minimum requirements of qualification before payment for their services, or reliance on their opinions will be permitted.
- 14.2 **Pre-Qualified List.** The Board of Directors may cause to be published a request for proposals from professionals, setting forth the minimum qualifications and from the responses, create a pre-qualified list. At any time, professionals may submit their qualifications and request inclusion on the list.
- 14.3 **Requirements.** When establishing minimum qualifications, the Board of Directors may require, among other things: the possession of a Commonwealth business license for at least two (2) years in advance of the request for inclusion on the pre-qualified list; professional licensing from the relevant professional society; a client list of customers from the Commonwealth who can attest to the quality of the professional's work; and other proof of the ability of the professional to perform.

CHAPTER FIFTEEN

FEASIBILITY STUDIES AND TECHNICAL ASSISTANCE

- 15.1 **Feasibility Studies.** The Board of Directors, with the approval of the CDA Board of Directors, may authorize the total or partial funding of economic feasibility studies on specific projects in the areas of agriculture, aquaculture, mariculture, light industries, fishing and of other economic projects. With the approval of the CDA Board of Directors, DCD may hire a consultant or retain the services of a professional firm to perform the feasibility study or authorize a prospective loan applicant to perform such a study.
- 15.2 **Results and Reports.** The results of any feasibility studies undertaken solely by DCD shall be provided without charge to interested residents of the Commonwealth, except that a reasonable fee for printing and reproduction costs may be charged.
- 15.3 **Technical Assistance.** At its option and without obligation, the Board of Directors may provide, through its staff or by retaining the services of outside experts, consultants, architects, engineers, technical or management assistance to borrowers, businesses or to assure quality construction of any project undertaken or financed by DCD.

CHAPTER SIXTEEN

LOAN SERVICING

- 16.1 **Tracking System.** The Executive Director shall institute a follow-up or tickler system and accounting system to assure that all the payments concerning all Loans are received in a timely fashion. Any accounting system required by law shall be followed. The system used shall include the ability to follow-up on insurance payments, principal and interest payments and production of any financial statements required pursuant to the Loan agreement.
- 16.2 **Monthly Reports.** For the first year, borrowers shall be required to submit monthly reports to show exactly how the Loan proceeds are being spent. After this initial period, all Loans shall require a least an annual or semi-annual financial report from the borrowers together with a status report on the business. For Loans in excess of \$200,000.00, the Executive Director shall require a borrower to submit annual financial statements audited by a certified public accountant or other documentation displaying the financial condition of the borrower.
- 16.3 **Failure to Submit Reports.** If a borrower fails to submit a required financial or status report, the Executive Director may order an investigation or audit of the financial condition of the borrower upon five (5) days written notice to the borrower. Any failure to submit the required reports or refusal to cooperate with an investigation or audit shall be deemed and considered an event of default under the Loan.
- 16.4 **Executive Director Meetings and Reports.** Borrowers shall be required to meet with the Executive Director, or his or her designee, as often as the Executive Director deems is necessary to discuss loan problems or review business records. The Executive Director shall submit to the Board of Directors a semi-annual business status report, Loan status reports and any other reports required or requested by the Board of Directors.

CHAPTER SEVENTEEN

LOAN REPAYMENT

- 17.1 **Term of Loan.** The repayment period or term of a Loan may not exceed thirty (30) years, inclusive of any grace period, revisions or extensions. A Loan Applicant may be granted a term of more than twelve (12) years only if the Loan is secured by a first mortgage of sufficient real property. If the Loan is secured only by a second mortgage of real property, its term may not exceed twelve (12) years inclusive of any grace period, revisions or extensions. If the Loan is secured only by a chattel mortgage, its term may not exceed three (3) years, inclusive of any grace period, revisions or extensions, except upon submission of audited financial statements and approval of an increased term by the Board of Directors. When determining the term of

Loan, the Board of Directors shall consider, among other things, the repayment capability of the Loan Applicant and the useful life of the assets to be acquired with the Loan.

- 17.2 **Advance Payments and Early Payoff.** There shall be no minimum repayment period requirement, prohibition, fee charge or penalty for an advance payment on or the early pay-off of a Loan.
- 17.3 **No Assumption of Loan.** No assumption shall be allowed of any Loan without the prior pre-approval of the Board of Directors. Any pre-approved assumption shall be conditioned on the qualification of the party seeking to assume the Loan as an eligible Loan Applicant.
- 17.4 **Death of Borrower.** Upon the death of a borrower, the entire unpaid balance of the Loan shall be immediately due and payable. The Board of Directors may allow assumption of the Loan by the heirs of the borrower if a final decree in the probate of the borrower identifies the heirs and approves distribution to them of the mortgaged property and Loan, and if the respective heirs themselves qualify as eligible Loan Applicant and execute all necessary documents.
- 17.5 **Monthly Payments.** All Loan payments shall be due and payable monthly. Monthly payments on the Loan shall be made in accordance with the executed Loan documents. Unless the Board of Directors agrees otherwise, monthly payments will first be applied against any outstanding costs or charges, then against any accrued interest and finally against the outstanding principal amount.
- 17.6 **Late Payment Fees.** In accordance with the terms and conditions of the Loan documents, late payment fees may be charged each time a monthly payment is missed or delayed. The amount of late payment fees shall be posted and as determined by the Board of Directors.
- 17.7 **Additional Required Payments.** It is a policy of DCD to continually foster economic development and, accordingly, borrowers shall be encouraged to pay-off their Loans as swiftly as they are able in order to better circulate DCD's available loan funds. It shall be an understood and agreed upon condition of each Loan, that any proceeds generated by a Loan that exceed those required to operate and preserve the business should be used to pay down or pay-off the Loan.

CHAPTER EIGHTEEN

INVESTIGATIONS AND AUDITS

- 18.1 **Investigations and Audits.** The Board of Directors or the Executive Director may instruct a representative of DCD, or may contract with a qualified firm or person, to investigate or audit the accounts of any borrower in order to ascertain:
- (1) Whether the Loan has been used for the purposes for which it was granted;
 - (2) Whether there is evidence or indication of future difficulties arising that might prevent the borrower from repaying the Loan in accordance with the Loan agreement; or
 - (3) Whether management or other assistance is needed to improve the business operation.
- 18.2 **Associated Fees for Costs.** The Board of Directors may impose reasonable fees upon the borrower for performing the above services in order to recover its costs incurred.

CHAPTER NINETEEN

LOAN COLLECTION AND FORECLOSURE

- 19.1 **Monitoring.** The Executive Director, or his or her designee, shall closely monitor the repayment of all Loans and shall prepare and issue a monthly status report of all delinquent accounts for the Board of Directors.
- 19.2 **DCD Thirty Day Notice.** If any payment is not received by the thirtieth (30th) day after its due date, then the Executive Director, or his or her designee, shall attempt to contact the borrower by telephone and by written letter informing them of the payment default. The Executive Director, or his or her designee, shall also send out such notices of default and other letters as are required by the Loan agreement and other Loan documents.
- 19.3 **DCD Sixty Day Notice.** If any payment is not received by the sixtieth (60th) day after its due date, then the Executive Director, or his or her designee, shall again attempt to contact the borrower by telephone and by written letter informing them of the payment default.
- 19.4 **Demand Letter.** If any payment is one hundred twenty (120) days or more delinquent, the matter shall be forwarded to CDA Legal Counsel together with a delinquency update showing the amount of principal, interest and fees needed to bring the Loan current. CDA Legal Counsel shall send the borrower a letter demanding payment within thirty (30) days.
- 19.5 **Notice of Default.** If the borrower fails to bring the Loan current within the thirty (30) days stated in the Demand Letter, the Executive Director or his or her designee may direct CDA Legal Counsel to send the borrower a Notice of Default in accordance with the

Commonwealth's Mortgage Foreclosure Act (2 CMC §4537, *et seq.*). The Executive Director or his or her designee shall provide CDA Legal Counsel with an Account Update of all principal, interest and fees outstanding and the working file in order to facilitate the drafting of a Notice of Default. A Notice of Default must be served personally or by certified mail, return receipt requested, upon the borrower.

- 19.6 **Other Defaults.** If a borrower has defaulted for any reason other than the failure to make a monthly Loan payment, and notice of such default has been given to the borrower and the borrower has failed to cure said default within thirty (30) days or within the period provided for in the Loan documents, the Executive Director or his or her designee may direct CDA Legal Counsel to send the borrower a Notice of Default and to commence foreclosure notwithstanding the fact that said default has not yet continued for the periods applied to defaults due to a failure to make a monthly payment.
- 19.7 **Complaint to Foreclose.** After the Notice of default is served on the borrower, if the borrower fails to cure the default in the time frame allowed, and in the manner directed by the Executive Director or his or her designee, then CDA Legal Counsel may be directed to file a lawsuit to collect the Loan and foreclose upon the mortgages.
- 19.8 **Acceleration of Loan.** Upon filing of the lawsuit, the Loan shall be accelerated and the entire principal balance plus any accrued interest shall become immediately due and payable. Interest shall accrue on the principal at the rate established in the Loan agreement. Prior to the entry of a judgment, the borrower may have the right, as set forth by the law, to cure the default and bring the Loan current.
- 19.9 **Judgment and First Auction.** Upon entry of a judgment in the lawsuit, a copy of the judgment shall be served upon the borrower. If the borrower fails to pay the entire judgment amount within three (3) months from the time borrower is served the copy of the judgment, all properties mortgaged as security for the Loan shall be noticed for sale. The notice shall provide that the minimum bid is the total judgment amount (i.e., principal, interest, fees and costs) or the appraised value of the mortgaged property, whichever is the greater.
- 19.10 **Multiple Properties.** In the event of multiple real properties being noticed for sale, the Executive Director, or his or her designee, shall apportion the minimum bid for any sale of property in a manner so as to maximize the likelihood of sale and to maximize the possibility of recovery of all amounts owed DCD. DCD may bid on any property at any public auction.
- 19.11 **Second Auction.** In the event that no bidders offer the minimum bid, the property shall be withdrawn and noticed for a second sale. At such second sale, the minimum bid shall be the total judgment amount (i.e, principal, interest, fees and costs) or the appraised value of the mortgaged property, whichever is less.

- 19.12 **Third Auction.** If no bidder offers the minimum bid at the second sale, the property shall be withdrawn, and in the discretion of the Executive Director, or his or her designee, shall either be noticed for a third sale or temporarily removed from the market if, in the discretion of the Executive Director, the likelihood of sale would be greater at a future time. In the event a third sale is authorized, the property may be offered without a minimum bid.
- 19.13 **Certificate of Sale.** If the property is sold at an auction, CDA Legal Counsel shall prepare a Certificate of Sale and shall deliver a copy to the buyer after recording the original.
- 19.14 **Deed.** After the one year redemption period, if the borrower has not redeemed the property, CDA Legal Counsel shall prepare a Deed to be executed in accordance with the Commonwealth's Mortgage Foreclosure Act and to be delivered to the buyer after filing.
- 19.15 **Controlling Authority.** If any of the above procedures conflict with any applicable provision of law or any term in any of the Loan documents, then said law or contractual term shall control.
- 19.16 **Loan Workouts.** At the request of a borrower and where there exists a real possibility of a recovery of funds without foreclosure, the Board of Directors may entertain a loan workout. Such a loan workout is not a waiver of any right to foreclose and may only be authorized on a case-by-case basis on substantial evidence provided by the borrower that the Loan is recoverable. Any new terms of repayment shall not exceed the maximum allowable period of repayment inclusive of the date when the Loan was made and all grace periods. All loan workouts are subject to immediate termination or cancellation by DCD without cause and without notice to borrower.

CHAPTER TWENTY

FUNDS AND ACCOUNTING

- 20.1 **Accounting Records and Reports.** The Executive Director shall ensure at all times that accounting records and supporting documents are maintained to insure sound internal control. DCD shall use the accrual method of accounting. Monthly financial statements with detailed loan fund status reports must be prepared in accordance with Generally Accepted Accounting Principles and Practices (GAAPP) and copies thereof shall be provided to the Board of Directors.
- 20.2 **Accounting System.** A separate accounting system shall be used and maintained for the functions of DCD including its economic development loan fund activities. The accounts and statements of account of DCD shall be audited by the Public Auditor or an independent auditor approved by the Public Auditor. The fiscal year of DCD shall be identical with that

of the Commonwealth Government.

- 20.3 **Liquid Funds.** DCD shall maintain sufficient liquid assets to be able to meet normal operating expenses and discharge its short-term liabilities and current maturities of any long-term indebtedness. DCD funds not currently needed in liquidity shall be reinvested by the Board of Directors, to the extent permitted by law, in qualified investments which mature not later than the date on which such funds will be needed.
- 20.4 **Accounts.** DCD may, as it deems necessary, open and maintain savings and checking accounts and other investment forms with banks or savings and loan associations which are reputable financial firms and members of the Federal Reserve System or the Federal Deposit Insurance Corporation (FDIC). Money received by DCD shall be deposited into such accounts.
- 20.5 **Collections.** DCD shall cause to be collected and obtained: (1) from the Development Banking Division of CDA, all 702(c) Covenant funds, any appropriated or budgetary funds, and all assets of the EDLF existing prior to September 19, 1985; (2) all money to be received by or on behalf of DCD, with respect to repayment of any Loan made, including interest and other charges payable; (3) all money arising from property or investments acquired by or invested in by DCD; and (4) all other money and property due and payable to DCD. DCD shall not accept and hold deposits, but may hold evidence of deposits, or otherwise accept control of deposits, in other financial institutions.
- 20.6 **Loan and Investment Amounts.** The Board of Directors shall pay out of the DCD funds: (1) approved Loan or Loan Guaranty amounts; and (2) amounts approved for investment or equity participation, and participation in any projects and/or feasibility studies or technical assistance.
- 20.7 **Operation Expenses.** The Board of Directors shall pay out of funds available to DCD pursuant to 4 CMC §10401(b)(1) and (b)(3) all expenses, costs and obligations incurred for the administration and operation of DCD. Payment under this section shall be in conformity with the operating budget, prepared and submitted to the CDA Board of Directors. See Section 4.4.
- 20.8 **Technical Assistance and Studies.** The Board of Directors shall also pay out of funds available to DCD pursuant to 4 CMC §10401(b)(1) and (b)(3) all amounts expended or obligated for technical assistance, economic studies, project evaluations and feasibility studies. Payment under this section shall also be in conformity with the operating budget, prepared and submitted to the CDA Board of Directors. See Section 4.4.

CHAPTER TWENTY-ONE

CONFLICTS AND CONFIDENTIALITY

- 21.1 **Conflicts of Interest.** As a mandated division of CDA, DCD follows and abides by the same conflicts of interest law and standards as CDA. The applicable conflicts of interest law and standards are set forth in 4 CMC §10408.
- 21.2 **Confidentiality.** No member of the Board of Directors or DCD employee or officer who becomes privy to any confidential information, data figures, projections, estimates, customer lists, tax records, personnel history, accounting procedures, promotions and information otherwise privileged as a result of his or her membership shall reveal such information to any person, firm, corporation, or other entity outside the course of his or her official duties; nor shall he or she use such information for his or her own personal gain. Nothing in this section shall prevent DCD from using and disclosing such information as is necessary to administer its Loans or collect amounts outstanding from the Loan Applicant or borrower.
- 21.3 **Preparation of Loan Applications.** No DCD employee, officer or member shall engage in the preparation of any Loan application; provided, however, that the Loan Department staff may assist a Loan Applicant in the preparation of a Loan application within the DCD office without compensation. If the staff assists the Loan Applicant, the Loan Applicant shall first waive any legal claims against the staff, DCD and CDA for any wrongful performance or alleged misrepresentation on the Loan application.

CHAPTER TWENTY-TWO

VIOLATIONS OF RULES AND REGULATIONS

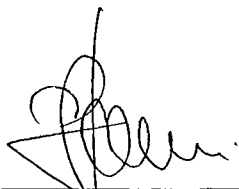
- 22.1 **Known Violations.** Known violations or possible violations of any provision contained in these Rules and Regulations shall immediately be reported to the Executive Director or other person designated for that purpose. The violation or possible violation shall then be promptly reported to the Board of Directors by the Executive Director.
- 22.2 **Discovered Violations.** If any DCD employee or member discovers irregularities in the use and enforcement of these Rules and Regulations, or has reasonable grounds to believe that these Rules and Regulations may have been violated, the employee or member shall report the matter to the Executive Director who shall furnish the Board of Directors with the information he or she has obtained.
- 22.3 **Additional Information.** It is the responsibility of the Executive Director, together with the Chairman, to review the information submitted, and request additional information necessary

to make a determination as to whether there is substantial evidence of a violation of these Rules and Regulations or whether further investigation should be undertaken.

22.4 **Penalties.** If it is determined by the majority of the Board of Directors that an individual has violated any of the provisions of these Rules and Regulations, he or she shall be subject to the penalties provided by law, and to such additional disciplinary and other remedial action including, among others, dismissal, suspension, or reduction in job position, as is appropriate.

CHAPTER TWENTY-THREE

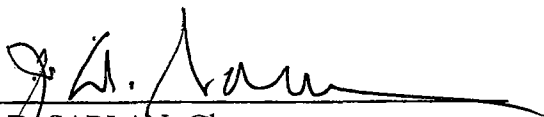
SIGNATURES



JUAN S. TENORIO, Chairman
CDA Board of Directors

12/14/2001

Date



JESUS D. SABLAN, Chairman
DCD Board of Directors

12/14/2001

Date

PUBLIC NOTICE

PROPOSED REVISIONS TO BOARD OF EDUCATION REGULATIONS REGARDING STUDENT ATTENDANCE, TRANSFERS, RECORDS, AWARDS, INSTRUCTIONAL TIME, FIELD TRIPS, STUDENT/TEACHER RATIOS, DISCRIMINATION AND AIDS/HIV

The Board of Education for the Commonwealth of the Northern Mariana Islands hereby notifies the general public of its intention to revise the Board of Education regulations listed above. The revisions to these regulations are attached and the specific changes are noted in *Italics* and/or lined through in the text of the regulations. The proposed amendments are promulgated pursuant to the authority provided by article XV of the CNMI Constitution, Public Law 6-10 and the CNMI Administrative Procedures Act.

All interested persons may examine the proposed amendments and submit written comments, positions, or statements for or against the proposed amendments to the Chairman, Board of Education, P.O. Box 1370 CK, Saipan, MP 96950 within thirty (30) calendar days following the date of the publication of this Notice in the Commonwealth Register.

Dated this 17th day of January 2002, at Saipan, Northern Mariana Islands.

BOARD OF EDUCATION

By: Herman T. Guerrero
Herman T. Guerrero
Board of Education Chairperson

The revised regulations proposing to amend certain Board of Education regulations, copies of which are attached hereto, have been reviewed and approved by the Attorney General's Office.

Allan L. Dollison
ROBERT T. TORRES
ACTING ATTORNEY GENERAL
BY: **ALLAN L. DOLLISON**
ASSISTANT ATTORNEY GENERAL

Date: 1/28/02

Soledad B. Sasamoto
Filed By: **SOLEDAD B. SASAMOTO**
Registrar of Corporation

Date: 1/28/02

Thomas Tebuteb
Received By: **THOMAS TEBUTEB**
Special Assistant for Administration

Date: 1/28/02

NUTISIAN PUPBLIKU

PRINOPONEN RIBISION GI REGULASION KUETPON EDUKASION PUT ATTENDANCE ESTUDIANTE, MATRANSFERI, REKOT, PREMIU, ORAN LEKSION, FIELD TRIPS, STUDENT/TEACHXHERS RATIOS, DISKRIMINASION YAN AIDS/HIV

I Kuetpon Edukasion Commonwealth I Sumangkattan Siha Na Islas Marianas, ginen este ha infotoma i pupbliku henerat put intesion-ña para u ribisa i Regulasion Kuetpon Edukasion ni malista gi sanhilo. I ribision este siha na regulasion ni chechetton yan i manma espisifika manma nota gi *italics* yan/osino manma raya gi suhetun i regulasion. I mapropopone siha na amendasion manma cho'gue sigun aturidat Attikulu XV Kanstitusion CNMI, Lai Pupbliku 6-10 yan i CNMI Administrative Procedures Act.

Todo ayu siah i maninteresante siha na petsona siña maeksamina i mapropopone siha na amendasion yan satmiti halom komento put pusision, sinangan kao mafabot pat makontra i mapropopone siha na amendasion ya u manahanao guato para i Kabesiyun, Kuetpon Edukasion, P.O. Box 1370 CK, Saipan, MP 96950 halom trenta (30) dias despues di mapublika este na Nutisia gi Rehistran Commonwealth.

Mafecha guine gi mina' 7th na dia guine na mes January, 2002 giya Saipan, I Sumangkattan Siha Na Islas Marianas.

KUETPON EDFUKASION

Ginen:

Herman T. Guerrero
Herman T. Guerrero
Kabesiyun, Kuetpon Edukasion

I maribisa na regulasion ni mapropopone para u amenda otro siha na regulasion Kuetpon Edukasion, guaha kopia chechetton guine, esta manmaribisa yan apreba ginen Ofisinan Abugadon Henerat.

ROBERT T. TORRES
ACTING ATTORNEY GENERAL /s/

Fecha: 1/28/02

ROBERTO RUIZ DOLLISON, AAG

Ofisinan Abugadon Henerat

Pine'lo as:

Soledad B. Sasamoto
Soledad B. SASAMOTO
Rehistradoran Kotporasion

Fecha: 1/28/02

Rinisibi as:

Thomas Tebuteb
THOMAS TEBUTEB
Espisiat Na Ayudanten Administrasion

Fecha: 1/28/02

ARONGORONGOL TOULAP

POMWOL FFÉÉRÚL LIIWEL MELLÓL AUTOL ALLÉHGÚL BOARD OF EDUCATION REEL STUDENT ATTENDANCE, TRANSFERS, RECORDS, AWARDS, INSTRUCTIONAL TIME, FIELD TRIPS, STUDENT/TEACHERS RATIOS, AKKABWUT ME AIDS/HIV

Board of Education-il Commonwealth metawal Wóól Falúw Kka Marianas nge arongaar toulap igha ekke powmoli bwe ebwe liwili Allé ghúl Board of Education ikkiwe e táletiw meweiláng. Liiwel kkaal nge ikka e schuu ngáli arongorng yeel nge eyoor milikka e liiwel iye e *Italics* me/ngare e róóza autol allégh. Pomwol fféérúl liiwel kkaal nge e fféér sáangi bwángil Tálil XV llól CNMI Costitution, Alléghúl Toulap 6-10 me CNMI Administrative Act.

Alongeer aramas kka re tipáli nge emmwel schagh bwe rebwe ló amwuri fischiiy pomwol fféérúl liiwel kkaal reel meta mángemángiir me tipeer ngare re tipáli ngare saabw nge rebwe ischiitiw nge ra afanga ngáli Chairman, Board of Education, P.O. Box 1370 CK, Seipél, MP 96950 eliigh (30) rál sáangi igha e rongoló Arongorong yeel llól Commonwealth Register.

E fféér rááilil ye 17th maram ye January, 2002, wóól Seipél, Falúw Kka Afáng mellól Marianas.

BOARD OF EDUCATION

Mereel:

Herman T. Guerrero

Herman T. Guerrero
Board of Education Chairperson

Liiwelil allégh kka nge ebwe liwili akkááw alléghúl Board of Education, iye eyoor kopiyaal ye e schuu me schéél tiliigh yeel nge a takkal mwir sáangi Bwulasiyool Attorney General bwe e fil me angúungú.

ROBERT T. TORRES
ACTING ATTORNEY GENERAL

/s/

Rál: 1/28/02

LEONARDO L. DOLLISON, AAG
Bwulasiyool Attorney General

Isáliiyal:

SOLEDAD B. SASAMOTO
Registrar of Corporation

Rál: 1/28/02

Bwughiyal:

THOMAS TEBUTEB
Special Assistant for Administration

Rál: 1/28/02

STUDENTS

Regulation 2100

Nondiscrimination and Student Rights

Discrimination and Harassment Prohibited

(a) *All students, employees and parents have the right to be free from discrimination and harassment on the basis of race, creed, religion, color, sex, sexual orientation, national origin, age, cultural or socio-economic status or disabling condition. Employees shall not participate in, or permit others to engage in, any act of discrimination against students, parents or coworkers based on the above factors or in retaliation for the exercise of any of their rights.*

(b) **DEFINITIONS:**

- 1. Discrimination is the singling out of a person or persons for different treatment, regardless whether good or bad, based on the factors listed above. Discrimination includes not only the creation of a hostile environment, but also favoritism based on any of these factors. Simply put, students and employees are required to treat all persons equally.*
- 2. Harassment may be defined as abusive behavior or other verbal or physical conduct towards a person based on that person's sex, sexual orientation, race, creed, color, religion, national origin, age, cultural or socio-economic status or disabling condition which has the purpose or effect of creating an intimidating, hostile or offensive environment that interferes with a student's participation in or receipt of benefits, services or opportunities in a school's programs and activities. Examples of harassment include, but are not limited to, jokes, comments, slurs, epithets and disparaging remarks.*

(c) **COMPLAINTS:**

- 1. Any student who believes that he or she is a victim of discrimination or harassment should report the matter immediately to the building principal. If the student feels more comfortable speaking to someone other than the building principal, the student may inform any teacher, counselor or the PSS EEO Officer. If the situation is not satisfactorily resolved by the building principal, the student or parent should contact the PSS EEO Officer.*
- 2. Students, parents and employees should review Board Regulation 2130 (Sexual Harassment of Students) for more information regarding sexual harassment and follow the procedures set forth in 2130 to address discrimination or harassment of any kind on the basis of race, creed, religion, color, sex, sexual orientation, national origin, age, cultural or socio-economic status or disabling condition.*

3. There will be no retaliation against or adverse treatment of any student who uses this procedure to resolve a concern when such complaint has been brought in the good faith belief that the complainant has been subjected to discrimination or harassment.
4. The responsible administrator shall follow up regularly with the complaining student to ensure that the discrimination and/or harassment has stopped and that no retaliation has occurred.

(d) DISCIPLINE/CONSEQUENCES

1. Any student who engages in discrimination and/or harassment while on school property or while participating in school activities will be subject to disciplinary action, up to and including expulsion.
2. Any employee who permits or engages in the discrimination and/or harassment of students will be subject to disciplinary action, up to and including dismissal.
3. Any employee who receives a complaint of discrimination and/or harassment from a student and who does not act promptly to forward that complaint to the principal and PSS EEO Officer shall be disciplined appropriately.
4. Any student who brings a false charge of discrimination and/or harassment shall receive appropriate discipline. The term "false charge" mean charges brought in bad faith, that is, without the good faith belief that one has been subjected to sexual harassment. The term "false charge" does not include a charge that was brought in good faith but which the PSS was unable to substantiate.

The PSS EEO Officer will be available to answer all questions regarding this regulation or its implementation.

Admission and Withdrawal**Students Beyond Normal Age of Attendance**

- (a) No student who has reached the age of seventeen (17) by September 30 of the school year in which attendance is being requested shall be enrolled in grades 1-9, unless an exemption is granted by the Commissioner due to compelling and justifiable circumstances. No student who has reached the age of twenty (20) by September 30 of the school year in which attendance is being requested shall be enrolled in grades 10-12, unless an exemption is granted by the Commissioner due to compelling and justifiable circumstances.
- (b) Students who are seventeen (17) years or older in grades 8-9 or nineteen (19) years or older in grades 10-12 who fail to earn at least five (5) credits in the school year shall not be reenrolled the following year.
- (c) A student over the compulsory age of attendance may not register for school after the second week of the first quarter of the school year unless he/she is a transferee from another school and has been in attendance during that school year. These restrictions shall not apply to special education students or students who have an excusable reason for late registration, such as illness.
- (d) A student over the compulsory age of attendance who has accumulated a total of thirteen (13) days and/or five consecutive days of unexcused absences shall be dropped from school for the balance of that academic year. *Students under block scheduling who incur seven (7) or more unexcused absences during a term shall be dropped from school for the balance of that academic year.*
- (e) High school students shall be given six (6) continuous calendar years to complete their graduation requirements, commencing from their first day in the 9th grade. Students who do not complete their graduation requirements by the end of this period may be denied entrance to school in subsequent years. Permission to return to school may, therefore, be denied to dropout students if they would be unable to complete their graduation requirements by the end of the six (6) year period.
- (f) Any actions taken pursuant to this policy with respect to the attendance of special education students must be consistent with the Individuals with Disabilities Act (IDEA) and the disciplinary code for special education students.

STUDENTS

Policy 2230

Admission and Withdrawal

Transfers to Different Schools/Zones

The Board of Education understands that parents and students may move to different islands or different villages during their child's school years. While the Board suggests that parents avoid changing their child's school in the middle of an academic year, on occasion, a transfer may be unavoidable due to certain family circumstances.

In order to honor the request for transfer while protecting the academic needs of the student and minimizing the disruption of the educational process, the Board has adopted Regulation 2230. This regulation sets forth the transfer process.

STUDENTS

Regulation 2230

Admission and Withdrawal

Transfers to Different Schools/Zones

Request for student transfers during the school year must be submitted to and approved by the principal of both the releasing and the receiving school. The releasing and the receiving principal must communicate regarding the requested transfer. The two principals will examine the academic needs of the student and the effect of the transfer on the school and the educational process before approving transfer requests. More than one transfer request by a student in a single school year may be rejected by the PSS and may be referred to the proper authorities in cases of suspected educational neglect.

Transfer requests must be submitted at least fifteen (15) school days in advance of the proposed transfer. Such requests will not be approved during the final ten (10) school days of any quarter.

Students transferring during the summers must notify the releasing school and meet the registration requirements and deadlines of the receiving school.

STUDENTS

Regulation 2310

Attendance

Student Attendance

The Public School System recognizes two types of absences: excused or unexcused.

- (a) Excused absence is absence necessitated because of illness or death in the family, or absence with the written approval of parent/guardian when such approval is not inconsistent with the academic needs of the student as determined by the principal.
- (b) Unexcused absences are those which are not excused. They may generally be categorized as being of such a nature that prudence would have avoided or precluded the absence. *Suspension and expulsions are considered unexcused absences.*
- (c) All students who participate in sanctioned school activities that remove the student from regular classroom attendance shall be considered as present. However, students must make up any lesson or assignment missed as a result of such activity.
- (d) School principals/designees have the authority to make determination of whether or not an absence will be considered excused or unexcused.

Student Absences

- (e) Secondary school students (grades 7-12) who incur thirteen (13) or more unexcused absences in a course during one semester *shall be considered excessively absent* and shall not receive a passing grade for that course for that semester. Students under block scheduling who incur seven (7) or more unexcused absences during a term *shall be considered excessively absent* and shall not receive a passing grade for that course during that term.
- (f) Secondary students who do not receive a passing grade for a semester as a result of excessive absences shall receive a "no credit" (NC or 0.00) on their academic record, *irrespective of the grade the student would have received before the excessive absences.* The course must be repeated and the no credit may be deleted only upon successful completion of the repeated course.
- (g) *Elementary school students with 25 or more absences in a school year will not receive credit and will not be promoted, unless an exemption is granted by the Commissioner.*
- (h) For the purposes of this regulation, three (3) unexcused tardies *within a term or semester* from a course/class shall equal one (1) unexcused absence from the course/class *for that term or semester.*

Tardiness

- (i) The term tardy is defined as being late to school, class or an activity with or without permission of parent/guardian. A student is considered tardy if he/she arrives after the designated time of the class or activity, regardless of whether the student is late by five minutes or fifteen minutes. A student who misses more than half of the class or activity shall be considered absent for the entire class or activity.

Counseling for Absenteeism and Tardiness Problems

- (j) The teacher should counsel those students and parents who are developing a pattern of being *absent and/or tardy*. The teacher will refer to a school administrator specifically designated by the school principal to handle such problems, those students who, in the teacher's judgment, are not making progress toward correcting the problem.
1. Upon the first referral by a teacher, the administrator should attempt to determine the nature of the problem, inform the student and the student's parent/guardian of the *absence and tardy policy and regulation* ~~and place the student on school probation.~~
 2. *The teacher must refer the student to a school administrator and a parent conference must be held to discuss the problem and to explain the Board regulations and any appropriate disciplinary alternatives under the following circumstances:*
 - A. *Under block scheduling, after the third (3rd) unexcused absence or sixth (6th) tardy in a quarter.*
 - B. *For secondary schools without block scheduling, after the sixth (6th) tardy or sixth (6th) unexcused absence in a semester.*
 - C. *For elementary schools, after the sixth (6th) tardy in a semester or the sixth (6th) unexcused absence in a semester.*
 3. ~~Third Referral Upon the third referral by any teacher during a semester, the administrator will select the appropriate action from one or more of the following options: short term suspension, in school suspension or alternative learning program.~~
 3. *In addition to counseling after teacher referrals, principals shall require doctor's excuses for absences in the following circumstances, unless a waiver for the absence is obtained from the school principal:*
 - A. *Under block scheduling, a doctor's excuse will be required for any absence after the third (3rd) in a term.*

- B. *For secondary schools without block scheduling, a doctor's excuse will be required for any absence after the sixth (6th) in a semester.*
 - C. *For elementary schools, a doctor's excuse will be required for any absence after the sixth (6th) in a semester.*
- (k) *Absenteeism and/or tardiness problems for special education students must be referred to the student's IEP team to address the problem and discuss any appropriate learning and/or disciplinary alternatives.*

STUDENTS

Regulation 2420
(Form 2420)

Student Records

Student Educational Records

(a) Definitions

1. *Permanent records* shall include the following information:
 - A. The name and sex of the student as given in a legal document, such as a birth certificate, court order or official record of school previously attended.
 - B. Any other name(s) by which the student may be identified.
 - C. The student's date of birth and the method of verification of the date of birth for the student.
 - D. The name and address of the student's parent/guardian if the student is a minor.
 - E. The student's primary language and ethnic background.
 - F. A record of the entering and leaving dates for all school sessions previously attended by the student.
 - G. A record of the instruction in which the student participated, and of the student's rating or achievement in instruction (student progress report or equivalent).
 - H. Test score records.
 - I. Any specific health problem and verification of immunization.
 - J. Insurance company.
 - K. Disciplinary records related to all suspensions and expulsions.
 - L. Other pertinent educational information, including attendance.

2. *Directory information* means information contained in the education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. Directory information, under this policy and regulation, includes, but is not limited to, the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous school attended.
3. *Educational record* means those records that are directly related to a student and are maintained by the PSS.
4. *Disclosure* means to permit access to or the release, transfer, or other communication of education records, or the personally identifiable information contained in those records, to any party, by any means, including oral, written or electronic means.
5. *Eligible student* means a student who has reached 18 years of age or attends an institution of post-secondary education.
6. *Parent* means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent/guardian in the absence of a parent/guardian.
7. *Personally identifiable information* includes, but is not limited to the student's name; the name of the student's parent/guardian or other family member; the address of the student or student's family; a personal identifier, such as the student's social security number or student number; a list of personal characteristics that would make the student's identity easily traceable, or other information that would make the student's identity easily traceable.
8. *Student* means any individual who is or has been in attendance in the Commonwealth and about whom the PSS maintains education records.

(b) General Guidelines

1. The PSS shall give full rights under this regulation to either parent/guardian of a student, unless the PSS is provided with a court order, state law or other legally binding document that specifically revokes the parent/guardian's rights to access under this policy.
2. When a student reaches the age of 18, or attends a post-secondary institution of education the parent/guardian rights under this policy will transfer from the parent/guardian to the student.
3. The PSS will annually disseminate a notice of the rights available under this regulation to parent/guardian and eligible students. The annual notification will include a statement that the parent/guardian or eligible student is entitled:

- A. To inspect and review the student's educational records.
- B. To request changes to the educational records to ensure that the records are not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights.
- C. To consent to disclosures of personally identifiable information contained in the student's educational records, except to the extent that federal and state law authorize disclosure without such consent; and
- D. To obtain a copy of this policy and guidelines.

The annual notification will also inform parent/guardian and eligible students where copies of the policy and guidelines are located.

- 4. Prior to making directory information public, the PSS will notify the parent/guardian regarding the categories of information that it has designated as directory. In addition, the PSS will allow a reasonable period of time after such notice for the parent/guardian or eligible student to inform the PSS that any or all of the designated directory information should not be released without the parents/guardians' or eligible student's consent.
- 5. Principal/designee of the school where access to student records is being requested shall provide a space or room for authorized agency or person requesting access to review records.
- 6. If necessary and requested by the student, parent or guardian, qualified personnel to interpret records will be made available.

(c) Procedures for Inspection and Review of Educational Records

- 1. The PSS's regulation permits parent/guardian and eligible students to inspect and review the education records of the student.
- 2. After a request for access to records, the PSS will allow access within a reasonable period of time, but in no case more than ~~forty-five (45)~~ five (5) days after receipt of the request. All requests for access should be directed to the building administrator.
- 3. After the parent/guardian or eligible student has had an opportunity to inspect and review the student's education records, the parent/guardian may make a request for explanations and interpretations of the records to building administrator. The PSS 's designee shall respond to all reasonable requests for explanation or interpretation.
- 4. The PSS will not destroy any education record if there is an outstanding request to inspect and review that record.

5. The PSS may charge a fee for copies of education records that are made for a parent/guardian or eligible student, unless that fee would prevent a parent/guardian or eligible student from exercising their rights to inspect and review the student's education records. The PSS will not charge a fee to search for or retrieve a student's education records.
6. If a student's education records contain information on more than one student, the parent/guardian or eligible student may inspect, review or be informed of only the specific information about that student.

(d) Procedures Regarding Disclosure of Personally Identifiable Information Where Consent is Required

1. Before the PSS discloses personally identifiable information from a student's records (other than directory information), the PSS will obtain a signed and dated written consent from the parent/guardian or eligible student. The written consent will specify the records that may be disclosed; state the purpose of the disclosure; and identify the party or parties to whom disclosure may be made.
2. If the parent/guardian or eligible student so requests, the PSS will provide him/her with a copy of the records disclosed.

(e) Disclosure of Personally Identifiable Information Where Consent is Not Required

The PSS may disclose personally identifiable information from a student's education records without the written consent of the parent/guardian or eligible student in the following circumstances:

1. Disclosure may be made to other school officials, including teachers, within the PSS whom the PSS has determined to have legitimate educational interests. The PSS designates the principal to make the determination as to whether a particular school official has a legitimate educational interest in accessing a student's education records. Before making the determination, the principal shall consult with the PSS Legal Counsel. Before obtaining access any student's education records, the school official seeking access must submit a written request to the principal. The request must include the student's name, the reason for the request, the school official's name and the date of the request. The PSS's designee must provide in writing whether the request was granted or denied and the reason for the decision. If the request is granted, the request and the designee's decision must be maintained with the student's education records.
2. Disclosure may be made to officials of another school district or post secondary educational institution where the student seeks or intends to enroll.
3. Disclosure may be made to authorized federal and state agencies and authorities.

4. Disclosure of acts of school violence, as set forth in Policy 2673, to PSS employees who are directly responsible for the student's education or who interact with the student in the performance of the employee's duties.
5. Disclosure to appropriate staff members of portions of any student's individualized education program that is related to past or potentially future violent behavior.
6. Disclosure to law enforcement officials, as soon as is reasonably practicable of the commission of the criminal acts listed in Policy 2673.
7. Disclosure to the appropriate division of the Juvenile Court of the suspension of more than ten (10) days of any student under court jurisdiction.
8. Disclosure of discipline records within five (5) days to any requesting school district where the student seeks to enroll.
9. Disclosure may be made if such disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary to determine eligibility, amount of aid, condition for the aid, or to enforce the terms and conditions of the aid.
10. Disclosure may be made to organizations conducting studies for, or on behalf of, educational agencies or institutions to develop, validate or administer predictive tests; administer student aid programs; or improve instruction, if the study is conducted in a way that does not permit personal identification of parent/guardian and students, and the information is destroyed when no longer needed for the purposes for which the study was conducted.
11. Disclosure may be made to accrediting organizations to carry out their accrediting functions.
12. Disclosure may be made to comply with a judicial order or lawfully issued subpoena and only after the PSS makes a reasonable effort to notify the parent/guardian or eligible student of the order or subpoena in advance of the compliance.
13. Disclosure may be made where the disclosure is in connection with a health or safety emergency and the information is necessary to protect the health or safety of the student or other individuals.
14. Disclosure may be made where the disclosure is of information the PSS has designated to be directory information.
 - A. Disclosure may be made to the parent/guardian of a non-eligible student or to an eligible student.

- B. Disclosure may be made without the written consent of the parent/guardian or eligible student as otherwise may be specified by federal or state law.
- C. The PSS may disclose personally identifiable information from an education record only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior consent of the parent/guardian or eligible student. Each party to whom disclosure may be made under this policy must first sign a statement in which he/she agrees to abide by this provision and agrees to use the information disclosed only for the purposes for which the disclosure was made. This does not apply to disclosures of directory information or to any information that the PSS is required to disclose.

(f) The Division of Youth Services (DYS) Access to Student Records

Pursuant to 1 CMC Sec. 2378 the Division of Youth Services (DYS) shall have access to student records with or without the consent or authorization of the student's parent/guardian if that student is a minor, or the consent of the student if that student is eighteen (18) years of age or older. Provided however, that the DHS shall, in writing:

1. Demonstrate its interest in the student record.
2. Specify the particular record or information requested.
3. List the name or names of agency personnel authorized to have access to information being sought.

(g) Procedures to Request Amendment of a Student's Educational Records

1. If a parent/guardian or eligible student believes the education records for that student contain information that is inaccurate, misleading, or in violation of the student's rights of privacy or other rights, he/she may ask the PSS to amend the record. All such requests should be directed to the building administrator.
2. The PSS's designee, in consultation with the administration or Board of Education as needed, shall decide whether to amend the record as requested within a reasonable time after the request.
3. If the PSS's designee decides not to amend the record, he/she shall inform the parent/guardian or eligible student of that decision and of their right to request a hearing.

4. If a hearing is requested, the PSS will hold the hearing within a reasonable time after it has received the request and will give the parent/guardian or eligible student reasonable advance notice of the date, time and place of the hearing. Any individual, including an employee of the PSS, who does not have a direct interest in the outcome of the hearing, may conduct the hearing. The PSS will give the parent/guardian or eligible student a full and fair opportunity to present evidence relevant to the issue(s) raised by the parent/guardian or eligible student's request. The parent/guardian or eligible student may, at their own expense, be assisted or represented at the hearing by any individual of their choice, including an attorney.
5. The PSS will make its decision in writing within a reasonable period of time after the hearing. The decision will be based solely on the evidence presented at the hearing, and will include a summary of the evidence and the reasons for the decision.
 - A. If the PSS decides, as a result of the hearing, that the information is inaccurate, misleading or violates the student's rights, the PSS shall amend the record and inform the parent/guardian or eligible student of the amendment in writing.
 - B. If the PSS decides, as a result of the hearing, that the information is not inaccurate, misleading, or otherwise in violation of the student's rights, the PSS shall inform the parent/guardian or eligible student of that decision and shall inform the parent/guardian or student of his/her right to place a statement in the record commenting on the contested information or stating why he/she disagrees with the PSS's decision, or both. If the parent/guardian or eligible student submits such a statement, the PSS will maintain that statement with the student's education records as long as the record is maintained and will disclose the statement whenever it discloses the portion of the record to which the statement relates.

(h) Record Keeping Procedures

1. The PSS will maintain a record of each request for access to and each disclosure of personally identifiable information from the educational records of each student. The building administrator or designee will be responsible for keeping such records of requests and disclosures.
2. The PSS will maintain the record of each request and disclosure with the educational records of the student as long as the records are maintained by the PSS.
3. For each request or disclosure, the PSS's record will include the parties who have requested or received personally identifiable information from educational records and the legitimate interests the parties had in requesting or obtaining the information.

4. If the PSS discloses personally identifiable information from an educational record under the exceptions enumerated in the earlier sections, the PSS will record the names of those persons to whom that party may disclose the information on behalf of the PSS and the legitimate interests which each of the additional parties has in requesting or obtaining the information.

Student Educational Records

FERPA Educational Rights Annual Notification

To All PSS Parents:

The Family Educational Rights and Privacy Act (FERPA) affords parents and students over 18 years of age (eligible students) certain rights with respect to the student's education records.

They are:

1. The right to inspect and review the student's education records within ~~forty-five (45)~~ *five (5)* days of the day the PSS receives a request for access. Parents or eligible students should submit to the school principal a written request that identifies the record(s) they wish to inspect. The principal will make arrangement for access and notify the parents or eligible students of the time and place where the records may be inspected.
2. The right to request the amendment of the student's education records that the parents or eligible students believe are inaccurate or misleading. Parents or eligible students may ask the Public School System to amend a record that they believe is inaccurate or misleading. They should write the school principal, clearly identify the part of the record they want changed, and specify why it is inaccurate or misleading.

If the PSS decides not to amend the record as requested by the parent or eligible student, the PSS will notify the parent or eligible student of the decision and advise them of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.

3. The right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent.

One exception that permits disclosure without consent is disclosure to school officials with legitimate educational interests. A school official is a person employed by the PSS as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); a person serving on the School Board; a person or company with whom the PSS has contracted to perform a special task (such as an attorney, auditor, medical consultant, or therapist); or a parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

Upon request, the PSS may disclose education records without consent to officials of another school district in which a student seeks or intends to enroll.

4. Upon request, parents are entitled to a copy of the complete Board policies and regulations regarding student records. Please contact the principal for a copy.
5. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the PSS to comply with the requirements of FERPA. The name and address of the Office that administers FERPA is:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue S.W.
Washington, D.C. 20202-4605

RETURN TO BUILDING PRINCIPAL

I have received and read the annual notice of my rights and those of my child under the Family Educational Rights and Privacy Act (FERPA). Those rights are the:

- Right to inspect.
- Right to request amendment.
- Right to prevent disclosures.
- Right to complain to FERPA office.
- Right to obtain a copy of the policy from the PSS.

Student's name (please print) _____

Parent/Guardian Signature

Date

STUDENTS

Form 2420.1

Student Educational Records

FERPA Notice of Designation of Directory Information

The CNMI Public School System has designated certain information contained in the education records of its students as directory information for purposes of the Family Educational Rights and Privacy Act (FERPA).

The following information regarding students is considered directory information: (1) name, (2) address, (3) telephone number, (4) date and place of birth, (5) major field of study, (6) participation in officially recognized activities and sports, (7) weight and height of members of athletic teams, (8) dates of attendance, (9) degrees and awards received, (10) most recent previous school attended by the student, (11) photograph.

Directory information may be disclosed by the Public School System for any purpose in its discretion without the consent of a parent of a student or an eligible student. Parents of students and eligible students have the right, however, to refuse to permit the designation of any or all of the above information as directory information. In that case, this information will not be disclosed except with the consent of a parent or student, or as otherwise allowed by FERPA.

Any parent or student refusing to have any or all of the designated directory information disclosed must file written notification to this effect with the principal of the school which the student attends.

In the event a notification of refusal is not filed, the Public School System assumes that neither a parent of a student or an eligible student objects to the release of the directory information designated.

STUDENTS

Regulation 2540

Student Academic Achievement

Ceremonies and Awards

High school graduation ceremonies will be held at the end of each school year.

(a) Valedictorian and the Salutatorian

During the graduation ceremony, two students who are school's highest achievers shall deliver the valedictory and salutatory speeches. The Valedictorian shall have earned the highest grade point average at the school. The Salutatorian shall be the student with the second highest grade point average at the school. Both the Valedictorian and the Salutatorian must meet the following criteria:

1. The student must be enrolled for three (3) complete school years in any public high school in the CNMI.
2. Students achieved the highest and second highest grade point averages in all ~~the~~ **required** courses for graduation as computed in percentages;
3. The students must not have taken a remedial course or repeated a course during the last three years of high school.
4. The students' completed courses must include a minimum of fifty percent (50%) honor or AP courses in the core subject areas of language arts, math, science and social studies offered during the students enrollment with the high school *unless such courses are not offered*.
5. The students must not have had significant disciplinary problems as determined by the principal.

If either of the students with the highest grade point average do not qualify, the award shall go the student with the highest grade point average who meets the criteria.

(b) High School Graduation Awards *

The following awards may be distributed during graduation. Any other awards will be distributed during special award ceremonies. The graduation awards may include:

- 1) The Board of Education Award shall go the Valedictorian.
- 2) The Commissioner's Award shall go the Salutatorian.

- 3) The Presidential Academic Fitness Awards (PAFA) shall go to the student who meets the requirements as stipulated in the PAFA.
- 4) The Principal's Award shall go to the student who meets the requirements as established by the Principal.
- 5) The Educational Achievement / Top Ten Award shall go to the Valedictorian, the Salutatorian and the next eight students with the highest grade point averages as computed in percentage. These students must have attended any public high school for three (3) years in the CNMI. Student who are in the top ten must not have taken remedial courses or repeated any course.
- 6) Honorable Mention shall go to the students who would have earned the Educational Achievement / Top Ten Award but have not met the school attendance requirement of three (3) years shall be accorded honorable mention during the graduation ceremony and awards may be presented as appropriate.

(c) Special Award Ceremonies*

Special award ceremonies may be held to honor and recognize students who are eligible for any other awards. Special awards may include:

1. Department Awards

Department awards shall be presented to the two highest achievers for each academic department and the highest in each vocational education department in terms of grade point average as computed in percentage.

2. Outstanding Female Graduate (OFEGRA)

This award shall be presented to a graduating female student based on the criteria established by the Office of Women's Affairs, the school principal, teachers and counselors, and concurred by the Board of Education.

3. School Leadership/ Governor's Award

This award shall be given to the graduating student who exhibits the highest leadership qualities as determined by the principal, counselor and teaching staff.

4. Parents/Teachers Association Award

This awards shall be presented to graduating students who meet the criteria established by the PTA.

(d) 8th Grade Special Awards*

1. Board of Education's and Commissioner's Awards

These awards go to the two highest grade point average holders as computed in percentage, respectively. These students must be enrolled in a CNMI public school in the 7th and 8th grade. These students must not have taken any remedial courses or repeated any courses.

2. President Academic Fitness Awards (PAFA)

These awards are determined by the PAFA requirements.

3. Subject Awards

Students who maintained the highest grade point average in the respective subject areas as computed in percentage for the last two years, 7th and 8th grades.

4. School Leadership Award

A leadership award shall be presented to the student who exhibits leadership qualities as determined by the principal, counselor and teaching staff.

5. Honorable Mention

This recognition shall be given to those students who would have received the Board of Education or the Commissioner's Award but who did not attend the respective school for both the 7th and 8th grade.

* Each school may establish additional written criteria for the selection of graduation and special awards recipients. Schools may refuse to offer awards to qualified students for disciplinary reasons.

STUDENTS

Regulation 2625

Discipline

Student Use and Care of School Property

- (a) The Board of Education recognizes that acts of destruction, defacing, trespassing, burglary and theft of PSS property are contrary to the interests of students, staff and taxpayers. PSS officials will cooperate fully with all law enforcement agencies in the prevention of crimes against PSS property as well as in the prosecution of persons involved in such conduct.
- (b) The PSS will seek restitution from students and other persons who have damaged, lost or destroyed PSS property, *including text books and other instructional materials*. Parents of students who lose or damage school property shall reimburse the school for the value of the lost or damage articles.
- (c) *The amount of restitution to PSS for the lost, stolen or damaged property shall be determined by the fair value of the lost or stolen property or the cost of reasonable repair if the item is not damaged beyond repair as determined by the principal or Commissioner.*
- (d) *School principals are responsible for enforcing this regulation and imposing any appropriate discipline and fines.*

STUDENTS

Regulation 2865
(Form 2865)

Student Services

Human Immunodeficiency Virus (HIV)

(a) Planning Groups and Panels

1. There is a statewide planning group, the Community Planning Group (CPG), that addresses awareness and prevention programs, testing guidelines, health care procedures and laws relating to HIV and AIDS for the Commonwealth. Within the school system, there is a PSS HIV Review Panel that coordinates with CPG and develops instruction, curriculum and guidelines relating to HIV.
2. The Commissioner of Education shall designate a coordinator to oversee the PSS's HIV education plans and to work closely with the CPG to develop HIV awareness and prevention programs. The Coordinator shall serve as chairman to the PSS HIV Review Panel and serve as the PSS representative for the CPG. Members of the PSS HIV Review Panel shall include teacher, counselor, administration, parent and student representatives.

(b) School attendance

1. HIV is not, in itself, a disabling condition, but it may result in conditions that are disabling. To the extent that a student who has HIV is determined to meet the criteria for eligibility for accommodations under state and federal nondiscrimination laws or for special education services, the PSS shall meet all procedural and substantive requirements.
2. School authorities will determine the educational placement of a student known to be infected with HIV on a case-by-case basis by following established policies and procedures for students with chronic health problems or students with disabilities. Decision-makers must consult with the student's physician and parent or guardian; respect the student's and family's privacy rights; and reassess the placement if there is a change in the student's need for accommodations or services.
3. School staff members will always strive to maintain a respectful school climate and not allow physical or verbal harassment of any individual or group by another individual or group. Such harassment may include taunts directed against a person living with HIV infection, a person perceived as having HIV infection, or a person associated with someone with HIV infection.

(c) Confidentiality, Privacy, Disclosure and Testing

1. To maintain an atmosphere of trust with staff members, students, families, and the community, a policy that encourages confidentiality is essential. It is important that people who have HIV and their families feel certain that their names will not be released against their wishes to others without a need to know. A policy on confidentiality that is strictly enforced will also provide protection to the PSS from legal action and from potentially adverse reactions that might result.
2. A student or student' parent/guardian or an applicant/employee, may, but is not required to, report HIV status to anyone in the education system. HIV antibody testing is not required for any purpose.
3. Every employee has a duty to treat as highly confidential any knowledge or speculation concerning the HIV status of a student or other staff member. Violation of medical privacy is cause for disciplinary action, criminal prosecution, and/or personal liability in a civil suit.
4. Except as otherwise permitted by law, no school personnel shall disclose any HIV-related information regarding prospective or current school personnel or students to anyone except in accordance with the terms of a written consent. The Commissioner of Education shall develop a written consent form (Form 2865) which details the information the signatory permits to be disclosed, to whom it may be disclosed, its specified time limitation, and the specific purpose for the disclosure. The PSS shall not discriminate against any individual who does not provide written consent.
5. All health records, notes and other documents that reference a person's HIV status will be kept confidential. Access to these confidential records is limited to those named in written permission from the person (or parent or guardian) and to emergency medical personnel. Information regarding HIV status will not be added to a student's permanent education or health record without written consent.

(d) Procedures for Maintaining Confidentiality

To promote confidentiality and to avoid the violation of state and federal laws that protect the confidentiality of medical records, the following procedures are suggested:

1. All medical information in any way relating to the HIV status of any member of the school community, including written documentation of discussion, telephone conversations, proceedings, and meetings shall be kept in a locked file. Access to this file shall be granted only to those persons identified in writing by the student or student's parent/guardian, or the employee, as having a direct need to know. Only persons named in the written consent may perform filing and photocopying of related documents.
2. No medical information shall ever be faxed.
3. Medically related documents that are to be mailed shall be marked "**Confidential**". Names of persons mailing document and those receiving the documents shall be identified on the written consent form by the student or a student's parent/guardian, or the applicant/employee.
4. A written consent form (Form 2865) shall be completed prior to each disclosure and release of HIV-related information.
5. Each disclosure made shall be noted and a list of such disclosures shall be made available to the students, parent/guardian, or employee upon request.

(e) Infection Control and Universal Precautions¹.

1. All PSS employees are required to consistently follow infection control and universal precaution guidelines in all settings and at all times, including playgrounds and school buses. Schools will operate accordingly to standards promulgated by the US Occupational Health and Safety Administration for the prevention of blood-borne infections. Equipment and supplies needed to apply the infection control guidelines will be maintained and kept reasonable accessible. Commissioner of Education shall implement the precautions and investigate, correct and report on instances of lapse.
2. A school staff member is expected to alert a person responsible for health condition or behavior presents a reasonable risk of transmitting any infection.
3. If a situation occurs at school in which a person might have been exposed to an infectious agent, such as an instance of blood-to-blood contact, school authorities shall counsel that person (or, if a minor, alert a parent or guardian) to seek appropriate evaluation.

4. The Commissioner of Education/designee shall provide training to all staff and student about: the hazards of bloodborne pathogens; the recommended operating procedures of universal precautions; the existence of the OSHA required exposure control plan; individuals or job classes to be notified in order to safety handle or clean up a blood or other body fluid spill safety; and the location and use of appropriate protective equipment and first aid devices.

(f) Education and Instruction for Students

1. The PSS shall provide systematic and extensive elementary and secondary comprehensive health education, which includes education on HIV infection, other sexually transmitted diseases as well as other communicable diseases, and the prevention of disease, as required by state law.
2. The PSS shall provide age-appropriate, ongoing HIV instruction for the kindergarten through 12th grades, *in accordance with the coordinated and comprehensive Health and HIV/AIDS standards and benchmarks PSS HIV Panel guidelines for the development of an HIV/AIDS education program.* ~~This instruction shall use methods demonstrated by sound research to be effective, be consistent with community standards and be appropriate to students' developmental levels, behaviors, and cultural backgrounds. The instruction will include current HIV epidemiology, methods of transmission and prevention, universal precautions and psychosocial aspects of HIV as part of skills-based youth development principles comprehensive health education program and through its integration into other subject areas.~~

(g) Responding to Questions

When students raise questions or makes comments relating to information not included in the approved curriculum, the teacher should answer the students' questions by first referring the student to their parents, qualified instructors who are currently teaching Sexuality or HIV/AIDS Education, or counselors. Teachers shall respond to questions at the level of each student's maturity within the confines of the guidelines.

(h) Using Additional Teaching Methods/Library and External Resources

Only methods, teaching aids, and resources approved by the HIV Panel and stated in the BOE approved curriculum guidelines shall be used in teaching sexuality and HIV/AIDS Education.

Materials located in the school library shall reflect the values of the CNMI community. When guest speakers are used, or students assigned to hear speakers or other media not approved in the curriculum, the teacher shall make a request to the program supervisor for approval. Resource personnel should have an understanding of the scope of the curriculum content and how the presentation will tie in with the overall program. Teachers must be present when guest speakers are in the classroom.

(i) Public and Parental Concerns Regarding Curriculum

Parents should be informed of their right to have their children withdrawn from sexuality and HIV/AIDS Education lessons. Whenever a parent questions the curriculum or teaching methods, a written report regarding the nature of the question and subsequent response should be filed with the appropriate personnel including the program coordinator, HIV Chairperson and Review Panel.

When a parent or citizen questions the content of the curriculum or teaching method, appropriate school authorities should be notified. If a teacher is questioned, the teacher should answer the parent's question in a logical and straightforward manner. At the discretion of the teacher and principal, the coordinator of the program may be present. Parents or citizens should also be informed that their concerns may be addressed to the Review Panel.

(j) Staff Development

The Commissioner of Education and the PSS HIV Review Panel shall create a plan to ensure that all school employees, including newly hired staff, receive training regarding current HIV policies and procedures. The plan will convey factual and current information; provide guidance on infection control procedures, HIV epidemiology, methods of transmission and prevention, universal precautions; inform about current law and school policies and regulations concerning HIV; discuss the psycho-social aspects of HIV-related school policies and procedures, assist staff to maintain productive parent and community relations; and includes specialized training as appropriate to their positions and responsibilities, including teaching strategies.

(k) HIV and Athletics

1. The privilege of participating in physical education classes, athletic programs, competitive sports, and recess is not conditional on person's HIV status. School authorities will make reasonable accommodations to allow students living with HIV infection to participate in school-sponsored physical activities.
2. All employees must consistently adhere to infection control guidelines in locker rooms and all play and athletic settings. Rulebooks will reflect these guidelines. First aid kits must be on hand at every athletic event.

3. All physical education teachers and athletic program staff will complete an approved first aid and injury prevention course that includes implementation of infection control guidelines. Student orientation about safety on the playing field will include guidelines for avoiding HIV infection.

(l) Related Services

Students will have access to voluntary, confidential, age and developmentally appropriate counseling about matters related to HIV infection. School administrators will maintain confidential linkage and referral mechanisms to facilitate voluntary student access to appropriate HIV counseling and testing programs, and to other HIV-related services as needed. Public information about resources in the community will be kept available for voluntary student use. However, Public Health is required to routinely offer on a voluntary basis with informed consent, HIV prevention counseling and HIV laboratory testing services to anonymously youth and adolescent programs.

(m) Enforcement

A person who violates this regulation may be subject to remedial and/or disciplinary action in accordance with applicable laws, regulations, policies and/or disciplinary code.

(n) General Provisions

1. On an annual basis, school administrators will notify students, their family members, and school personnel about current policies concerning HIV infection, and provide convenient opportunities to discuss them. Information will be provided in major primary languages of students' families.
2. The policy is effective immediately upon adoption. In accordance with the established policy review process, or at least every three years. Commissioner of Education shall report on the accuracy, relevance, and effectiveness of this policy and, when appropriate, provide recommendations for improving and/or updating the policy.

INSTRUCTIONAL SERVICES

Policy 6205

Instruction

Placement and Inclusion

The Board believes that similarly aged children of different educational levels will thrive both academically and socially if they are not segregated based on academic achievement. Accordingly, the Board precludes the schools in the Commonwealth from establishing remedial, intermediate and advanced classes in the core subjects.

However, nothing in this policy prevents the development of at-risk programs, gifted and talented programs, advanced placement (AP) or honors programs or individualized education programs (IEP) that may call for students to be provided educational opportunities to met their unique needs.

Except for bilingual instruction, students shall not be organized into classes consisting solely of one ethnic or language group. No student shall be segregated into a class consisting of one ethnic or language group for the entire school day.

INSTRUCTIONAL SERVICES

Regulation 6210

Instruction

Instructional Time

(a) Elementary School

1. **Kindergarten**

Each public elementary school will provide a minimum of 180 minutes of instructional time to kindergarten students in the thematic approach to instruction.

2. **First through Sixth Grades**

Each public elementary school will provide 360 minutes daily instructional time for students in grades one through six. *The subjects and daily time allotments set forth below shall apply.* Any departure from the time and/or subject requirements will require express prior approval from the Commissioner of Education that is subject to Board review upon request.

SUBJECT	GRADES 1 THROUGH 6
Language Arts (Social Studies Content)	120 minutes
Math	40 minutes
Science	40 minutes
Chamorro/Carolinian	40 minutes
Physical Education/Health	40 minutes
Art (1 semester per school year)	40 minutes
Music (1 semester per school year)	40 minutes

(b) Junior High School

1. Each public junior high school will provide ~~350~~ 300 minutes daily instructional time for students in grades seven and eight. *The required courses as listed on the next page shall be taught for a minimum of 50 minutes.* Any departure from the subject, time and/or credit requirements will require express prior approval from the Commissioner of Education that is subject to Board review upon request.

REQUIRED COURSES	
Language Arts	2 credits
Math	2 credits
Science	2 credits
Social Studies	2 credits
Physical Education	1 credit
Chamorro/Carolinian	0.5 credits
Vocational	0.5 credits
Computer Literacy	0.5 credits
Art/Music	0.5 credits

2. A minimum of eleven (11) credits is required for promotion from 8th to the 9th grade.

(c) High School

1. A minimum of 300 minutes daily instructional time shall be provided in CNMI public high schools. All *required* courses shall be for a minimum of fifty (50) minutes. Any departure from the subject, time and/or credit requirements will require express prior approval from the Commissioner that is subject to Board review upon request. Honors/Advanced Placement courses are recommended by the principals and approved by the Commissioner of Education.
2. A minimum of twenty-one (21) credits are required for graduation from the 12th grade. Required courses constitute sixteen (16) of the minimum credits and are as follows:

REQUIRED COURSES	
English	4 credits
Math	3 credits
Science	3 credits +
Social Studies	3 credits *
Physical Education	2 credit **
Language other than English	1 credits

+ Agriculture may be substituted for 1 credit of science.

* 1 credit of CNMI History is required. 1 credit of U.S. History is required starting with the class of 2003.

** JROTC may be substituted for 1 credit of Physical Education. 0.5 credit of Physical Education must include a health course.

INSTRUCTIONAL SERVICES

Policy 6190
(Regulation 6190)

Curriculum Services

Field Trips

Field trips are recognized as an important component of the curriculum services and instructional programs at PSS. Classroom teachers are permitted to take their classes on field trips that are educational in nature and that relate to the curriculum being taught or to school-sanctioned extracurricular activities. Regulations and procedures governing field trips must be followed as established by the Commissioner of Education. No field trip shall be approved where a threat or hazard to the reasonable safety of the students exists.

Curriculum Services

Field Trips

(a) In conducting educational field trips the following provisions will apply:

- 1. All students and chaperones must purchase travel insurance for all off-island field trips sanctioned by the Commissioner of Education.*
- 2. A minimum chaperone-student ratio of 1 to 10 is required for both on and off-island field trips.*
- 3. In a situation where there are mixed female and male students, adult male and female chaperones are required.*
- 4. No PSS student shall be allowed on a field trip without a specific, written parental permission slip. For each field trip the parent/guardian must be provided a written explanation of the location where the field trip will occur, the anticipated length of the field trip, who will be chaperoning the field trip, the anticipated method of transportation, the anticipated financial requirements that the parent/guardian will be required to shoulder, the anticipated instructional content and any anticipated costs to the parent of the field trip. In addition, for out-of-the-CNMI field trips, the student must show proof of valid medical insurance and provide parental consent to medical treatment before the student will be allowed to attend the field trip.*
- 5. All parental consent slips shall clearly state the date(s) that the consent covers and "blanket permission forms" (open-ended as to date, place to be visited, or instructional content and goals of field trip(s)) shall not be permitted.*
- 6. Vehicular transportation to the field trip site, or the airport for off-island field trips, shall be provided by either the individual student's parent/guardian or by the Public School System vehicles designed to transport students. In no instance shall students be transported to or from a field trip site in the bed of a pick-up truck or in a PSS employee's personal vehicle.*

INSTRUCTIONAL PROGRAM

**Policy 6215
(Regulation 6215)**

Instruction

Student Teacher Ratios

(a). *The Public School System (PSS) will strive to meet the following student to teacher general guidelines governing class size for instruction.*

1. *Elementary School Class Size. Regular Program*

<i>Grades K</i>	<i>Maximum 20/1</i>	<i>Minimum 10/1</i>
<i>Grades 1-3</i>	<i>Maximum 25/1</i>	<i>Minimum 15/1</i>
<i>Grades 4-6</i>	<i>Maximum 25/1</i>	<i>Minimum 20/1</i>

2. *Jr. High School Class Size. Regular Program*

<i>Grades 7-8</i>	<i>Maximum 30/1</i>	<i>Minimum 15/1</i>
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3. *High School Class Size. Regular Program*

<i>Grades 9-12</i>	<i>Maximum 30/1</i>	<i>Minimum 15/1</i>
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4. *Vocational Education Class Size*

<i>Teacher Program</i>	<i>Maximum 30/1</i>	<i>Minimum 15/1</i>
<i>Business Program</i>	<i>Maximum 30/1</i>	<i>Minimum 15/1</i>
<i>Trades Program</i>	<i>Maximum 20/1</i>	<i>Minimum 10/1</i>
<i>Co-op Program</i>	<i>Maximum 40/1</i>	<i>Minimum 20/1</i>

(b). *Special Education and Head Start classes shall be governed by the applicable federal regulations.*

(c). *Special Programs at all levels, such as gifted and developmental programs, and single class offerings at the secondary level (such as typing) shall not be governed by this regulation.*

1. *The maximum student-teacher ratios for the programs listed below should be as follows:*

- A. *25/1 in Core Academic Classrooms*
- B. *15/1 in Vocational Education classrooms*
- C. *10/1 in Special Education classrooms*

(d). *Exceptions to the parameters established by the guidelines in this regulation will be made only with the express approval of the Commissioner, with review by the Board upon request.*



Commonwealth of the Northern Mariana Islands

Office of the Governor

Department of Lands and Natural Resources

Lower Base

Caller Box 10007

Saipan, Mariana Islands 96950

Cable Address:

Gov. NMI Saipan

Telephone: 322-9830/9834/9854

Fax: 322-2633

PUBLIC NOTICE OF PROPOSED REGULATIONS FOR THE PRACTICE OF LAND SURVEYING

The Department of Lands and Natural Resources, Commonwealth of the Northern Mariana Islands pursuant to 1 CMC Sections 2653 and 2654, and 1 CMC Section 9120, 9104 and 9105, hereby gives public notice of its proposed Regulations For The Practice Of Land Surveying, appended hereto. The proposed regulations include land surveying definitions, requirements and standards for the practice of land surveying, approval and recording of plats and surveys and appendices. The proposed regulations, if adopted, will replace prior land surveying regulations.

All interested persons may examine the proposed regulations and submit written comments for or against the proposed regulations to the Secretary of Lands and Natural Resources and the Director of Land Registration and Survey, Caller Box 10007, Saipan MP 96950, no later than thirty calendar days following the date of publication of this Public Notice in the Commonwealth Register. Copies of the said land surveying regulations may be obtained or viewed at the Capitol Hill offices of the Division of Land Registration and Survey.

Dated this 11/14 day of January 2002, on Saipan.

Submitted by:

Joaquin A. Tenorio

Secretary of Lands and Natural Resources

Date: 1/28/02

Received by:

Thomas A. Tebuteb

Special Assistant for Administration

Office of the Governor

Date: 1/28/02

Filed and recorded by:

Soledad B. Sasamoto

Registrar of Corporations

Pursuant to 1 CMC Section 2153, as amended, the proposed regulations for land surveying attached hereto, have been reviewed and approved by the Office of the Attorney General.

Date: 01/28/02

Robert T. Torres

Acting Attorney General

**NUTISIAN PUBLIKU PUT PRINIPONEN REGULASION
GI MAPRAKTIKAN MAMIDIN TANO'**

I Dippattamenton Lands yan Natural Resources, Commonwealth I Sumangkattan siha na Islas Marianas, sigun 1 CMC Seksiona 2653 yan 2654, yan 1 CMC Seksiona 9102, 9104 yan 9105, ginen este ha infofotma I publiku put priniponen Regulasion Gi Mapraktikan Mamidin Tano', ni chechetton guine. I mapropopone siha na regulasion yanggen ma adapta para u tulaika I man hagas siha na regulasion mamidin tano'.

I maninteresante siha na petsona siña ha ma eksamina I manmapropopone siha na regulasion yan un satmiti halom documento gi tinige' kao ma fabot pat kontra I priniponen regulasion siha guato para I Sekretariun Lands yan Natural Resources yan I Direktot Land Registration yan Survey, Caller Box 10007, Saipan MP 96950, gui halom trenta (30) dias despues di mapublika este na Nutisian Publiku gi Rehistran Commonwealth. Kopian I regulasion mamidin tano guaha go Ofisinan Division of Land Registration and Survey giya Capital Hill para hayi malago' mo eksamina.

Ma fecha gi mina' 11 na dia, Ineru 2002, giya Saipan.

Fecha: _____

Sinatmiti as: _____

Joaquin A. Tenorio

Secretariun Lands yan Natural Resources

Fecha: 1/28/02

Rinisibi as: _____

THOMAS TEBUTEB
Espiciat na Ayudantin Administrasion,
Oficinan Gobietno

Fecha: 1/28/02 Ma file yan Rinekot as: _____

Soledad B. Sasamoto
Rehistradoran Kotporasion

Sigun 1 CMC Seksiona 2153, ni ha amenda, I priniponen regulasion mamidin tano' nichechetton guine, esta manma ribisa yan apreba ginen Ofisinan Abugadon Henerat.

Fecha: 1/28/02

ALLAN L. DOLLISON

Ginen: Ayudanten Abugadon Henerat

**INFORMATION STATEMENT
FOR THE PROPOSED REGULATIONS
FOR THE PRACTICE OF LAND SURVEYING**

Statutory Authority:	1 CMC Sections 2653 (d) and 2654
Short Statement of Goals and Objectives:	To update regulations related to the practice of land surveying in the CNMI.
Brief Summary of the Proposed Regulations:	The existing regulations for the practice of land surveying in the CNMI were last updated in 1993. New regulations are being proposed to establish updated standards and procedures for the practice of land surveying in the Commonwealth.
For further information contact:	Jesus DLG Takai, Director Division of Land Registration and Surveys Department of Lands and Natural Resources phone 322-9987; fax 322-2818
Citation of related or affected statutes, regulations or orders:	<u>Statutes:</u> 1 CMC § 2653 (d); 1 CMC § 2654; 2 CMC § 4222 (a); 4 CMC § 3211 (f); 4 CMC § 3212 et seq. <u>Regulations:</u> Published in the Commonwealth Register on 11/17/80 at pp. 904-912; on 2/23/81 at pp. 1113-1122; on 8/15/91 at pp. 7850-7852; on 10/16/91 at pp. 8075-8096; on 12/15/91 at pp. 8531-8554; on 6/15/93 at pp. 10666-10676; and on 10/15/93 at pp. 11062-11065. <u>Orders:</u> Executive Order 94-3; Memorandum from Secretary of Lands and Natural Resources Benigno M. Sablan dated 6/23/95 regarding "Consolidation of Lands and Surveys and Land Registration".

**INFOTMASION PUT
I PRINIPONEN REGULASION
GI MAPRAKTIKAN MAMIDIN TANO'**

Hayi gai aturidat: 1 CMC Seksiona 2653 (d) yan 2654

Didide' na Sinangan

Put minito' yan obyektibu: Para u maribisa i regulasion put ma praktikan mamidin tano' giya CNMI.

Didide' na sinangan

put minito' yan obyektibu:

I presenti na regulasion put ma pratikan mamidin tano' giya CNMI uttimo ma ibisa gi 1993 na sakkan. Nuebo siha na regulasion manmapropopone para u establesi kondison yan manera gi mapraktikan mamidin tano' gi halom Commonwealth.

**Put mas infotmasion
agang si:**

Jesus DLG. Takai, Direktot
Division of Land Registration and Survey
Department of Lands and Natural Resources
Numirun tilifon: 322-9981; Fax: 322-2818

**I manachule' yan
maniafekta siha na**

lai, regulasion pat oden:

Lai: 1 CMC § 2653 (d); 2 CMC § 4222 (a); 4 CMC § 3211 (f); 4 CMC § 3212 et seq.

Regulasion: ma publika gi Rehistran Commonwealth gi 11/17/80 pahina 904-912; gi 2/23/81 pahina 1113-1122; gi 8/15/91 pahina 7850-7852; gi 10/16/91 pahina 8075-8096; gi 12/15/91 pahina 8531-8554; gi 6/15/93 pahina 10666-10676; yan gi 10/15/93 pahina 11062-11065.

Oden: Oden Eksekatibu 94-3; Memorandum ginen Sekretariun Lands and Natural Resources Benigno M. Sablan ni mafecha gi 6/23/95 put "Consolidation Lands yan Surveys yan Land Registration".

**REGULATION FOR THE PRACTICE OF LAND SURVEYING
DIVISION OF LAND REGISTRATION AND SURVEY
OF THE
DEPARTMENT OF LANDS & NATURAL RESOURCES**

I. GENERAL PROVISIONS

1.1 Authority

These regulations are adopted herewith pursuant to authority vested in the Department of Lands & Natural Resources under PL. 1-8 (1 CMC §2654).

1.2 Purpose

The purpose of these regulations is to establish standards and procedures for the practice of land surveying in the Commonwealth of the Northern Mariana Islands.

1.3 Force and Effect

These regulations shall be binding upon all persons and entities licensed to practice land surveying in the CNMI and also to officers and employees of the CNMI doing any land surveying work. These regulations, once adopted, hereby supersede all rules or regulations, which were previously published and adopted by the Department of Lands & Natural Resources that pertain to the practice of land surveying.

II. DEFINITIONS

2.1 "Benchmark" means a permanent, official recorded mark, which establishes an elevation referenced to an adopted datum. The marked point can be a natural or artificially constructed object.

2.2 "Cadastral Parcel Index (CPI)" means a master index of designated land units, which is referred to survey plat numbering assignments.

2.3 "Check Print" means a working paper copy of a survey plat used to note omissions, errors or changes before the final plat is cleared.

2.4 "Chief of Party" means the CNMI government surveyor who is in charge of and responsible for the fieldwork of the survey and for reviewing the final draft plat for conformance with the fieldwork performed.

2.5 "Clearance" means the process of checking land survey plats of both private and government survey work by a CNMI government surveyor to determine and verify that the parcel, lot, tract, or any other area numbers and plat names previously assigned by the Division are correct; and that such land survey plats are in conformance with these regulations. The clearance does not confirm or place legal liability with the Division for the survey work or the conformance with these regulations and other applicable CNMI laws, rules and regulations. A land survey plat sealed and signed by a CNMI licensed surveyor and submitted to the Division is not a registered document until it has been cleared by the Division.

2.6 "CNMI" means the Commonwealth of the Northern Mariana Islands.

2.7 "CNMI Interest Land" means land that is owned, leased or under the administrative control of the CNMI, which includes easements and rights-of-way designated for public use. Land in dispute or negotiation between the CNMI and other parties are treated as CNMI interest land for survey purposes until there is a final disposition on the land. This term includes public land.

2.8 "Commonwealth Surveyor" means the chief representative in land survey matters and applications, who has the authority to grant clearance of survey plats.

Minimum Qualifications

- a) Graduate from an accredited college or university with a major in Civil Engineering or Surveying or equivalent, plus five (5) years of responsible surveying work of which three (3) years are at the level of a Surveyor III of the CNMI Civil Service or higher.
 - b) Must be a Licensed Professional Land Surveyor in the United States or in the Commonwealth.
- 2.9 “Control, Cadastral” means permanent stations used as reference points for land surveys.
- 2.10 “Control, Geodetic” means a system of horizontal and or vertical stations, which have been established and adjusted by geodetic method (See Appendix VI).
- 2.11 “Control, Horizontal” means correlated position data in two dimensions usually established with greater precision and accuracy than for land survey. Ties to horizontal control stations are frequently used to accurately position beginning points for land surveys.
- 2.12 “Control, Vertical” means measurements of stations for the determination of elevations with respect to an imaginary level surface, usually mean sea level.
- 2.13 “Corner” means a position which determines boundaries. This term is not synonymous with the term “monument” even though they usually coincide.
- 2.14 “Corner, lost” means a lost position of a corner.
- 2.15 “Corner, witness” means a corner established on the line of the survey to witness a corner position which cannot be occupied or where a lasting monument cannot be constructed.
- 2.16 “Division” means the Division of Land Registration and Survey under the Department of Lands and Natural Resources, Commonwealth of the Northern Mariana Islands.
- 2.17 “DLS Check Number” means a plat number pre-assigned by the Division for both public and private land surveys. Public land survey plats have a land unit designation, e.g., 061 C 00 and private land survey plats have a sequential number followed by the year of filing with the Division, e.g., “2035/94”, “2036/94”. For the Island of Rota, survey plats are numbered in a 3000 series although there are early plats with numbers in the 2000 series.
- 2.18 “E.A. Number” means, for land survey purposes, a land unit designation based on an exchange agreement between the CNMI and a private party.
- 2.19 “Geodetic Classification” means the classification as listed in the U.S. Federal Geographic Data Committee Geospatial Positioning Accuracy Standards (see Appendix VI). These standards are based on the ability of the survey to duplicate established control values replacing the previous observation closures methodology for point classification. Classified points are verified as being consistent with all other points in the network not just those within its own survey.
- 2.20 “Legal Description” means a description recognized by law, which locates land units by identifiable labels (such as lot, block, tract or homestead number) in a defined system rather than solely by listing courses or describing adjoining units or referring to natural or artificial monuments.
- 2.21 “Lot” means a component of the Japanese system for identifying and surveying single land units. The original lot numbers from the Japanese era are often still used in the CNMI with modifications and with some exceptions.
- 2.22 “Mean High Water Mark” means a mathematical determination of the plane of mean height of tidal waters in a locality.

- 2.23 **"Metes and Bounds"** means a method of describing land units by length and direction or reference to any other means except legal description such as lot, block, or tract.
- 2.24 **"Monument"** means an artificial or natural object, which marks a corner or boundary.
- 2.25 **"Monument, reference"** means a non-boundary monument set to reference a corner, which is in a hazardous or insecure position.
- 2.26 **"Ordinary High Water Mark"** means positions on the bank or shore of non-tidal waters, which by physical characteristics demonstrate distinct change or changes from the bed of the body of water to the upland. (See 2 CMC 1213 (k).)
- 2.27 **"Parcel"** means the result of subdividing a land unit into six (6) or less land units.
- 2.28 **"Plat"** means a map showing the location and boundaries of distinct land units.
- 2.29 **"Plat, consolidation"** means a survey plat, which represents the combining of two or more previously surveyed and designated land units into a single unit with a new designation.
- 2.30 **"Plat of Survey, Plan of Survey, Sketch of Survey, Right-of-way"** means titles and similar titles denoting drawings with appropriate annotation, which represent land surveys. For officially cleared and recorded surveys, "Survey Plat" or "Plat of Survey" are the preferred terms.
- 2.31 **"Plat, parcel split"** means the division of a land unit into two (2) land units.
- 2.32 **"Plat, parceling or parcel"** see "parcel" under this section.
- 2.33 **"Plat, relocation"** see "resurveyed" under this section.
- 2.34 **"Plat, retracement"** see "resurveyed" under this section. Retracement plats have DLS check numbers of 5000 or greater followed by the year they were filed with the division, e.g., 5002/94.
- 2.35 **"Plat, revision"** means a plat which has been changed on its face to correct errors or oversight.
- 2.36 **"Plat, severance"** means a survey plat which represents the separation of a portion of a realty unit from the whole, usually for the purpose of creating or acquiring a right-of-way.
- 2.37 **"Plat, subdivision"** means the division of land unit into seven (7) or more units.
- 2.38 **"Plat, survey of"** means a term used as a title for plats which represent survey of single land units and which do not fall into a special category such as a retracement plat. The title "Survey Plat" by itself should not be used. For example, the title "Survey of Tract 22011" correctly describes the plat purpose without inserting the word "plat".
- 2.39 **"Point of Beginning"** means the first point on the boundary of a described land unit. After passing through all the successive courses, the description indicates return to the "point of beginning".
- 2.40 **"Point of Commencement"** means a survey starting point, which is not on the boundary of the described land unit and is tied to the point of beginning.
- 2.41 **"Practice of Land Surveying"** means, pursuant to Section 3211 (f)(2)(A) of 4CMC, Div. 3, any service or work, the adequate performance of which involves the application of special knowledge of the principles of mathematics, the related physical and applied sciences and the relevant requirements of law for adequate evidence to the act of measuring and locating lines, angles, elevations, natural and man-made features in the air, on the surface of the earth, underground workings, and on the beds of bodies of water for the purpose of determining areas and volumes, for the monumenting of

property boundaries and for the platting and layout of lands and subdivisions thereof, including the topography, alignment and grades of streets and for the preparation and perpetuation of maps, record plats, field note records and property descriptions that represent these surveys.

- 2.42 **“Reference Point”** means a defined position, which is specifically located relative to another defined position.
- 2.43 **“Resurvey”** means a retracement of the line of an earlier survey. Restoration of original conditions is the paramount objective. Barring gross errors or omissions, previous survey records are adhered to and recovered corners are held fixed. New bearings, distances and areas are usually reported and platted.
- 2.44 **“Subdivision”** see “plat, subdivision” under this section.
- 2.45 **“Survey, as-built”** means to obtain horizontal and vertical data for the location and dimension of existing improvements.
- 2.46 **“Survey, boundary”** means to establish or reestablish lines for or between political entities.
- 2.47 **“Survey, cadastral”** means to create or identify land units for ownership or administrative purposes.
- 2.48 **“Survey, control”** means to provide horizontal or vertical positions for the support of subsidiary surveys or mapping.
- 2.49 **“Survey, geodetic”** means to provide a high order of precision and accuracy incorporating mathematical parameters of the size and shape of the earth. Control surveys are often geodetically related.
- 2.50 **“Survey, land”** means to determine extent and specific outlines of units of land; includes cadastral survey.
- 2.51 **“Survey, reconnaissance”** means to provide location and relational data in response to planning or administrative needs, usually of a lower order than a cadastral or land survey.
- 2.52 **“Survey, special purpose”** means to conduct a survey for a specific purpose other than other types of survey as defined herein.
- 2.53 **“Survey, subdivision”** see “plat, subdivision” under this section.
- 2.54 **“Survey, topographic”** means to determine vertical relation between horizontally positioned ground features and artificial objects.
- 2.55 **“Tie”** means a survey connection from a point of known position to a point that is desired.
- 2.56 **“Tract”** means a land unit designation related to the CNMI Homestead Program.

III. LAND SURVEYORS

3.1 Professional Land Surveyors

- A. Pursuant to Section 3212 of 4CMC, Div. 3, in order to safeguard life, health, and property no person except those exempted shall practice land surveying in the Commonwealth unless the Board of Professional Licensing licenses such person.
 - B. Surveys, which delineate land and property boundaries, units of ownership or possession, subdivision and resurveyed, in whole or in part must be conducted under the complete direction and control of a land surveyor licensed to practice in the CNMI.
- 3.2 CNMI Government Land Surveyors**
- A. Pursuant to Section 3213 (b) of 4CMC, Div. 3, persons practicing land surveying solely as officers or employees of the Commonwealth during the terms of office or employment are exempted from the licensing requirements by the Board of Professional Licensing.
 - B. CNMI government land surveyors can conduct or provide consultation for survey of government properties or to resurveyed private land which are the subject of title determination related to CNMI or previous government action or decision or to perform any type of survey for administrative needs. Private land may only be surveyed to gather evidence in support of CNMI Interest Land or in conjunction with private land and adjoining CNMI Interest Land.

IV. STANDARDS FOR THE PRACTICE OF LAND SURVEYING

4.1 Procedure

- A. The land surveyor must make a diligent search for pertinent recorded documents. Copies of applicable deeds, maps and title report or title opinion may be necessary. If the subject property is referenced to or described as an aliquot part of the public land survey, or a fraction thereof, relevant government plats, field notes, and special instruction should additionally be consulted when appropriate.
- B. The land surveyor must thoroughly examine this information and the date it was acquired.
- C. The land surveyor must diligently search for and identify monuments and other physical evidence which could affect the location of the subject property's boundaries. A reasonable attempt must be made to recover controlling monuments for reference thereto. The position of controlling monuments which have been obliterated should be recovered or reestablished using the best available evidence. Physical evidence of apparent use and possible rights in the subject property by others should be evaluated. Lines of possession and occupation must be located, described, and where practical, made an age determination.
- D. The land surveyor must conduct field measurements necessary to adequately relate the position of all apparent evidence pertinent to the boundaries of the property. All findings resulting from the field investigation must be accurately and completely recorded and retained permanently.
- E. The land surveyor must make computations to verify the correctness of the field data acquired and to confirm that measurement results are within acceptable tolerance limitations. Computations must be made to determine the relative position of all found evidence.
- F. In the event of a material discrepancy or disagreement with the measurements or monument corner positions of another land surveyor, the land surveyor must make a reasonable attempt to contact the other land surveyor and attempt to resolve the disagreement.

- G. The land surveyor must make an analysis, reach a final conclusion and set monuments so as to represent the location consistent with the best evidence available of corner position and boundary lines. The land surveyor must advise the client of discrepancies, which raise doubts concerning the boundary lines of the subject property and should provide the client with a copy of the survey report.
- H. The land surveyor shall prepare a scaled drawing of the results of survey for presentation to the client unless adequate existing information is available.
- I. The land surveyor must certify only those matters personally known to be absolutely true and must declare all other items only to the limit of the land surveyor's knowledge and belief.
- J. The land surveyor must prepare and cause to be recorded corner records and record of survey documents if a material discrepancy exists in angular and/or linear call as compared with new survey value as defined under these regulations.

4.2 Classification of Surveys:

- A. Class A – Urban Surveys
 - 1. Surveys of land lying inside a city or town; this includes, but is not limited to; surveys of urban business district properties and highly developed commercial properties.
- B. Class B – Suburban Surveys
 - 1. Surveys of land lying outside urban areas; this land is used almost exclusively for single-family residential use or residential subdivision.
- C. Class C – Rural Surveys
 - 1. Surveys of land such as farms and other underdeveloped land outside the suburban area, which may have a potential future development.
- D. Class D – Mountain and Marshland Surveys
 - 1. Surveys of land that normally lies in remote areas with difficult terrain and which usually has limited potential for development.

4.3 Measurement Specifications

Land surveyors must comply with the following measurements for the performance of land surveying in the CNMI.

- A. In order to apply the specifications to achieve the required accuracy the land survey must first classify the survey relative to the "Class of Survey" listed above.
- B. The U.S. Survey foot (English System) was the adopted standard during the Naval Administration. The metric system was the authorized standard for linear and area measurements during the T.T. Administration and it was carried forward and adopted for the CNMI (See Appendix I). Angular measurements are expressed in degrees, minutes, and seconds in sexagesimal system, increments of 60.
- C. Appendix II is the Table and Conversion Factors for the Japanese Linear and Area Measurements. The original source of these tables is unknown, however, it has been used as a conversion guide for many years. The factors in Appendix II are required to be used for record conversion calculations.
- D. Appendix III is the Table of Precision and Closure Standard. The table contains required accuracy for public and private land surveys and the required precision standard. Precision is the quality of the operation leading to the result and accuracy is the quality of the result of the survey. Precision is inherent in the fieldwork and the survey results. The survey plat must graphically

show conformance with required accuracies. Angular and distance precision are equally important for maintaining an acceptable accuracy balance.

- E. Vertical Control and Topographic surveys may be reported in feet or meters. Vertical control surveys shall be based on a level loop from an established benchmark or between established benchmarks. The datum used shall be stated on the finished drawing. Assumed datums are permitted. At least one site benchmark shall be established near the survey and described on the finished drawing. Vertical control and topographic surveys are not required to be cleared by the Division but this exclusion does not relieve conformance with the standards of this section.
- F. Surveys conducted solely for vertical datum using advanced techniques such as GPS are not subject to the standard of this section except for minimum accuracy, monuments and finished drawing requirements.
- G. Horizontal positions shall be plotted to 1/20th of the map or drawing scale. Accuracy standards for contour lines are required to be within 1/2 of the contour interval with 80% assurance and within a full contour interval with 100% assurance.

4.4 Monuments

Geodetic control monuments, horizontal and vertical, are required to meet current construction and positioning standards of recognized U.S. government agencies such as the National Geodetic Survey of the U.S. Department of Commerce, the U.S. Army Corps of Engineers, or the Federal Highway Administration, (see Appendix VI for standard).

- A. All monuments, whether set or found, must be described and specifically identified as set or found, whenever shown on maps or referred to in documents prepared by the land surveyor. Description of monuments must be sufficient in detail to readily facilitate future recovery and to enable positive identification, including map reference.
- B. Monuments are required to be magnetically detectable, not less than 4 inches in diameter, not less than 16 inches in length, and shall bear the land surveyor's license number.
- C. Monument construction, durability, setting condition and identification for private surveys must be acceptable to the Division (see Appendix IV for illustration of standard monument). Non-geodetic control monuments are required to have minimum dimension of 4" by 6" by 16" (top, bottom and height) and be set in a concrete mix of four (4) parts aggregate, three (3) parts sand and one (1) part cement. An identification cap marked "CM" shall be imbedded in the monument top. In areas of thin soil or surface bedrock, alternative monument types are acceptable if pre-approved by the Commonwealth Surveyor.
- D. Monuments which are more than 30 meters distant from the adjacent monument of the same survey are required to be referenced to at least two points by bearing and distance unless only one nearby stable point exists. Reference monument construction standard is identical to those of corner monuments except that the inscription "RM" is required. Examples of acceptable reference points are corners of concrete foundations, stable fence posts, estimated centers of trees and rights-of-way markers. Bearing reference can be used such as a permanent radio antenna or points on other tall structures. Other possibilities are broken glass placed at the bottom of the monument hole and ties to chiseled marks on a rock outcrop.
- E. On-line monuments will be established when the distance between adjacent corners in the same survey exceeds 50 meters.
- F. The willful or malicious destruction or impairment of an established survey monument, whether placed by a licensed or government surveyor, is a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00), or by imprisonment of not more than ninety (90) days, or both.

4.5 Control ties

- A. One corner of each land survey (platted unit) is required to be tied to an established control point of first through third order, Class 1, or at least meeting Class A standards (Appendix III). Control points shall be outside of the exterior boundaries of the concurrent survey with the tie distance no less than 25 meters. Bearing establishment for concurrent land survey shall be determined by the direction between two control points, which are at least 50 meters apart.
- B. New control points, which are established for the purpose of controlling a concurrent land survey, are not required to be pre-approved by the Commonwealth Surveyor for location and appropriate monumentation, but a copy of the coordinates for any such new control points must be provided to the Commonwealth Surveyor. The Commonwealth Surveyor should maintain a permanent file of the coordinates and detailed physical characteristics of any existing and new control points in the geodetic network.

4.6 Re-survey and Re-establishment of Lost Corners

- A. The mathematics and geometry of previously cleared surveys are not conclusive evidence for reestablishment of boundaries and lost corners. Proportionate (mathematical) measurement methods for re-establishing a lost corner will be used only after the responsible surveyor has determined that all alternative sources of evidence have been exhausted. The order of importance of evidence for re-establishing corners and boundaries is:
 - 1. Natural monuments and boundaries.
 - 2. Original monuments.
 - 3. Possession, which can be traced to the time of the original survey.
 - 4. Measurement of the original survey.
 - 5. Area.

Advancement in measurement technology resulting in improved bearing, distance and coordinate accuracy for contemporary survey strengthens order (measurement of the original survey) but does not change the order of importance.

- B. Testimony of individuals, while offering potential valuable evidence, must be weighed under the following considerations.
 - 1. The individual is qualified, i.e., has first hand knowledge of conditions in the vicinity of the survey since its completion.
 - 2. Accurate and unbiased accounting by an individual of specific locations.
 - 3. Final disposition of landowner rights rest with the Commonwealth Judiciary.
- C. When proportionate measurements become necessary for re-establishment, any professional accepted method may be used. A method, which best protects the landowner's rights as well as those on the adjoining property takes precedence. Sources of proportionate methods include text and reference books, generally used software adjustment program, and government documents such as the U.S. Bureau of Land Management Manual of Surveying Instructions.
- D. Licensed or Government Surveyors may enter on public or private land for the purpose of taking measurements, examining evidence of previous surveys, and implementing other survey work coinciding with the completion of a field survey, without prior permission of affected land owners, lessees, adjoining, or owners or lessees of land over which transit is necessary for access to the subject surveyed land(s). If such land owners, lessees or adjoining of transited land object in writing to the survey party's presence or activities, a court order must be obtained which permits the necessary entry for the performance and conduct of the survey. Such written objection should be forwarded to the Division in the case of public land being surveyed or to the responsible licensed surveyor for private survey work.

4.7 Plat Standards and Field Notes

- A. Field notes and cleared plats are permanent records. Original plat and field books done by a licensed or government surveyor shall be retained by the licensed surveyor or the Division. Certified copies of private survey work, which have been certified by the Division, will be permanently retained at the Division office through the means of microfiche or CD-ROM. Field notes collected by electronic means have the same retention requirements.
- B. Plats and field notes are sources of numeric, graphic, and descriptive data, which strongly support the establishment or re-establishment of boundaries or corners. They do not replace or override on the ground evidence such as natural authentic verified monuments.
- C. A plat, map, or sketch of a land survey is acceptable in terms of this section when it is certified by the responsible surveyor as meeting the requirements of the Plat Drafting Standard (see Appendix V) and has been cleared by the Division. The Commonwealth Surveyor maintains and provides when requested a set of standardized plat symbols. These symbols reduce the need for legends and symbols on the plat face.
- D. Revisions or corrections to a survey plat are made by changing the plat on its face to correct errors or oversights. Reasons for and dates of revisions are noted in the revisions section of the title block on the plat.
- E. The Division shall not make any changes to plats submitted for clearance by licensed surveyor. Plats with permanent or noticeable errors will be returned to the submitting party along with a letter outlining the discrepancies. This requirement does not imply that the Division will routinely or thoroughly examine private land survey plats for errors or discrepancies except for the clearance procedures.

4.8 Zoning Law and Regulations

- A. The CNMI licensed surveyors will comply with any new Zoning Law and its regulations, if passed in the future. These applications include, but are not limited to, drafting requirements for tentative and final plans and showing of specific items such as utilities, topography, and drainage. Cognizance of lot width, area, and setback requirements is of particular importance.
- B. The Commonwealth Surveyor is required to review tentative and final plans submitted by the CNMI Zoning Office and respond within fourteen (14) days with an endorsement or statement outlining discrepancies. The elements to be reviewed include lot and other numbering systems, bearings, distances, control ties, accuracy, locations and dimensions of easements and right-of-way, topography, lot dimension and areas, monument location and adequacy, curve data and any other significant date, information, or formats which the CNMI recognizes needs attention.

V. CLEARANCE AND RECORDING OF PLATS AND SURVEYS

- 5.1 Pursuant to part of the paragraph of Section 3219 (e) of 4 CMC, Div. 3, no maps or surveys shall be filed with any official of the Commonwealth unless stamped with the seal of a registered land surveyor.
- 5.2 All survey plans or plats signed and sealed by a CNMI licensed surveyor must be granted a clearance by the CNMI Commonwealth Surveyor from the Division and must be filed and recorded at the Commonwealth Recorder's Office, Commonwealth Superior Court.
- 5.3 All surveys performed by CNMI government surveyors require the signature and title on the plat of the Chief of Party who was assigned to the survey and must be cleared by the Commonwealth Surveyor who must indicate his signature and title in the designated space on the plat.
- 5.4 Clearance of Plat:

- A. The purpose of clearance of a survey plat or plan is to determine and verify that the lot, tract, parcel or other land units, numbers and plat names assigned by the Division are correct and that there is conformance with the plat standards of these regulations (See Appendix V). The following is the procedure for pre-clearance:
1. The licensed surveyor submits in writing to the Division stating the purpose of the proposed or pending survey, its location and estimated starting date along with a rough sketch showing location and design.
 2. The Commonwealth Surveyor responds within five (5) working days before the estimated starting date with an assignment of lot, tract, parcel or other unit designation and specific name to be used on the plat.

This procedure may change depending on the survey work and at the consent of both the licensed surveyor and the CNMI Commonwealth Surveyor.

- B. Clearance of a survey plat is not a warranty or other statement of accuracy of the private surveyor or map and places no liability with the CNMI government.
- C. The Division is required to process survey plats submitted for clearance within seven (7) working days of their receipt. If a plat is rejected, the submitting party must be notified and informed of the reason(s) for rejecting within ten (10) days of its receipt.
- D. The Commonwealth Surveyor cannot clear any parcel or subdivision survey plats, unless every lot or other land unit of the survey abuts an existing or planned roadway right-of-way having a minimum width of twenty (20) feet.
- E. The survey plat or plan is not a legal survey, whether recorded or not, until it has been cleared by the Division.
- F. Once a survey plat is recommended for clearance, the Director of the Division or other delegated official approves the clearance by signing the plat. The plat is then authorized for recording at the Commonwealth Recorder's Office.
- G. Survey plats, which have been suspended by a CNMI court, will be retained in the CNMI Land Registration and Survey Office. The head of the office is responsible for clearly marking the plat "SUSPENDED", having it notarized and providing a copy to the CNMI Recorder's Office.
- 5.4 Clearance indicates that the field and office work of the survey was performed in accordance with the standards for the practice of land surveying as required under these regulations.

VI. VALIDITY OF REGULATIONS

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.

Appendix I

Measures of Length

<u>Metric Denominations and Value</u>		<u>Equivalent in English System</u>
Kilometers	1,000 meters	0.67137 mile, or 3,280 ft. and 10 in.
Hectometer	100 meters	328.08 ft.
Dekameter	10 meters	32.808 ft. or 393.7 inches
Meter	1 meter	3.28 ft. or 39.7 inches
Decimeter	1/10 of a meter	3.937 inches
Centimeter	1/100 of a meter	0.3937 inches
Millimeter	1/1000 of a meter	0.0394 inches

Measures of Area

<u>Metric Denominations and Value</u>		<u>Equivalent in English System</u>
Hectare	10,000 square meters	107,638.67 sq. ft. or 2.471 acres
Are	100 square meters	1,076 sq. ft. or 119.600 square yards
Centare	1 square meter	10.76 sq. ft., 1.190 sq. yd. or 1,550 sq. in.

Appendix II
Tables and Conversion Factors for Japanese Linear and Area Measurements

Linear Measurements

<u>JAPANESE</u>		<u>METERS</u>	<u>FEET</u>	<u>INCH</u>
	1 Sun	0.03030303	0.099419184	1.193
10 Sun	1 Shaku	0.30303028	0.99419184	11.9303
6 Shaku	1 Ken	1.81818167	5.965151	
60 Ken	1 Cho	109.0909	357.90906	
36 Cho	1 Ri	3927.2724	12884.7262	

Linear measurements are based on 1 CHO = 109.0909 meters

Area Measurements

<u>JAPANESE</u>		<u>SQ. METERS</u>	<u>SQ. FEET</u>	<u>ACRE</u>
	1 Shaku	0.033057783	0.355829595	
10 Shaku	1 Go	0.33057783	3.55829595	
10 Go	1 Bu (Tsubu)	3.3057783	35.5829595	
30 Bu	1 Se	99.177335	1067.488785	0.02451
10 Se	1 Tan	991.7335	10674.88785	0.2451
10 Tan	1 Cho	9917.335	106748.8785	2.451
36 Cho	1 Ri	357024.06	3842959.626	

Area measurements are based on 1 TAN = 991.7335 square meters

Note: All factors containing more than four (4) decimal places are extrapolations empirically arrived at so as to provide a symmetrical quality from one end of each table to the other. 43,560 sq. ft. = 1 Acre or 4,047 sq. m.

Appendix III
Precision and Closure Standards

<u>Survey Class</u>	<u>Direct Electronic* Readout</u>	<u>Number of Observations</u>	<u>Maximum Spread* From Mean</u>	<u>Angle Closure N=No. of Station</u>	<u>Linear Closure**</u>
(Electronic Readout)					
A	10"	2 Direct/Reverse	10"	15" \ N	1:10000
B	20"	1 Direct/Reverse	20"	20" \ N	1:7500
C	1'	1 Direct/Reverse	30"	30" \ N	1:5000

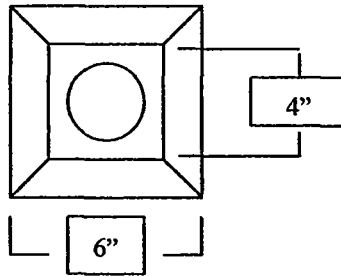
EDM Minimum Distance Standards
Steel Taping Required for Lengths Below the Minimums

	<u>EDM Accuracy Standard</u>	<u>Minimum Distance (Meters)</u>	<u>Linear Closure</u>
A	5mm/10mm***	54/102	1:10000
B	5mm/10mm	40/76	1:7500
C	5mm/10mm	27/51	1:5000

- * Comparable Standards are Micrometer and Scale Reading Theodolites, and Vernier Transits.
- ** Linear Closure are Computed after Angular Balance.
- *** PPM Figures as Stated by Manufacturers, E.G.(+ or - 5ppm), are not significant to Land Surveying Closure and Standards.

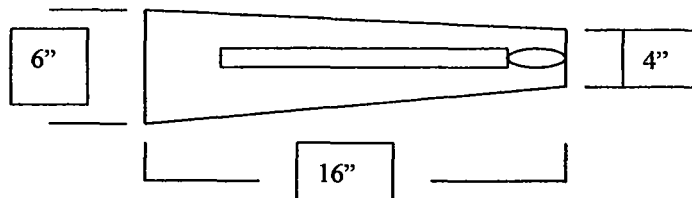
Appendix IV
Construction and Dimensions for Standard CNMI
Non-Geodetic Control and Reference Monuments

TOP VIEW



PLASTIC CAP MARKED "GOV'T CNMI" SET
ATOP REBAR AND FLUSH WITH MONUMENT TOP

SIDE VIEW



Appendix V
Plat Drafting Standard

Whenever a surveyor conducts a land survey of properties, a plat showing the result shall be prepared and a copy furnished to the client. The plat shall conform to the following requirements and shall include the following information.

A. Information Block:

1. Plat name and number(s) are shown in the title block (Approximately 6 ½ x 2 ½ inch space) in the lower right side adjacent to the plat borders. Use maximum size letters, which fit the block. DLS Check No. should be placed below the plat name and number. Approximate location name should be placed in the lower left corner in small letters in this same block, e.g., "Chalan Rueda". The name of the island should be placed in the lower right corner in small letters in this same block, e.g. "Saipan MP".
2. There should be at least seven (7) blank lines approximately ½ inch high across half of the information block width for initials and dates as needed. For government survey plats, acknowledgement by the plat draftsman and Public Land Office officials are required. The initials are for identification purposes only to ensure that Public Land Office is informed of the existence of the plat. This requirement does not sanction clearance of the survey or a plat. The right hand side of this block states the plat scale, indicates sheet number for multiple sheet plats (show number of each sheet in conjunction with total sheets). The remainder of space is for optional entries.
3. The individual or company name of the responsible surveyor or the name and title of the Division head with address and phone number should also be included.
4. For private survey plats, the certification states the following: "I (name of land surveyor), hereby certify that this map was prepared by me or under my direct supervision and that it is based upon a field survey made (insert date), in conformance with all applicable laws and regulations". The signature, date and seal of the land surveyor shall be affixed directly under the certification statement. The same certification is used for government or public land survey work and is signed and dated by the Commonwealth Surveyor or by the government surveyor who was officially assigned to conduct the platted survey. A seal is not required for government survey work and the stamping or sealing of this survey is prohibited.
5. Clearance of a land survey plats is under the authority of the Commonwealth Surveyor or his designee. Once clearance of a survey plat is recommended by the Commonwealth Surveyor, final approval is granted by the Director of Land Registration and Survey, and the plat may then be filed with the Commonwealth Recorder's Office.
6. Survey plats notarized by a notary public attesting to the signature and date of filing is not entered in the information block and do not carry or imply any clearance of the plat.

B. Drawing Block

1. Each plat sheet is 24 inches by 36 inches, matte surface polyester film, 7 to 10 mm thick with a 1 inch margin on three sides and a 2 inch margin on the left side. There should be at least three (3) grid tic marks with coordinate values shown along the bottom border line and at least three (3) grid tic marks with coordinate values shown along the left border. Internal crosses should be drawn at each projected intersection of the tic marks.
2. The survey location map should be in the upper right hand corner designating the survey site and showing the appropriate grid coordinate system.

3. On the space between the information block and the location map, state the survey's primary purpose and the basis for bearing and coordinate data. Example: (a) This survey is for the purpose of delineating a proposed Right-of-Way through Lots 1763-4 and 1763-5, (b) Survey established by connection to triangulation stations GAR and PEAK as shown (omit statement such as "all distance are in meters, U.O.N"). References are for the sole purpose of citing previous surveys, which have a relationship to the platted survey. Omit legend symbols, which are standard as shown on the list maintained by the Commonwealth Surveyor.
4. Avoid extraneous labeling and notes i.e., the graphic scale is labeled "meters" and not "graphic scale".
5. Label match lines for surveys shown on multiple plat sheets.
6. There should be a North arrow, graphic scale and statement on all sheets.
7. Lengths are shown to the nearest centimeter and bearings to the nearest 10 seconds. Precise figures are optionally permitted but should be consistent throughout the platted unit. Areas of each surveyed unit are shown to the nearest square meter. Precise area statement is optionally permitted.
8. Location, width and purpose of easements should be shown and the data can be stated in the notes.
9. Curve data, i.e., central angle, radius, length of curve, chord length and chord bearing can be shown on a table placed on the plat face and keyed by capital letter to the actual location on the plat.

Appendix VI
The Federal Geographic Data Committee
Geospatial Positioning Accuracy Standard

The following excerpts and comments are from the Federal Geographic Data Committee (FGDC) and Geospatial Accuracy Standard (draft 2/97). The FGDC is composed of fourteen (14) major U.S. government departments and agencies, which have a vested interest in the development and maintenance of high quality control points and positional accuracy.

Standard

The Geospatial Positioning Accuracy Standards provide a common methodology for reporting the horizontal and vertical accuracy of clearly defined features where the location is represented by a single point coordinate. Examples are survey monuments, prominent landmarks such as church spires, standpipes, radio towers, tall chimneys, mountain peaks, and targeted photogrammetric control points. Compatibility of spatial data is increased by providing users with consistency for comparing positional accuracy derived by different methods for the same points.

All spatial applications, i.e., geodetic networks, cartographic, engineering, construction, facilities management and hydrographic positioning, develop standard based on a horizontal component with the radius of a circle of uncertainty, such that the true (theoretical) location of a point falls within the circle 95% of the time. Standards for the vertical component are based on a linear uncertainty value, such that the true (theoretical) location of the point falls within + or - of the linear uncertainty value 94% of the time.

The method used to determine accuracy is defined. Examples are statistical testing, least squares adjustment, results, comparison with value of higher accuracy, repeat measurements estimation and other methods.

Horizontal coordinate values should be in the North American Datum of 1983 (NAD 83). Vertical coordinate values should be in the North American Vertical Datum, (NAVD 88 actually means the sea level for the CNMI). If coordinate values are not from the National coordinate system, then identify the local coordinate system (Mariana Islands District Coordinate System of 1966) and state its relationship to the National coordinate system.

Geodetic Networks

Part 2 of the Geospatial Positioning Accuracy Standards states accuracy reporting for geodetic surveys. Geodetic control surveys establish a basic network from which supplemental surveying and mapping work emanates. They are comprised of a framework of redundant, interconnected, permanent monument control points which are singular elements of a defined reference system.

Geodetic surveys are conducted with much greater quality assurance and rigorous accuracy requirements than those of control surveys for generating engineering, construction, topographic mapping, or cadastral surveys.

The U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Geodetic Survey maintains accuracy standards for geodetic networks for the Federal Geodetic Control Subcommittee, of the Federal Geographic Data Committee.

Accuracy Classification

Horizontal, Ellipsoid Height, Orthometric Height

<u>Classification</u>	<u>95% Confidence (< or =)</u>
1 millimeter	0.001 meters
2 millimeter	0.002 meters

5 millimeter	0.005 meters
1 centimeter	0.010 meters
2 centimeter	0.020 meters
5 centimeter	0.050 meters
1 decimeter	0.100 meters
2 decimeter	0.200 meters
5 decimeter	0.500 meters
1 meter	1.000 meters
2 meter	2.000 meters
5 meter	5.000 meters

Classification Procedures

1. The survey measurements, field records, sketches and other documentation are examined to verify compliance with the specifications for the intended accuracy of the survey.
2. Results of minimally constrained least squares adjustment of the survey measurements are examined to ensure correct weighting of the observation and be free of blunders.
3. Local and network accuracy measures computed by random error propagation determine the provisional accuracy. In contrast to a constrained adjustment where coordinates are obtained by holding fixed the datum values of the existing network control, accuracy measures are computed by weighing datum values in accordance with the network accuracy of the existing network control.
4. The survey accuracy is checked by comparing minimally constrained adjustment results against established control. The result must meet a 95% confidence level. This comparison takes into account the network accuracy of the existing control as well as systematic effects such as crustal motion or datum distortion. If the comparison fails, then both the survey and network measurements must be scrutinized to determine the source of the problem.

Local and Network Accuracy

The local accuracy of a control point is a value expressed in centimeters that represents the uncertainty in the coordinates of the control point relative to the coordinates of other directly connected, adjacent control points at the 95% confidence level. The reported local accuracy is an approximate average of the individual local accuracy values between this control point and other observed control points used to establish the coordinates of the control point.

The network accuracy of a control point is a value expressed in centimeters that represents the uncertainty in the coordinates of the control point with respect to the geodetic datum of the 95% confidence level.

Local accuracy can be a valuable tool for checking relatively between nearby control points. For example, closure determination between two control points in a specific project area can be quite useful for the surveyor. Network accuracy will be more useful for the application such as the development of geographic or land information system which often rely on positional tolerance associated with a set of coordinates. Network accuracy measures how well coordinates approach an ideal, error free datum.

Geodetic control on the CNMI, both previously and newly established, is required to be reported in local accuracy and network accuracy for each component (horizontal control, ellipsoid height and orthometric height).

Geodetic control Monuments

With the latest improved instrumentation and technology such as the Global Positioning System (GPS) and the efficient capability for processing data through the use of speed computers, such as the least squares

adjustment, the standards previously used by federal agencies to establish geodetic monuments in the CNMI have changed.

The classic geodetic monuments establishment, new or appropriate existing standards published by the National Geodetic Survey of the Federal Highway Administration, are adopted by the CNMI government. The Commonwealth Surveyor will evaluate which standard will be used in consultation with other CNMI departments and agencies.

Three important national geodetic survey publications, which address control monument establishment and maintenance are:

1. Standards and Specifications for Geodetic Control Networks
2. Geometric Geodetic Accuracy Standards and Specifications for using GPS
Relative Positioning Techniques
3. Specification for Horizontal Control Marks 2



COMMONWEALTH PORTS AUTHORITY

Main Office: SAIPAN INTERNATIONAL AIRPORT
P.O. BOX 501055 • SAIPAN • MP 96950-1055
Phone: (1-670) 664-3500/1 FAX: (1-670) 234-5962
E-Mail Address: cpa.admin@saipan.com

PUBLIC NOTICE

PROPOSED PERSONNEL RULES AND REGULATIONS OF THE COMMONWEALTH PORTS AUTHORITY

The Commonwealth Ports Authority pursuant to its rule-making authority under 2 CMC § 2122(j) and pursuant to its statutory authority under 2 CMC § 2122(n) allowing CPA to hire employees who are exempted from the Commonwealth Civil Service Act, hereby gives public notice of its intention to promulgate its own personnel rules and regulations to govern personnel matters applicable or relating to employees of the Authority. The Proposed Personnel Rules and Regulations would also set forth the various personnel policies of the Authority, such as the Drug and Alcohol Policy, the Policy Against Sexual Harassment, the Travel Policy and Procedures, Compensatory Time-Off Policy, the Ethics Policy Guidelines, and the Employee Incentive Program.

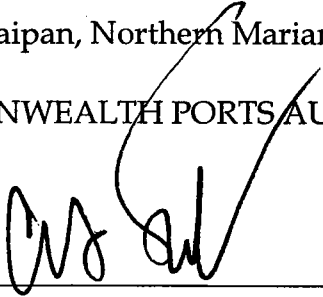
These Personnel Rules and Regulations are being promulgated, as recommended by the Office of the Public Auditor, so that they would have the force and effect of law. They are being promulgated pursuant to the CNMI Administrative Procedure Act, particularly 1 CMC §§ 9102, 9104(a) and 9105.

All interested persons may examine the Proposed Personnel Rules and Regulations, and submit written comments, position or statement for or against any provision of the proposed regulations, to the Executive Director, Commonwealth Ports Authority, Saipan International Airport, P. O. Box 501055, Saipan, MP 96950, no later than thirty (30) calendar days following the publication of this Notice in the Commonwealth Register.

Dated this 1st day of October, 2001, at Saipan, Northern Mariana Islands.

COMMONWEALTH PORTS AUTHORITY

By: _____


CARLOS H. SALAS
Executive Director

Pursuant to 1 CMC § 2153, as amended by Public Law 10-50, the proposed CPA Personnel Rules and Regulations, a complete set of which is attached hereto, have been reviewed and approved by the CNMI Attorney General's Office.

ROBERT T. TORRES
Acting Attorney General

By: Allan D. Dollison
Allan Dollison
Assistant Attorney General

Date: Jan 28, 2002

RECEIVED BY:

Thomas Tebuteb
THOMAS TEBUTEB
Special Assistant, Administration

Date: 1/28/02

FILED BY:

Soledad B. Sasamoto
SOLEDAD B. SASAMOTO
Registrar of Corporations

Date: 1/28/02



COMMONWEALTH PORTS AUTHORITY

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P.O. BOX 501055 • SAIPAN • MP 96950-1055
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E-Mail Address: cpa.admin@saipan.com

NUTISIAN PUPBLIKU

I MAPROPOPONE SIHA NA AREKLAMENTO YAN REGULASION PETSONAT GI COMONWEALTH PORTS AUTHORITY

I Commonwealth Ports Authority sigun i aturidat ni mana'e para u famatinas areklamento gi papa 2 CMC § 2122(j) yan sigun i aturidat gi papa 2 CMC § 2122(n) ni masedi i CPA para ufangonne' empleao siha ni ti mansaonao gi Commonwealth Civil Service Act, ginen este ha nutisia i publiku put intension-na mamatinas mismo iyonna areklamenton yan regulasion petsonat para u gobietna kasun petsonat aplikaple para empleao i Aturidat. I mapropopone siha na Areklamento yan Regulasion Petsonat u na'guaha diferetes siha na areklamento gi Aturidat tat-komu Areklamenton Drug yan Alcohol, Areklamenton Sexual Harassment, Areklamenton Kumarera yan condision, Areklamenton Apas gi durante anai ti manmacho'cho, Ginihan Areklamenton Ethics, yan Employee Incentive Program.

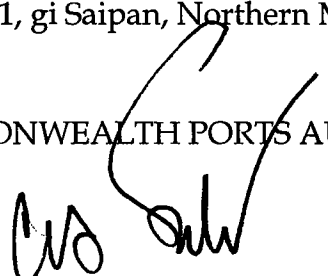
Este siha na Areklamento yan Regulasion Petsonat manmafatinas yan rekomenda ni Ofisinan Public Aditor, kosa ki sina manggai fuetsa yan hiniyong gi lai. Manmafatinas sigun i CNMI Administrative Procedure Act, pattikulatmente 1 CMC §§ 9102, 9104(a) yan 9105.

I maninteresante sia na petsona sina maeksamia i Mapropopone na Areklamento yan Regulasion Petsonat, yan satmiti halom komento gi tinige' pusion osino sinangan kao mafabot pat kontra maseha hafa na prubinsion i mapropopone na regulasion, guato para i Direktot Eksekativu, Commonwealth Ports Authority, Saipan International Airport, P. O. Box 501055, Saipan, MP 96950, ti u mas atrasao di trenta (30) dias despues di mapubliku huyong este na Nutisia gi Rehistran Commonwealth.

Ma fecha este na dia 1st gi Oktubre, 2001, gi Saipan, Northern Mariana Islands.

COMMONWEALTH PORTS AUTHORITY

Ginen:



Carlos H. Salas
Direktot Eksekativu

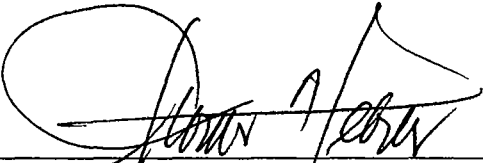
Sigun i 1 CMC § 2153, ni inamenda ni Lai Publiku 10-50, i mapropopone na Areklamento yan Reglasion Petsonat para CPA, chechetton guine i kumplidu na kopia, ya esta manma ribisa yan apreba ginen i Ofisina Abugadon Henerat giya CNMI.

ROBERT T. TORRES
Acting Attorney General

Ginen: /s/
Allan Dollison
Assistant Attorney General

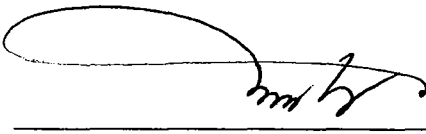
Fecha: 1/28/02

RINISIBI AS:



THOMAS TEBUTEB
Special Assistant for Administration

MA FILE AS:



SOLEDAD B. SASAMOTO
Rehistradoran Kotporasion

Fecha: 1/28/02

Fecha: 1/28/02



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ARONGORONGOL TOULAP

POMWOL FFEERUL ALLEGHUL PERSONNEL LLOL COMMONWEALTH PORTS AUTHORITY

Commonwealth Ports Authority igha eyoor bwangil bwe ebwe ffeer sangi 2 CMC § 2122(j) me bwangil allegh ye faal 2 CMC § 2122(n) iye e lighiti ngali CPA bwe ebwe umwuumw school anngang rese toolong llo Commonwealth Civil Service Act. Nge ekke arongaar toulap igha ekke mangiyy bwe ebwe ffeer schagh aal alleghul personnel bwe ebwe lemelil milikka e applicable reer school angaangal Authority. Pomwol fferul Alleghul Personnel yeel nge ebwe ayoor bwal akkaaw allegh llo Authority reel milikka Alleghul Drug me Alcohol, Alleghul Against Sexual Harassment, Alleghul Travel me mwoghutughutul, Abwos ngare rese angaang, Alleghul Ethic Guidelines, me Employee Incentive Program.

Pomwol ffeerul Allegh kkaa nge ffeer, igha Bwulasiyool Public Auditor e rekomendaali, bwe emmwel bangiir me amwirimwir sangi allegh. E bwal ffeer sangi bwangil CNMI Administrative Procedure Act, iye eghi bwa llo 1 CMC §§ 9102, 9104(a) me 9105.

Aramas kka re tripali bwe rebwe amwuri Pomwol Ffeerul Allegh kkal nge emmwe schagh rebe ischiitiw meta mangemangir, mwaliyeer ngare re tabweey ngare re kontraay nge ra afanga ngali. Executive Director, Commonwealth Ports Authority, Saipan International Airport, P. O. Box 501055, Seipel, MP 96950, essobw luu sangi eliigh (30) ral sangi giha e toowow arongorong yeel llo Commonwealth Register.

E ffer raalil ye 1st Maram ye October, 2001 Seipel, Faluw KKa Etang Llo Marianas.

COMMONWEALTH PORTS AUTHORITY

Feruuyal: _____

Carlos H. Salas
Executive Director

PROPOSED PERSONNEL RULES AND REGULATIONS OF THE COMMONWEALTH PORTS AUTHORITY

- Citation of Statutory Authority: The Commonwealth Ports Authority proposes to promulgate and make permanent, as regulatory law, its Personnel Manual governing the personnel rights, benefits, obligations and policies relating to employees of the Authority, both contract and classified employees. These personnel rules and regulations are being promulgated pursuant to the authority of CPA to hire employees who are exempted under the CNMI Civil Service Act, 2 CMC § 2122(n); pursuant to its authority to promulgate rules and regulations under 2 CMC § 2122(j); and pursuant to the CNMI Administrative Procedure Act, 1 CMC §§ 9102, 9104(a) and 9105.
- Short Statement Goals and Objectives: The Commonwealth Ports Authority has had, for a long time now, a Personnel Manual that governs the rights, duties, benefits and obligation of CPA employees. The Personnel Manual, however, has never been promulgated as regulations under the Administrative Procedure Act. The Office of the Public Auditor has recommended that CPA's Personnel Rules and Regulations should be promulgated under the APA so that they become permanent regulations and have the force and effect of law. The Commonwealth Ports Authority wishes to implement such recommendation. By adopting a permanent set of regulatory law on personnel matters, both CPA management and CPA employees would look to such personnel rules and regulations to determine employee rights, duties, benefits and obligations.
- Brief Summary of Proposed Regulations: The Proposed Personnel Rules and Regulations set forth all of CPA's personnel regulations, as well as its regulatory policies, the Authority's policies on travel, compensatory time-off policy, Ethics Policy Guidelines, Policy Against Sexual Harassment, the Drug and Alcohol Policy, and so forth.
- For Further Information, You May Contact: Carlos H. Salas, CPA Executive Director, at Telephone No. 664-3500.
- Citation to Related Affected Statute, Regulations, or Orders: The Commonwealth Ports Authority Act, 2 CMC § 2101 et seq., particularly 2 CMC § 2122(n); Office of the Public Auditor, Audit Report No. AR-00-03, issued July 20, 2000 at page 11; see also, CNMI Personnel Service System Rules and Regulations.

COMMONWEALTH PORTS AUTHORITY
Commonwealth of the Northern Mariana Islands



PERSONNEL RULES AND REGULATIONS
*Applicable to Employees of the
Commonwealth Ports Authority*

P.O. Box 501055
Saipan, MP 96950
E-mail Address: cpa.admin@saipan.com
Website: cpa.gov.mp

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COMMONWEALTH PORTS AUTHORITY PERSONNEL RULES AND REGULATIONS

SECTION 1. PERSONNEL AFFAIRS COMMITTEE

The Personnel Affairs Committee of the Commonwealth Ports Authority (Authority) shall consist of members of the Board as are appointed thereto by the Chairman of the Board. The Chairman of the Board shall appoint the Chairman of the Committee. The Personnel Affairs Committee shall meet at the direction of its Chairman or of the Board and shall have such powers and authority as are set forth in these Personnel Rules and Regulations.

SECTION 2. EMPLOYMENT

2.01 Coverage

These regulations shall apply to all employees and positions within the Commonwealth Ports Authority of the Commonwealth of the Northern Mariana Islands, except the following employees unless otherwise expressly made applicable to such employees:

- a. Executive Director;
- b. Deputy Director;
- c. Comptroller;
- d. Port Managers; and
- e. Contract Employees.

As provided in 2 CMC §2122(n), the Executive Director and his assistants, including the Deputy Director, Comptroller, Port Managers, and other contract employees, necessarily have to be specialists in operating an airport and/or seaport. As such, their employment with the Authority shall be governed by contracts executed by the employee and the Authority.

The appointment of Executive Director shall be announced and selected by the Board of Directors.

The Executive Director shall announce the appointment of Deputy Director, Port Managers and other contract employees, but the selection shall be made by the Board of Directors, taking into account all relevant and material factors, including the recommendation of the Executive Director.

2.02 Selection Process

a. Authority of Executive Director

The Executive Director, or in his absence, the Deputy Director, shall have the authority to select and appoint all classified employees of CPA, except those positions specifically excluded under CPA's enabling statute, those positions requiring a written contract, and those positions expressly excluded under these regulations.

b. Procedure for Selection

Whenever a new position is created by the Board or whenever a vacancy occurs in an existing position, the Executive Director, or his designee, shall initiate the following procedure:

1. Prepare an announcement of the position, which, at a minimum, shall contain the following information:
 - A. Title of position;
 - B. Pay and pay level of the position;
 - C. Description of the duties and responsibilities;
 - D. Geographical location of the position;
 - E. Minimum qualification for the position;
 - F. Instructions on the place to apply, form of application required, and documentary support, if required; and
 - G. Period of application, which shall be not less than fifteen (15) days from the original date of publication in a newspaper.

2. Widely publicize the announcement by posting it within the offices of the CPA, and by publication in a newspaper of general circulation in the CNMI no less than once a week for two consecutive weeks;
3. Review all applications submitted and set appointments for interview; and
4. Make a selection and appointment of the applicant he thinks is best suited for the position no later than one (1) week after the interview(s) have been completed.
5. For the position of Deputy Director, managers, or contract employees, the Executive Director, or his designee, shall submit to the Board, no later than one (1) week after the interview(s) have been completed, all applications, plus a summary of the interviews, with his/her recommendation of the applicant best suited for the position. The Board shall make or reject the appointment no later than the second regular meeting after submission to the Board.
6.
 - A. The Board of Directors may waive the above selection procedure if, in its opinion, a qualified employee of the CPA can be promoted to fill a vacancy.
 - B. The Executive Director, upon a vacancy occurring in an existing position, shall make a list of qualified employees of the CPA, if any, capable of assuming the duties and responsibilities of the vacant position and transmit such list, with his recommendation, if any, to the Board. The Board shall then determine whether the selection procedure is to be used or whether the promotion procedure is to be used.
 - C. If the promotion procedure is decided by the Board for a position other than those listed in Subsection 2.01, the Executive Director shall select and promote an existing qualified CPA employee to fill the vacancy.
 - D. If the promotion procedure is decided by the Board for those positions listed in Subsection 2.01, including the office of the Executive Director, the Board shall select and promote an existing qualified CPA employee to fill the vacancy. The Board shall take into account the

recommendations, if any, of the Executive Director and/or the Personnel Affairs Committee.

2.03 Types of Employment

a. Probationary Employment

All employees shall be on probationary employment status for a period of three (3) months following their initial date of employment, promotion, or reclassification.

During the period a new employee is on probationary employment status, he/she may be terminated for cause by the Executive Director. During the period a promoted or reclassified employee is on probationary employment status, he/she may be demoted or reclassified to his/her former position for cause by the Executive Director.

b. Provisional Employment

A provisional employment is a non-permanent employment usually limited to ninety (90) days and is used to temporarily fill a permanent position in the absence of an appropriate eligible list. The Executive Director may authorize extension of a provisional employment beyond ninety (90) days for a maximum of one hundred and eighty (180) days when the position vacancy examination fails to make available an adequate number of qualified candidates. Any person given a provisional employment must meet the minimum qualifications for the class of position to which appointed.

c. "Acting" Appointment

An "acting" appointment is an official written designation that an employee will act for a period of up to thirty (30) days in place of a permanent supervisor. When the supervisor's absence exceeds the initial thirty (30) day period, a new designation shall be made for an additional thirty (30) days. The thirty (30) day renewal of an "acting" assignment may be repeated until the permanent supervisor returns or is appointed to the position.

Whenever the "acting" capacity assignment exceeds ninety (90) days, the employee shall be temporarily promoted/appointed to the position if the employee meets the qualification standards of the position. If the acting assignment exceeds ninety (90) days and the

employee does not meet the qualifications standards for the promotion, the employee shall be compensated with two (2) steps in the current pay level, but may not exceed the maximum step.

When an employee in the classified service is designated for an acting assignment in the excepted service, the employee shall be required to resign from the classified service in order to accept the said acting assignment. While in the acting assignment, the employee may be entitled to receive a salary equivalent to the salary received by the previous incumbent of the position.

Upon expiration of the acting assignment, the employee will be reinstated to the former position and salary (level and step) that the employee would be receiving had the employee remained in the former position.

2.04 Demotion, Suspension and Termination

a. Grounds for Demotion, Suspension and Termination

Employees may be demoted, suspended, or terminated for cause, which shall include, but not be limited to, the following:

1. Non-performance of duties;
2. Incompetence (inexcusable failure to discharge duties in a prompt and efficient manner);
3. Insubordination;
4. Breach of trust, dishonesty, or violation of CPA law, rules and regulations;
5. Excessive tardiness or absenteeism;
6. Commission of a felony or a misdemeanor involving moral turpitude.

b. Suspension Procedure

Any employee who is no longer on probationary or provisional employment period may be suspended by the Executive Director for commission of any of the foregoing grounds. An employee may be

suspended only after being accorded a hearing by the Executive Director. A suspension shall be for a period not to exceed thirty (30) days, and shall be effective immediately or on the date specified by the Executive Director. A suspended employee shall be put on leave without pay status and shall not be allowed to use annual leave, sick leave or comp-time during the period of suspension. The Executive Director shall notify the employee concerned of the fact of suspension, effective date, and its duration. Such notice shall be given in writing. The action of the Executive Director shall be final. No employee shall be suspended for more than thirty (30) days in any twelve-month period.

c. Demotion and Termination Procedure

An employee who is no longer on probationary or provisional employment period may be demoted in rank and pay or may be terminated by the Executive Director. The procedure for demoting and/or terminating an employee is as follows:

1. The Executive Director shall notify the employee concerned of the proposed demotion/termination action, the reasons for it, and schedule a show cause hearing. Such notice shall be in writing;
2. After a hearing resulting in an adverse ruling, the Executive Director shall apprise the demoted/terminated employee of his/her right to appeal his/her demotion/termination to the Personnel Affairs Committee. The employee shall present his/her appeal, in writing, to the Personnel Affairs Committee, which will review and act upon the written submission of the employee. The employee shall submit his/her appeal within ten (10) working days after receipt of notice of the Executive Director's action and, if the employee appeals to the Personnel Affairs Committee, the Committee shall act on his/her appeal within fifteen (15) days after it is received from the employee;
3. The Personnel Affairs Committee shall decide the appeal taken by at least a majority of the members and the decision of the Personnel Affairs Committee shall be final;
4. In the event that the Committee overrules the demotion/termination, the employee shall be reinstated with full rights and privileges and shall receive 100% of the pay and

associated benefits to which he/she would have been entitled during his/her demotion/termination.

2.05 Resignation

When an employee decides to resign from CPA, he/she must submit a letter of resignation, containing the effective date and reason for leaving. This letter should be submitted to the Executive Director at least two (2) weeks before he/she intends to leave CPA.

The Executive Director is responsible for informing the employee his/her obligations to CPA and for securing the return of all CPA property, including keys and identification cards. The employee's last paycheck will not be issued until all obligations to CPA are satisfied.

2.06 Reduction in Force Planning and Implementation

- (a) When a Reduction-in-Force (RIF) is necessary because of economic constraints, the Executive Director shall recommend to the Board of Directors a RIF action at least sixty (60) days in advance. The Executive Director shall institute administrative procedures to assure that all legitimate possibilities have been exhausted and that formal reduction-in-force is the only viable alternative. The Executive Director shall ensure that the reduction is accomplished with a minimum disruption in operations and a minimum negative impact on each employee affected.
- (b) The Board of Directors shall adopt and implement a Reduction-in-Force measure, as it determines necessary and appropriate under the circumstances.

SECTION 3. REMUNERATION

3.01 Time and Attendance Record

All CPA classified employees shall fill out and complete a Time and Attendance Record. The Executive Director shall review and approve Time and Attendance Records. CPA pay periods shall be identical with those of the Government of the Northern Mariana Islands. Executive, managerial, and professional

employees and contract employees are expected to work the regular hours of employment, but need not time-in or time-out.

3.02 Payment of Salary

All CPA employees shall be paid within two (2) weeks after the end of every pay period.

3.03 Salary Raise/Anniversary Date

An employee is eligible for a salary raise at any time after the expiration of his/her probationary or provisional period and after the expiration of not less than six (6) months from the date of his/her most recent salary raise; provided, however that no salary raise shall be granted except for sustained superior performance. An employee is also eligible for a salary raise when the employee is permanently reclassified, promoted, or transferred.

An employee's effective date of hire shall be considered as the employee's service anniversary date. However, whenever an employee's salary is adjusted, the most recent salary adjustment date shall be considered as the new anniversary date. The anniversary date shall not be affected by a temporary transfer or acting assignment.

3.04 Salary Freeze

Any employee who has reached the maximum pay level and step under CPA's salary schedule (currently Pay Level 35 Step 12), and who has worked for CPA at this level for three consecutive years without any pay adjustment, may opt to cash in his/her accrued annual leave at the end of each calendar year. Employee may cash in no more than two hundred eight (208) hours per calendar year; provided that employee has been evaluated and has a satisfactory evaluation for the calendar year, and that employee has accrued annual leave of two hundred eight (208) hours by the end of the calendar year.

3.05 Regular Hours and Overtime

The CPA workweek for all full-time, permanent employees is normally eight (8) hours per day, five (5) days per week. Employees may, however, be asked by the Executive Director or, in an emergency, their supervisor, to work overtime. Other arrangements may be made for a different workweek and workday.

All employees who are not exempted from overtime rate of pay under the Fair Labor Standard Act (FLSA), shall be eligible for overtime compensation at the rate of one and one-half (1-1/2) hours' pay for each overtime hour actually worked. All paid absences will be considered as time worked in computing

overtime hours. Time lost due to absence without leave (AWOL) or leave without pay (LWOP) will not be included in the total hours worked when calculating overtime compensation.

3.06 Standard Work Hours for ARFF & Ports Police

Aircraft Rescue and Fire Fighters (ARFF) personnel shall be scheduled on a 96-hour bi-weekly work shifts and shall be considered as standard regular bi-weekly working hours. ARFF personnel shall be paid 96 hours on a bi-weekly basis for actual hours worked using the employee's base salary rate. In the event of employee taking annual, sick leave, or compensatory time off from work in a given bi-weekly period, the basis of the bi-weekly payment shall be made on the actual hours worked plus the number of leave hours taken. Under emergency situations, i.e., response to emergencies, the employee shall be entitled for over-time pay if the employee worked in excess of 96 hours (actual worked hours).

Ports Police personnel shall be scheduled on an 86-hour bi-weekly work shifts and shall be the standard regular bi-weekly working hours. Ports Police personnel shall be paid for 86 hours on a bi-weekly basis for actual hours worked using the employee's base salary rate. In the event of employee taking annual, sick leave, or compensatory time off from work in a given bi-weekly period, the basis of the bi-weekly payment shall be made on the actual hours worked plus the number of leave taken. Under emergency situations, i.e., response to emergencies, the employee shall be entitled for over-time pay if the employee worked in excess of 86 hours (actual worked hours).

3.07 Compensatory Time (Comp-Time) Policy

Compensatory time-off policy is hereby established to provide official guidelines on the earning and usage of comp-time hours by CPA employees. For any comp-time issue, which is not addressed in this policy, the CNMI Personnel Service System Rules and Regulations (PSSR) or the U.S. Federal Labor Standard Act (FLSA) shall serve as the guidelines to be followed.

This policy governs the earning and usage of comp-time hours by permanent, full-time employees who are eligible for overtime pay.

Permanent and Full-Time Employees Who are Eligible for Overtime Pay

Permanent and full-time employees are generally entitled to earn overtime pay; however, under conditions of financial hardship or funding shortfall to pay for overtime compensation, and upon issuance of an official notification of such condition by the Executive

Director, employees shall accrue comp-time hours instead of overtime hours on hours worked in excess of forty (40) hours in any workweek period. Comp-time hours shall be granted using the following procedures:

1. Hours eligible for comp-time shall be based on hours that exceed 40 hours performed in any workweek period. All hours used in computing comp time hours shall mean actual hours worked and shall not include any time off taken from vacation, sick leave, annual leave, maternity, paternity or comp time.
2. A factor of 1.5 shall be used in the determination of comp-time hours, i.e., actual comp time hours worked x 1.5 = comp-time earned.
3. All comp time hours must be approved, in advance, by the department supervisor and the Executive Director or his designee and recorded in an approved form from the Accounting Department.
4. All approved comp-time hours must be submitted to the Accounting Department at the end of each pay period along with the department's official time and attendance sheet.
5. Employees are authorized to accrue a maximum of 80 hours of comp-time annually, i.e., 53 hours x 1.5 = 80 hours (annual shall mean on each employee's anniversary or date of hire). The employee shall have the option of applying for time off using the unused hours in excess of 80 or to transfer the excess hours to annual leave.
6. In the event of employment termination, resignation, reduction in force, or retirement, an employee is entitled to receive compensation on all accrued comp-time hours based on his or her most recent hourly base rate.

CPA department heads and supervisors shall use sound management judgment in granting overtime and comp-time hours and shall take into consideration any impact on CPA's operations and finances. To this end, overtime and comp time hours may be granted only if necessary to carry out essential services or in emergency and urgent situations. An employee is also encouraged to use his or her comp time hours within four (4) pay periods from the date earned.

3.08 Policies and Procedures - Travel

1. No travel shall be authorized without an approved travel authorization for within and outside of the CNMI. There shall be

a memo by the Executive Director, Deputy Director or designated staff (by memo) indicating the purpose of the travel, time frame, destination and car rental cost if any to be incurred. It shall be addressed to the Comptroller and attached to either of these travel authorization forms. No reimbursement for a car rental shall be made to an employee if such expense is not approved on this memo.

2. The travel voucher form shall be used to liquidate travel advance on the books. In accordance with 1 CMC §7407(b) of the Commonwealth Code, "Within 15 days after completion of government travel, the traveler shall submit a detailed trip report and documented travel expenditures to the approving authority. The submissions shall be a public record. A person who has failed to make a timely submission shall not receive travel advances until his/her untimely submission is remedied." In addition, supporting documents (i.e. analysis of per diem rates, airline tickets, room and board statements, invoice, and the like) shall be attached to this form.
3. Below is the fixed per diem scale which shall be followed whenever an employee has been authorized to travel off-island. Presently, it is the scale which is being used in the CNMI and the per diem rate varies by destination:

No.	Destination	Daily Per Diem Rate
1.	*Within the CNMI	
	Saipan	\$175.00
	Rota	125.00
	Tinian	100.00
2.	Guam	175.00
3.	U.S. Mainland (excluding Hawaii, California, New York & Washington, D.C.)	200.00
4.	Hawaii, California, New York, & Washington, D.C.	250.00
5.	Far East and Southeast Asia	200.00
6.	Japan	275.00
7.	FSM, Palau and Marshall Islands	125.00

The Executive Director may arrange for alternative lodging and meal accommodations to travelers in which the per diem shall be lessened to indicate only actual costs incurred.

4. If an employee returns earlier than his itinerary, as shown on the request for travel authorization, unearned per diem shall be returned to the agency. Payroll deduction will follow when the employee liquidates his travel advance and cannot pay the unearned portion of travel advance payments.
5. Travel shall not be undertaken by any employee unless it is within the budget guidelines.

Procedure No. 1: The Guam, U. S. Mainland, and foreign country travel authorization procedure should observe the following internal controls:

- A. Maintain a log sheet for every travel request authorization that is issued to the traveler. The headings of the log sheet should include date, name of traveler, travel authorization number, and destination.
- B. Complete the travel form as applicable and necessary.
- C. Attach the required travel request memo as described in Policy No. 1 (Policies and Procedures of Travel.)
- D. Distribute triplicate copies accordingly: white copy goes to the traveler; yellow copy goes to Comptroller; green copy goes to general file.
- E. Ascertain that the expenditure is within budget guidelines.

Procedure No. 2: Inter-island travel authorization form should observe the following internal controls:

- A. Maintain a log sheet for every travel request authorization that is issued to the traveler. The headings of the log sheet should include date, name of traveler, travel authorization number and destination.
- B. Complete the form as applicable and necessary.

- C. Attach the memo as described in Policy No. 1 (Policies and Procedures of Travel).
- D. Ascertain that the expenditure is within budget guidelines.
- E. Ensure that the form is attached with travel agency invoice, pink copy of the check, and accounts payable voucher.

Procedure No. 3: CPA's Accounting Department shall ensure that the following internal controls are observed on the travel voucher form whenever it is issued to an employee or traveler:

- A. Fill out the required information.
- B. Supporting documents (i.e. trip reports, documented travel expenditures and the like) are attached to the form.
- C. Traveler is in compliance with CNMI laws.
- D. Initiate payroll deduction and deny subsequent travel advance to those employees whose completion of travel exceed 15 days and have not filed the required travel voucher.

Procedure No. 4: A sub-ledger should be set up for each traveler and a monthly reconciliation is required. The Comptroller shall review and concur with the monthly reconciliation.

Procedure No. 5: A monthly review of the sub-ledgers shall be made by the Accounting Department to ensure that outstanding travel advances are liquidated in compliance with CNMI laws. If outstanding travel advances are not liquidated when due, the Airport and Seaport accountant shall contact the traveler to file the travel vouchers. At the same time, the traveler shall be informed that a payroll deduction will be made and subsequent travel advance shall be denied.

3.08.1 Policies and Procedures - Official Representation

- 1. The Executive Director, Deputy Director, Comptroller, Saipan Airport Manager, Saipan Seaport Manager, Rota Ports Manager, and Tinian Ports Manager are authorized to incur charges for official representation. Other staff shall

be authorized on a case-by-case basis by the Executive Director or Deputy Director.

Official representation for the Board of Directors shall be accounted for separately and authorized by the Board Chairman, depending on availability of funds.

2. When an authorized official incurs official representation expenses, the purpose of the representation and names of people entertained shall be indicated on the supporting document (i.e. invoice, or docket) at the time invoice or docket is signed.
3. An official representation shall be incurred to promote goodwill or further the best interest of the Commonwealth Ports Authority. The parties to be entertained may include CPA officials, CNMI and Federal government officials, official guests of CPA, and other officials. Contractors and consultants may be entertained as approved by the Executive Director or Deputy Director.
4. Any unauthorized official representation expense made by an employee shall be subject to disciplinary action.

Procedures to Follow: The supporting documents (i.e. invoices, dockets, and the like) charged as official representation shall comply with the following internal controls:

- A. Verify the name of staff that made the charges by reference to Policy No. 1 (Policies and Procedures-Official Representation).
- B. Ascertain that the purpose and the names of guests are indicated on the supporting documents (i.e. invoice, docket and the like).
- C. Verify the budget to ensure that expenditure is within budget guidelines.
- D. In the event that an official representation expense is unauthorized, payroll deduction shall be made and the Comptroller shall bring this incident to the attention of the Executive Director and Deputy Director.

3.08.2 Travel Reimbursement

- a. An employee traveling on official CPA business shall receive travel and per diem compensation at the rates and guidelines established for CNMI executive branch employees.
- b. An employee may receive reimbursement for extraordinary expenses actually incurred in the performance of his/her duties upon the submission of receipts or other proof of extraordinary expenses to the Executive Director and the specific approval of the Executive Director to reimburse the employee for his/her extraordinary expenses.
- c. Payment of per diem shall be in accordance with official GNMI policy and procedures.
- d. Travel Reimbursement Forms. Travel expenses should never be billed directly to CPA but should be paid by the employee and reimbursement sought. Necessary receipts must be attached before reimbursement will be made. An approved Travel Authorization form is required for every trip within the CNMI that extends more than two quarters of a day and away from an island where the employee's office or residence is located.
- e. Travel Advances. Travel advances may be made for extended trips in accordance with the official GNMI policy and procedures. A travel advance is secured by completing a Travel Authorization form and forwarding it to the Executive Director. Travel advances must be accounted for by a Travel Reimbursement Claim after the trip or the advance will be deducted from the employee's wages. No more than 100% of the per diem estimated to be due on the Travel Authorization may be advanced.
- f. Suspension of Charges. Items on Travel Reimbursement Claims, Missing Receipt Affidavits, and Travel Authorization forms which violate the regulations stated above or the instructions which appear on the forms themselves will be suspended and a Notice of Explanation will be forwarded to the employee concerned. In order to be allowed, such items must be included in a subsequent Travel Expense Statement in accordance with CPA travel regulations.

Reclaimed items must be fully itemized and must be supported by the original Notice of Explanation or a copy thereof.

- g. Limitation of Claim Period. The Travel Reimbursement Claim should be completed by a traveler who has qualified for reimbursement of travel expenses. All necessary receipts must be attached before reimbursement will be made. In the event no receipt is available for an expenditure for which reimbursement is sought, reimbursement is conditioned upon substantiation of the expense in a manner satisfactory to the Executive Director. An approved Travel Authorization form must be attached for every trip reported.

Travel Authorization forms shall be approved by the Executive Director for travel within the CNMI, and in the case of travel outside the CNMI, by the Chairman of the Board. It is expected that the Travel Authorization form relating to any given trip will be approved prior to the incurring of expenses.

- h. Erasures and Alterations. Erasures and alterations in totals on any Travel Reimbursement Claim or Travel Authorization form must be initialed by the traveling employee. Erasures or alterations in totals on vendor's receipts must be initialed by the vendor or his/her representative.

3.09 Outside Gainful Employment

A full-time employee who wishes to engage in outside gainful employment must have the express prior written approval of the Executive Director. In considering a request to engage in outside employment, the Executive Director shall be sensitive to the employee's financial needs and whenever warranted, may: (1) recommend the employee for a salary increase or promotion to preclude the need for outside work; or (2) permit outside employment if he/she deems it not likely to conflict with the employee's performance of his/her duties to CPA.

3.10 Severance Pay

An employee who is involuntarily terminated from CPA not for cause shall be entitled to severance pay at the time of his/her termination. A general reduction-in-force is an involuntary termination not for cause. An employee's

termination will not be considered involuntary if he/she was hired on a temporary basis or if he/she has not completed his/her three-month probationary period. Nor shall termination be considered involuntary if the employee is offered and declines to accept another position with CPA which is equivalent in function, seniority, tenure, and compensation with any necessary moving expenses paid.

The amount of severance pay to which an eligible employee is entitled after he/she has worked for CPA for 36 months shall be equivalent to 80 hours' pay at the employee's regular hourly rate. Eligible employees who have not completed 36 months of employment shall be entitled to 1/36th of 80 hours regular pay for every month they have been employed by CPA. i.e.

Number of months	
-----	x 80 hours' regular pay
36 months	

For the purpose of computing severance pay, an employee's period of employment shall be regarded as commencing on the first day of the month following the employee's date of employment and ending on the last day of the month in which the employee terminates.

3.11 Premium Pay

A. Hazardous Pay

Employees meeting the qualification criteria below whose occupation involves unusual and extreme hazards to their health and safety, shall be paid a differential to their base salary rate at the rate established for each hazardous work condition listed below. To qualify for payment of hazardous work differential, the following conditions of work must be met:

1. Extremely high temperature - 25%

Working around and in confined spaces wherein the employee is subject to temperatures in excess of 100 degrees Fahrenheit, or exposure to burning gasoline or fuel as a result of automobile, equipment or aircraft accidents and impacts, where such exposure is not practically eliminated by the mechanical equipment or protective devices being used. Departments usually affected: ARFF

2. High voltage due to electricity or energy - 25%

Working on energized electrical lines rated at no less than 4,160 volts and suspended from utility poles or towers during adverse weather conditions such as steady and heavy downpour of rain, high winds, lightning or similar environmental conditions which make the work unusually hazardous. Departments usually affected: ARFF, Terminal Maintenance, and Operations

3. Open trenches - 25%

Working in open trenches no less than 15 feet deep from the normal ground level until proper shoring has been installed. Departments usually affected: ARFF, Terminal Maintenance, Operations and Seaport

4. Poisons (toxic chemicals) - low degree hazard - 10%

Working with or in close proximity of poison substance (toxic chemicals other than tear gas or similar irritating substance) in situations in which the nature of the work does not require the employee to be in direct contact with, or exposure to more toxic agents as described under high hazard in Subsection 13 of this Section and where protective devices and/or safety measures have not practically eliminated the potential for personal injury, i.e. handling for shipping, marketing, labeling, hauling and storing laded containers of toxic chemical agents that have been monitored. Departments usually affected: ARFF, Operations and Seaport

5. Micro-organism - low degree hazard - 10%

Working with or in close proximity to micro-organisms in situations for which the nature of work does not require the individual to be in direct contact with primary containers of organisms pathogenic for human beings such as culture flasks, culture test tubes, hypodermic syringes and similar instruments, and biopsy and autopsy material wherein the use of safety measures have not practically eliminated the potential for personal injury. Department usually affected: ARFF

6. Underground work - 25%

Working underground and performing construction of tunnels and shafts, and the inspection of such underground construction until

the necessary lining of the shaft or tunnel has eliminated the hazard. Department usually affected: ARFF, Terminal Maintenance and Operations

7. High work - 25%

Working, training, or repelling on any structure of at least 20 feet above the base level, ground, deck, floor, roof, etc., under open conditions, and if the structure is unstable or if scaffolding guards or other suitable protective facilities are not used, or if performed under adverse conditions such as darkness, lightning, steady and heavy downpour of rain, or high wind velocity. Department usually affected: ARFF, Terminal Maintenance, Operations and Seaport

8. Unsafe structure - 25%

Working within or immediately adjacent to building or structure which has been severely damaged by earthquake, fire, typhoon, flood or similar cause and the structure has been declared unsafe by a competent technical authority and when such work is considered necessary for the safety of personnel or recovery of valuable materials or equipment, and the work is authorized by a competent authority. Departments usually affected: ARFF, Terminal Maintenance, Operations and Seaport

9. Dirty work - 15%

Performing work which subjects the employee to soil the body or clothing:

- a. Beyond that normally to be expected in performing the duties of the classification; and,
- b. Where the condition is not adequately alleviated by the mechanical equipment or protective devices being used, or which are readily available, or when such devices are not feasible for use due to health considerations (excessive temperature, asthmatic condition, etc.); or
- c. When the use of mechanical equipment or protective devices or protective clothing results in an unusual degree of discomfort. Departments usually affected: ARFF, Terminal Maintenance, Operations and Seaport

10. Law enforcement activities - 25%

When assigned duties that exposes the employee to unusually hazardous factors, i.e. motorcycle duty, "stake out" where the use of firearms is inevitable. The differential pay shall only be applicable during times of exposure. Department usually affected: Ports Police

11. Communicable/infectious disease - 25%

Working with or in close proximity to micro organisms in situations for which the nature of work requires the employees to be in direct contact with communicable/infectious diseases such as tuberculosis, human emmuno deficiency virus, Hepatitis B, measles, mumps and other reportable communicable/infectious diseases. Department usually affected: ARFF and Ports Police

12. Live bombs - 25%

Working with or in close proximity to any situation where a live bomb is being moved or defused. Departments usually affected: ARFF, Ports Police and Operations

13. Poisons (toxic chemicals) high degree hazard - 25%

Working with or in close proximity to a combination of burning toxic materials such as paints, synthetic or nylon materials in which the nature of work requires the individual to be in direct contact with, or be exposed to the hazard. Departments usually affected: ARFF and Operations

14. Low voltage electrical energy - 25%

Contact with energized electrical household lines at 110 to 120 volts which are suspended or have fallen from a structure, and where water on the floor serves as a conductor making the work potentially hazardous. Departments usually affected: ARFF, Terminal Maintenance and Operations

15. Grass or natural cover fires - 15%

Working with or in close proximity to grass or natural cover (trees) fires that are being extinguished. Department usually affected: ARFF

16. Fuel spills - 15%

Working with or in close proximity or in contact with fuel spills of over 10 square feet in area. Department usually affected: ARFF and Operations

The differential pay requires the approval of supervisors and shall only be applicable to time of exposure.

B. Night Differential

Additional compensation in the form of a night work differential of fifteen percent (15%) of base salary rate or adjusted base salary rate is paid for all hours worked between 6:00 p.m. and 6:00 a.m., when such hours are included within a regularly scheduled tour of duty.

- (1) Control Criteria. To be eligible to receive payment of a night work differential, the following criteria must be met:
 - (a) Payment will be made only for actual hours worked which fall between 6:00 p.m. and 6:00 a.m.
 - (b) The above is restricted to include only those regularly scheduled work hours within the specified time period which constitute all or a part of the employee's regular hours of duty.
- (2) Non-payment of Night Work Differential. Payment of a night work differential will not be made for the following situations:
 - (a) An employee whose regular hours of duty included scheduled hours during the period of 6:00 p.m. to 6:00 a.m., is absent and does not actually perform work for the hours involved;
 - (b) An employee required to perform work during the hours of 4:30 p.m. to 7:30 a.m. which is not a part of the employee's regularly scheduled hours of night work duty; or
 - (c) An employee who is paid for remaining on call to duty in excess of the normal forty (40) hour work week shall not be eligible for payment of night differential for any work performed while on call.

C. Typhoon Emergency. Employees who are required by the Executive Director to work in a location and during a period of time in which a typhoon or tropical storm emergency has been declared by the Governor shall be compensated as follows:

- (1) For the employee's regularly scheduled work hours during which other government employees are released from work as a result of the emergency, the employee shall receive pay for administrative leave, and shall also receive pay for the actual hours worked; and
- (2) For all other hours such employees are required to work while such declaration of emergency shall remain in force, compensation shall be at the rate of two and one-half (2-1/2) times the base salary rate. Employees being paid typhoon emergency differential are not eligible to receive any other premium pay or overtime pay for the same period.

SECTION 4. PERSONNEL POLICIES

4.01 Grievance Procedure

The following procedure shall be followed in reviewing and settling an employee grievance. An employee may at all times be assisted by a representative of the employee's choice, at the employee's sole expense.

- a. The employee shall first try to resolve the grievance with the immediate supervisor, fellow employees or organization official concerned;
- b. If the employee is not satisfied with the understanding reached through such discussion, the employee shall take up the matter with the immediate supervisor. If the immediate supervisor was the person with whom the employee had first discussion, the employee should follow step "c" below;
- c. If the employee is dissatisfied with the understanding reached through consultation with the immediate supervisor, the employee may deliver his/her grievance within five (5) working days, in writing, to the Executive Director. The Executive

Director will consult with the employee and others concerned, and will try to resolve the grievance. Such consultation may be in writing or in person;

- d. If the employee is dissatisfied with the efforts of the Executive Director, or if the Executive Director is the person with whom the employee has the grievance, the employee may request in writing a review of the matter by the Personnel Affairs Committee. The Personnel Affairs Committee will hold a hearing within fifteen (15) days after the employee's request is received unless the employee agrees to a later date;
- e. The Personnel Affairs Committee shall resolve the grievance by majority vote. The decision of the Personnel Affairs Committee shall be final.

4.02 Annual Evaluations

Each CPA classified employee shall be evaluated annually. Evaluations shall be written on forms provided by the Executive Director, who will require the evaluator to assess the employee's performance of the duties listed on the employee's position description as well as comment on the employee's dependability, resourcefulness, and cooperativeness. Evaluation forms will also ask for the evaluator's recommendation regarding any increase in the employee's salary.

Completed evaluations shall be returned to the Executive Director, and a copy given to the employee. The evaluator shall discuss the evaluation with the employee so that constructive criticism may be exchanged between the evaluator and the employee.

The employee will be invited to evaluate himself or herself, and that self-evaluation will be included in the composite evaluation for all purposes.

Employees other than the Executive Director will be evaluated by their immediate supervisors, subject to review and approval by the Executive Director. The Executive Director shall be evaluated by the Board of Directors.

4.03 Political Activities

An employee shall devote his/her entire working time to carrying out the functions, purposes and policies of CPA in accordance with procedures established by CPA. All employees shall refrain from any political activity while on duty.

4.04 Policy Statement on Equal Employment Opportunity

- a. Policy Statement. The Commonwealth Ports Authority (CPA) hereby declares as its official policy that all U. S. citizens and legal residents of the Commonwealth shall be accorded equal opportunity in employment by the Authority, and that the Authority's employment practices shall be fair and non-discriminatory.
- b. Statutory and Regulatory Basis. The CPA hereby affirms and adopts the Commonwealth's policy on non-discrimination, as stated in 1 CMC §8102(a):

It is the policy of the Commonwealth that the personnel system hereby established be applied and administered in accordance with the following merit principles:

- (a) Equal opportunity for all regardless of age, race, sex, religion, political affiliation or place of origin;
- (b) Impartial selection of the ablest person for government service by means of competitive tests which are fair, objective, and practical;
- (c) Just opportunity for competent employees to be promoted within the civil service;
- (d) Reasonable job security for the competent employee;
- (e) Systematic classification of all posts through adequate job evaluation;
- (f) Fair and reasonable grievance procedures for all employees pertinent to condition of employment; and
- (g) Proper employer-employee relations to achieve a well-trained, productive and happy work force.

The Authority further adopts the policy stated in Part I.E of the Civil Service System Personnel Regulations, as amended January 15, 1997, which reads:

It is the policy of the government that the personnel system shall be applied and administered according to the principle of equal opportunity for all persons regardless of age, race, color, sex, national origin, place of origin, marital status, political affiliation or belief, or disability.

- c. Purpose of Policy. It is the purpose of this statement of policy to make clear that the Commonwealth Ports Authority will provide equal opportunity to all qualified applicants and employees, and will exercise nondiscrimination in all employment practices, consistent with United States and Commonwealth law. The Authority believes that it has a duty, to ensure that a person's opportunity to succeed should be determined by the person's ability, skill and training, and not by race, religion, sex, or other suspect classification, with respect to equal employment opportunity.
- d. Establishment of Office of Equal Employment Opportunity. There is hereby established an Office of Equal Employment Opportunity within the Commonwealth Ports Authority. The Executive Director of the Authority shall serve as the Equal Employment Opportunity (EEO) Officer. There shall also be an EEO Coordinator, and Assistant EEO Coordinators for Tinian and Rota. Appointments to these positions will be made by the Board of Directors or the Executive Director as may be delegated by the Board.
- e. Coordination with CNMI Office of Personnel Management in Training and Implementation. The Governor, as overall EEO Officer for the Commonwealth Government, has appointed the Director of Personnel as Deputy EEO Officer. The Director of Personnel, in turn, has appointed an Equal Employment Opportunity Coordinator for the Commonwealth EEO Program, within the Commonwealth Office of Personnel Management. The Commonwealth Ports Authority EEO Officers and Coordinators shall coordinate the establishment, implementation and training for the Authority's EEO Program with the Commonwealth EEO Coordinator and Office of Personnel Management. That office will provide assistance to the Authority's EEO Office in such matters as investigations of complaints, hearings, and so forth. Any hearing held on complaints filed shall be conducted pursuant to the Authority's EEO Program and the procedures established there under.

4.05 Policy Against Sexual Harassment

Prohibition Against Sexual Harassment. It is the policy of the Commonwealth Ports Authority (CPA) that all of its employees shall enjoy a work environment free from sexual harassment and all other forms of job discrimination.

- a. Sexual Harassment Defined. Sexual harassment is unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature which creates an intimidating, hostile or offensive work environment which impacts on an employee's work performance. Conduct of a sexual nature includes: offensive sexual flirtation, verbal sexual harassment, direct or indirect pressure for sexual activity, degrading comments about a person or that person's appearance, physical assault and battery, the display of sexually explicit or suggestive objects or abusive contact.

- b. Sexual Harassment is prohibited by Law. Sexual harassment is illegal under Title VII of the Civil Rights Act of 1964, as amended and as implemented by 29 CFR 1604.11. It is also prohibited under the CNMI Personnel Service System Rules and Regulations.

- c. Policy Against Sexual Harassment.
 1. Sexual harassment is specifically prohibited by CPA and will not be tolerated, regardless of whether the offensive conduct is committed by its supervisors, managers, non-supervisors (coworkers) or non-employees (consultants, contractors, general public).

 2. All CPA employees are encouraged to report any violation of this policy. Management cannot address sexual harassment in the work place until incidents of sexual harassment are reported. Employees will not be retaliated against for making truthful statements about alleged harassment.

 3. No employee will be denied or receive employment opportunities and/or benefits because of a sexual relationship of a co-worker or supervisor. No employee or non-employee shall imply to an employee or applicant for employment, that conduct of a sexual nature will have an effect on that person's employment, assignment, advancement or any other condition of employment.

 4. Supervisors, by law, are responsible for the acts of sexual harassment in the work place when they know or should have known of the prohibited conduct but fail to prevent

such conduct or fail to take steps to stop such act or conduct from recurring.

5. Each division manager shall distribute a copy of this policy to every employee and shall post this policy in an accessible location.
 6. All supervisors will be provided training on conducting an investigation and resolving cases of harassment.
- d. Sanctions Against Sexual Harassment. CPA shall take immediate and appropriate action for acts which violate this policy against sexual harassment. Such actions may include, if warranted, suspension from work without pay, demotion, reprimand, termination, or other personnel action deemed appropriate under the circumstances.
- e. Reporting Procedure.
1. All acts or conduct of sexual harassment shall be reported to the division manager, unless he or she is the harasser, or to the Executive Director or his designee. One may make a verbal report first and if assistance is needed, the complainant shall be assisted in preparing a written report of the incident(s) by the division manager or by the Executive Director or his designee.
 2. The written report should contain the following information:
 - A. The identity of the aggrieved employee and the division in which the employee works;
 - B. A detailed description of the grievance;
 - C. The corrective action desired; and
 - D. The name of the employee's representative, if any.
 3. CPA management will examine the grievance, conduct an investigation, discuss it with the grievant or his representative and the alleged harasser, and render a decision, in writing, within fourteen (14) calendar days after receiving the complaint report.

4. If management is not successful in settling the grievance to the complainant's satisfaction within fourteen (14) days after it is presented to the employer in writing, the employee shall, within fourteen (14) calendar days after receiving written notification of the decision, submit a petition to the Personnel Affairs Committee of CPA for a review of such decision by the Personnel Affairs Committee.
 5. The CPA Personnel Affairs Committee shall conduct a de novo hearing on the grievance filed by the complainant and render a final decision on the matter, no later than thirty (30) days thereafter.
- f. Equal Employment Opportunity Commission. If a grievance complaint is not acted upon to a complainant's satisfaction, the complainant may file a complaint with the federal Equal Employment Opportunity Commission (EEOC).

The EEOC in Hawaii is located at 300 Ala Moana Blvd., Room 7123A, Box 50082, Honolulu, Hawaii, 96850, or call (808) 541-3120.

The EEOC in San Francisco, California is located at 901 Market Street, Suite 500, San Francisco, California, 94103, or call (415) 356-5100.

SECTION 5. EMPLOYEE BENEFITS

5.01 Eligibility for Benefits

- a. A permanent full-time employee is eligible for all employee benefits enumerated in his/her Manual. Such employees shall include classified, unclassified, contract employees.
- b. All other employees shall not be eligible for employee benefits.
- c. Employees on leave of absence for 50% or more of a pay period shall not accrue annual or sick leave for that pay period. If the employee is on leave of absence for less than 50% of a pay period, the employee shall accrue annual and sick leave at the normal rate. No other benefits shall accrue for that employee.

5.02 Annual Leave

Employees shall accumulate annual leave time at the same rate as such leave time would be accumulated by employees of the Government of the Commonwealth of the Northern Mariana Islands; provided, however, that CPA employees will be given credit, for the purpose of computing the rate at which leave time will be accumulated, for prior employment with the Government of the Trust Territory of the Pacific Islands and the Government of the Northern Mariana Islands.

If an official holiday falls while an employee is on annual leave, that day will not be deducted from accrued annual leave. If an employee is sick while on annual leave, the employee may charge that time to accrued sick leave.

Annual leave must be approved by an employee's supervisor prior to the employee's taking it. The Executive Director or his designee must also approve it in writing.

Any annual leave accumulated in excess of 360 hours at the end of any calendar year shall be converted to sick leave on the last day of such calendar year. Any annual leave accumulated in excess of 360 hours on the date of an employee's termination or resignation of employment shall be converted to sick leave as of the effective date of such termination or resignation of employment.

An employee whose employment is terminated, or who resigns his/her employment, and who has been employed for more than one year prior to the effective date of such termination or resignation, shall be entitled to receive payment for any and all unused annual leave, up to a maximum of 360 hours.

5.03 Sick Leave

An employee commences to accrue sick leave at the beginning of the pay period following the employee's employment. Each employee will accrue 4 hours of sick leave per pay period. If an employee's accrued sick leave is depleted, any additional days the employee is not at work will be deducted from accrued annual leave. When accrued annual leave has been depleted, the employee will go on leave without pay (LWOP). If an official holiday occurs while an employee is on sick leave, that day will not be deducted from accrued sick leave.

When an employee is absent due to illness, the employee should give notice of his/her illness to the employee's office by twelve noon or the entire day may be charged against annual leave, at the discretion of the immediate supervisor. Each employee returning from sick leave after an absence of three days or more shall furnish a written certification from the attending physician regarding the

employee's illness. If the required certification is not furnished, all absence which would have been covered by such certification shall be indicated on the time and attendance record and payroll as Absent Without Leave (AWOL).

5.04 Sick Leave Donation

An employee may, in writing on a CPA-approved form, donate his/her accrued sick leave to another CPA employee who has completed his/her probationary status and who is need of medical treatment. Employee under medical treatment must provide certification from his/her attending physician on his/her medical status and duration he/she shall be on medical leave. Sick leave donation requests must be approved, in writing, in advance by the Executive Director or his designee, prior to the transfer of sick leave and subject to the following:

- a) An employee donating his/her accrued sick leave does so voluntarily and without compensation or sick leave replacement;
- b) The employee requesting donation must provide certification that he/she is undergoing medical treatment and the number of days he/she is expected to be on medical leave;
- c) The employee receiving a sick leave donation has exhausted all his annual leave, sick leave, and accrued comp-time hours;
- d) The employee receiving a sick leave donation shall not accrue any other leave while on medical leave status;

Any CPA employee may also donate accrued sick leave to non-CPA CNMI Government employees subject to the CNMI Sick Leave Bank Regulations being administered by the Office of the Personnel Management.

5.05 Leave of Absence

An employee may request for leave of absence without pay. Requests for such leave must specify its purpose and time period and must be authorized, in writing, by the Executive Director prior to its commencement. Because of the difficulties presented the organization by granting such leave, approval will not be given in ordinary course.

5.06 Holidays

CPA shall observe those holidays observed by the Government of the Northern Mariana Islands.

- a. Employees shall be paid holiday pay for work performed on Commonwealth legal holidays, in accordance with the regulations set forth herein.

- b. Payment for Work on Holidays. An employee required to work on a legal holiday shall be compensated at two (2) times the base salary rate or the adjusted base salary rate. Holiday pay for hours of work performed on a legal holiday will not be paid any employee who is being paid a standby differential for those same hours.
- c. Holiday Pay in a Non-Standard Workweek. When a holiday fall on a regular non-work day for employees whose basic workweek is other than the standard workweek, the workday immediately preceding or succeeding the holiday shall be designated (as determined by the Executive Director) as the holiday in lieu of such holiday that occurs on the employee's scheduled non-work day:
 1. Such employees who have designated holidays in lieu of the official holiday shall, if possible, be excused from duty on the designated holiday.
 2. Such employees who are required to work on their designated holidays shall receive two (2) times the basic salary rate for work performed on that day.

5.07 Maternity Leave

A female employee may be granted maternity leave, not to exceed fifteen (15) work days, because of confinement for childbirth. The employee must request maternity leave at least one week prior to the day she expects to leave work.

Accrued annual leave and sick leave may also be applied for during this period. If maternity leave, annual leave and sick leave are exhausted, the employee shall be considered to be on leave of absence without pay.

5.08 Paternity Leave

A male employee may be granted a maximum two (2) days' leave because of the birth of his child, which two days shall include the date of childbirth. The Executive Director shall have the authority to approve paternity leave requests.

5.09 Death in the Immediate Family

An employee who suffers a death in his or her immediate family will be given a maximum of five days leave with pay.

Immediate family shall be defined as including the employee's parent (including step or adoptive), spouse, sibling (including step or half), child (including step or adopted) or children-in-law, grandparents, mother-in-law and father-in-law (including step or adoptive).

5.10 Election Day Leave

An employee will be given two hours off work with pay to vote on each official Election Day. The determination of which two hours of the day shall be taken off will be made by the employee's supervisor, so as to assure adequate staffing of the employee's office at all times.

5.11 Administrative Leave

An absence from duty administratively authorized, without loss of pay and without charge to accrued leave, is administrative leave. The Executive Director, or his designee in his absence, has the responsibility for approving administrative leave requests. The following are the four general classes into which administrative leaves fall:

- (1) Administrative leave is absence authorized under emergency conditions beyond the control of management, e.g., typhoons, or for participation in civic activities of interest to the government or CPA, or employment connected examinations, or for such reasons as the Executive Director may determine (such as a shortened work day on Christmas Eve or New Year's Eve)
- (2) Extended absence required for medical appointments and care following job-related injuries may be authorized as administrative leave.
- (3) Administrative leaves related to disciplinary actions. Managers may place an employee in nonworking status with pay for up to three (3) work days pending preparation of a notice of proposed suspension for up to thirty (30) calendar days or termination from employment.
- (4) Administrative leave may be granted to employees serving on government boards and commissions, provided such employee does not receive compensation from the boards and commissions. Advance written notice by the head of a board or commission must be delivered to the department or agency head before an employee can be released from official duties to attend a meeting. If an emergency meeting is necessary, the Chairman or Executive Director may be notified by the department agency head by phone, but a written confirmation of the meeting must follow such oral notification.

5.12 Military Leave

Military leaves of absence with pay, not to exceed fifteen (15) working days in any calendar year, regardless of the number of training periods in the year, may be granted by the Executive Director to employees who are members of the United States National Guard and Reserve components of the United States Armed Forces, when directed under orders issued by proper military authority.

5.13 Court Leave

Employees who are called upon to serve as jurors may, at their option, be granted Court Leave for such period as the jury may be impaneled. Employees who are called to jury duty shall present their Juror Summons to their immediate supervisor together with a completed Request for Leave, for the supervisor's signature and processing. Employees who serve as juror using Court Leave to cover the period of absence shall turn over to the Commonwealth Treasurer such jury fees (as distinct from expense allowances) as they receive from the Court. Expense allowances paid the employee for whatever purpose may be retained by employee to defray the expenses for which granted. An employee subpoenaed as witness, except as a government witness, shall charge such absence to annual leave or leave without pay. Court leave shall be granted to an employee subpoenaed in litigation in which the government has no interest, to serve as a witness in the employee's present or past official capacity as a government employee and who may be required to present government records in testimony. Such employee must inform the Executive Director of the required testimony as soon as possible after being subpoenaed.

5.14 Leaves Without Pay

- a. An employee on permanent status may be granted leave without pay not to exceed ninety (90) consecutive workdays if the Executive Director considers it justified. Leave without pay may be extended up to ninety (90) additional consecutive work days ONLY with the approval of the Executive Director. Such leave without pay may be granted to permit the employee to attend to important family affairs, such as settling an estate or for justifiable personal or business reasons.

An employee desiring extended leave without pay shall prepare a memorandum of explanation addressed to the Executive Director explaining in detail the reasons for the request.

b. Training and Education Leave

Employees on permanent status, who wish to pursue their education on a full-time basis, without financial assistance by the government, may be granted leaves of absence without pay for a period not to exceed one (1) year. Such employees shall have the right to return to their positions at the satisfactory conclusion of their education or training, and their service anniversary dates shall be adjusted by the amount of leave without pay taken. The Executive Director is responsible for approving or disapproving requests for Training and Education Leave.

c. Leave Without Pay in Extension of Annual or Sick Leave

Employees on permanent status may be granted leave without pay (LWOP) for the purpose of extending annual or sick leave. When sick leave is so extended, the attending physician must certify to the necessity of the extension. The Executive Director is responsible for approving or disapproving requests for leave without pay.

d. FMLA Leave

The Federal Family and Medical Leave Act of 1993 (FMLA) entitles employees who have worked for the Commonwealth for at least one year and who worked at least 1,250 hours over the previous 12 months to take up to 12 weeks of leave without pay for any of the following reasons:

- (1) to care for the employee's child after birth or placement for adoption or foster care;
- (2) to care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- (3) for a serious health condition that makes the employee unable to perform the employee's job.

If an employee intends to take leave, the employee is shall provide the Executive Director with at least 30 days' written notice and shall provide the Executive Director a copy of a medical certification to support a request for medical leave. In the case of medical emergency or unforeseeable event, then employee only has to provide the Executive Director with such

notice as is practicable under the facts and circumstances of the particular case.

At the option of the employee, annual leave, sick leave, maternity leave, or paternity leave may be substituted for LWOP for FMLA purposes. All leave qualifying under the FMLA shall be documented as FMLA leave either before it is taken or promptly thereafter.

5.15 Medical and Life Insurance

- a. An employee shall be entitled to participate in the group life and hospital insurance programs which are available to employees of the Government of the Northern Mariana Islands on the same terms and conditions as are available to employees of the Government for as long as such participation is permitted by the Government or its insurer.
- b. An employee is entitled to participate in the medical insurance program which is available to CPA employees, on the same terms and conditions as are available to CPA employees.

SECTION 6. DRUG AND ALCOHOL POLICY

Purposes

The Commonwealth Ports Authority (CPA) recognizes its commitment to employees, customers and the public, and wishes to take reasonable steps to assure safety in the workplace and the safety of the community. CPA is aware of the adverse effect alcohol and substance abuse have on safety and productive job performance. It recognize that employees are affected in their ability to perform their jobs safely and productively, due to physical and emotional problems caused by the use or abuse of alcohol and other drug substances, which jeopardizes the integrity of the workplace and the achievement of CPA's mission.

This policy establishes programs and practices that promotes and supports a drug-free working environment and complies with the Drug-Free Workplace Act of 1988.

Overview

Employees have the responsibility for managing their individual behavior, and, if an impairment issue exists, the employee must successfully resolve that issue. Being fit for work addresses two matters – an employee's **condition** and his/her **conduct**.

Condition. When an employee's condition (physical illness, emotional distress, and chemical dependency) interferes with safe and productive work, the employee needs to take measures necessary to correct the condition. CPA recognizes the valuable resource we have in our employees, and is committed to helping them maintain their health and well-being. Therefore, CPA strongly encourages employees to take advantage of the many opportunities of assistance through the employee health benefit programs to help them make a positive, healthy and mutually beneficial opportunity. (See Procedure 12.0)

Conduct. The second aspect of being fit for work involves conduct. Employees are accountable for unsafe and unproductive work, and the consequences of their work. Irresponsible behavior that is unproductive and unsafe will not be tolerated, and an employee engaging in misconduct may be disciplined, including termination from employment (See Procedure 3.0).

CPA recognizes the need for safety, efficiency and productivity in employment. Therefore, it is the official policy of CPA that the:

- use
- distribution
- sale
- possession
- manufacture
- transfer
- or being under the influence

of alcohol in any form, and of illegal drugs and unauthorized substances in any detectable amount on CPA property or while on duty by employees, independent contractors or their employees is strictly prohibited (See Procedure 3.0).

CPA employees who violate the prohibitions of this policy will be subject to disciplinary action, including termination. An employee's refusal to submit to testing requirements will be treated as an act of insubordination (See Procedure 3.0).

Independent contractors and their employees who violate the prohibitions of this policy may be subject to contract cancellation (See Procedure 2.0).

All employees shall be subject to drug/alcohol testing, when applicable, to include the following categories: pre-employment, reasonable suspicion, post accident/incident, random, return to duty, and follow-up (See Procedure 8.0).

Employee education and supervisory training are essential parts of this policy and program. All existing and new employees will receive information on the impact of drug and alcohol use in the workplace, and will receive information on resources for help and assistance. No supervisor may make a reasonable suspicion or post accident/incident decision unless he/she has completed supervisory training relating to this policy (See Procedure 6.0).

Drug/alcohol testing will be conducted with accuracy and reliability. CPA upholds a high regard for privacy and dignity in specimen collection, testing and notification process. Employees found with the presence of a covered substance in the body, breath alcohol at a detectable level of 0.02 BAC or greater, or a confirmed positive drug urine test, without adequate medical explanation, will be regarded to have violated the provisions of this policy.

6.1 Procedures

Definitions: For purposes of this policy, the following definitions shall apply:

6.1.1 Accident means occurrence that results in:

- (1) The death of a human being; or
- (2) Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
- (3) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.

The injury to a person on the job must require outside medical attention, and the physical damage or economic loss must be greater than \$1,000.

The occurrence must be reported to the CPA under applicable regulations.

6.1.2 Alcohol Concentration means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test. When the indicated alcohol concentration on an initial alcohol test is different from an indicated alcohol concentration on a confirmatory test, the

employee shall be considered to have the lower indicated concentration.

- 6.1.3 Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol.
- 6.1.4 Alcohol Use means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.
- 6.1.5 Canceled Test (Drug) means a test that has been declared invalid. It is neither a positive nor a negative test. This term includes a specimen which is rejected for testing by a laboratory. Further testing is required for pre-employment and return to duty testing.
- 6.1.6 Conducting CPA Business means being in a situation where decisions are made that commit CPA to some action, or being in a position where actions could injure or adversely affect other individuals or CPA.
- 6.1.7 Confirmatory Test (Alcohol) means a second test following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration.
- 6.1.8 Confirmatory Test (Controlled Substances) means a second analytical procedure to identify the presence of a specific drug or metabolite that is independent of the screen test, and that uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy.
- 6.1.9 Consulting Physician means a licensed physician retained by CPA to advise on drug testing and other industrial medicine issues.
- 6.1.10 Contractor means a person or organization that provides service to or works for CPA.
- 6.1.11 Covered Substances mean:
- 6.1.11.1 Legally obtained drugs (prescription and non prescription remedies) when used according to directions to alleviate a specific condition.

6.1.11.2 Illegal drugs, including:

- (1) Drugs which are not legally obtainable;
- (2) Drugs which are legally obtainable, but have not been obtained legally;
- (3) Drugs which are legally obtained, but are knowingly used for other than the prescribed purpose or in other than the prescribed manner; and
- (4) So-called "designer drugs" or drug substances not approved for medical or other use by the State Board of Pharmacy, the U.S. Drug Enforcement Administration, or the U.S. Food and Drug Administration.
- (5) Unauthorized substances including any substance that is intentionally used to cause impairment of physical and/or mental functioning.
- (6) CPA-Covered Substances are those substances that will be tested when called for by CPA, specifically:
 - (a) Marijuana (cannabinoids) and metabolites;
 - (b) Cocaine and metabolites;
 - (c) Amphetamines and metabolites;
 - (d) Opiates (narcotics);
 - (e) PCP (Phencyclidine); and
 - (f) Alcohol (ethyl alcohol)

6.1.12 CPA means the Commonwealth Ports Authority.

6.1.13 Drug/Alcohol Coordinator means the Executive Director's representative who is in charge of the CPA Drug and Alcohol Program (i.e., testing, training and documentation).

6.1.14 Drug Use means the consumption of any substance (legal or illicit) that may cause an interference with the capacity to perform safe and/or productive work.

6.1.15 Executive Director means the Executive Director of the Commonwealth Ports Authority.

6.1.16 Medical Review Officer means a licensed physical responsible for receiving laboratory results generated by CPA's drug testing program, who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an

individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

- 6.1.17 Proof of Wellness means a notice from the treatment specialist or substance abuse professional indicating the applicant/employee is no longer dependent on some drug/alcohol substance to the extent it can affect safe and productive work.
- 6.1.18 Refusal to Submit means:
- 6.1.18.1 A verbal declination after being given a clear and specific order to submit to urine and/or breath testing.
- 6.1.18.2 That an employee fails to provide adequate breath for testing or the non-production of a urine specimen without a valid medical explanation after he/she has received notice of the requirement to be tested.
- 6.1.18.3 An employee engages in conduct that clearly obstructs the collection process.
- 6.1.19 SAMHSA means the Substance Abuse and Mental Health Services Administration, U.S. Department of Health and Human Services.
- 6.1.20 Screening Test (Alcohol) means an analytical procedure to determine whether a covered employee may have a prohibited concentration of alcohol in his/her system.
- 6.1.21 Substance Abuse Professional (SAP) means a licensed physician (Medical Doctor or Doctor of Osteopathy), licenses or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the national Association of Alcoholism and Drug Abuse Counselors Certification Commission), with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.
- 6.1.22 Under the Influence means that a covered substance is present in the body and is detected by breath alcohol testing (0.02 BAC or greater) or urine drug testing (a confirmed positive).

NOTE: For the purposes of this policy, 0.02 BAC is established as the lowest conclusive detectable level in breath alcohol

testing; however, noting breath odor is conclusive to remove an employee from service.

- 6.1.23 Safety-Sensitive Function means performing work involving Flight Service, Ports Police, Aircraft Rescue and Fire Fighting, Vessel Traffic Controllers, Administrative Assistants, and Supervisory positions.

6.2 Application

6.2.1 Commonwealth Ports Authority (CPA) Employees:

6.2.1.1 This policy shall apply to all CPA employees, while on CPA-owned or leased property or while off-premises conducting CPA business; and

6.2.1.2 This includes off-premises activities during lunch break or other break periods where the employee is scheduled to return to work, or is on-call status or pre-shift periods.

- 6.2.2 Independent Contractor, Vendor, Employees and Visitors. Visitors, independent contractor, their employees, and vendor employees are expected to be free from the effects of drug or alcohol use/abuse while conducting business for CPA or on CPA premises. As a consequence, contractor or vendor employees or visitors found to be violating this policy will not be allowed to continue to conduct business and their supervisor, if appropriate, will be notified.

6.3 Prohibited Conduct

6.3.1 Refusal to Submit to a Drug/Alcohol Test

6.3.1.1 Any employee refusing to comply with a request for a drug/alcohol test, shall be guilty of insubordination and shall be subjected to suspension or termination from employment.

6.3.1.2 Any employee leaving the scene of an accident before a testing decision is made will be regarded as refusing to be tested.

6.3.1.3 Any employee consuming alcohol after an accident and before a testing decision is made will be regarded as refusing to be tested.

6.3.1.4 Any conduct that clearly obstructs the collection process will be regarded as grounds for termination.

- 6.3.1.5 Refusing to submit to testing after receiving clear and specific instruction to be tested.
 - 6.3.1.6 Failing to timely provide an adequate specimen for testing, without a valid medical explanation, after receiving clear and specific instruction to be tested. An M.R.O. or consulting physician shall determine if there is any medical reason for failure to provide an adequate urine same (shy bladder) or an adequate breath sample (shy lung).
 - 6.3.1.7 Failure to provide an adequate urine sample for testing within two hours after arrival at the testing site.
 - 6.3.1.8 Failing to report to the specimen collection site timely after being informed of the requirement to be tested (once employee is instructed, employee must report directly to the collection site and must submit urine sample).
- 6.3.2 Providing False Information and/or Attempting to Contaminate or Alter a Urine Specimen. Any employee providing false information about a urine specimen and/or attempting to contaminate a urine specimen will be subject to termination from employment.
- 6.3.3 Refusal or Failure to Comply with Treatment Recommendations. Any employee refusing or failing to comply with treatment and after-care recommendations will be subject to suspension or termination from employment.
- 6.3.4 Testing Positive for Prohibited Drugs, Alcohol and Unauthorized Substances on a First Test. An employee with a first confirmed positive drug/alcohol test result which has been verified as a "positive" result by a Medical Review Officer will be suspended for not less than twenty (20) working days, and thereafter, immediately be placed on leave without pay (LWOP) status until he/she successfully completes an approved drug or alcohol rehabilitation program. In addition, the employee will be demoted permanently in rank and pay of not less than two (2) steps. If an employee holds any safety sensitive function, employee will be automatically terminated from employment.
- 6.3.5 Testing Positive for Prohibited Drugs, Alcohol and Unauthorized Substances on a Second Occasion. Should an employee be retained or be re-employed following an initial positive test and then test positive for a prohibited drug, alcohol or unauthorized

substance on a second or subsequent occasion, and within five (5) years of a prior positive drug/alcohol test, the employee will be subject to termination.

Employee undergoing drug rehabilitation program, or terminated from employment, shall surrender his/her valid government driver's license to operate government vehicles, as well as his/her airport or seaport badges to the Executive Director.

Employee testing positive will be ineligible for employment benefits, such as nomination for employee incentive awards, annual increments, merit increases, off-island seminars or training, and promotional opportunities for a period of not less than two (2) years after the date of completion of the required rehabilitation program.

6.3.6 Sale, Transfer, Possession with Intent to Deliver. Any employee engaging in the sale or attempted sale, purchase or transfer, or possession with intent to deliver illegal drugs, unauthorized substances or alcohol on CPA property, in CPA vehicles or equipment or while on CPA business will be terminated. Law enforcement authorities will be notified.

6.3.7 Possession. Any employee found in possession of any amount of illegal drugs, unauthorized substances or alcohol (open container) in CPA vehicles or while conducting CPA business will be disciplined, and shall be subject to suspension or termination. Law enforcement authorities may be notified.

6.3.8 Use or Under the Influence. Any employee found using or reasonably believed to be under the influence of an illegal drug, alcohol or unauthorized substance at work or reporting to work with the intention of work shall not be allowed to perform their job while in that condition, and will be subject to drug/alcohol testing.

6.3.8.1 Admission of Using Controlled Substance after Testing. If an employee voluntarily admits to his/her supervisor/manager of illegally using controlled substance after the drug testing was performed and the drug result is determined to be negative, the employee will still be considered to be a user and shall be treated as having a confirmed positive testing in accordance with procedures in 3.4.

6.3.9 Pre-Duty Use – Alcohol

- 6.3.9.1 General. No employee shall report to work if they have used alcohol within four (4) hours of reporting to work. No employee shall report to work with any detectable levels of alcohol in their system.
- 6.3.9.2 On-Call Employees. No employee who is on a designated on-call status shall consume alcohol during the period of his or her on-call status. Employees in an on-call status shall inform the supervisor of any inability to perform safety-sensitive functions before commencing work.
- 6.3.9.3 Any employee, prior to reporting to work, that acknowledges the use of alcohol during an on-call status may be subject to disciplinary action and will be referred to CPA EAP program for assessment.
- 6.3.9.4 Any employee reporting to work having consumed alcohol during on-call status and failing to notify their supervisor will be regarded as being under the influence. Such employee will be tested and subject to disciplinary action for failure to report and other discipline according to Procedures 3.4 and 3.7.
- 6.3.9.5 Any employee, who acknowledges use during an on-call status, but claims ability to perform his/her safety-sensitive function, will be required to take an alcohol test before performing work. If the alcohol test is 0.02 or above, the employee will be subject to disciplinary action according to Procedures 3.4 and 3.7. If the alcohol test is below 0.02, the employee will be subject to Procedure 3.8.2.1.

- 6.3.10 Failure to Notify CPA of Criminal Drug Conviction. Employees are required to notify CPA of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction. Failure to do so within five (5) days of conviction will result in termination (U.S. Drug Free Workplace Act of 1988).

6.4 Use of Legally Obtained Drugs

- 6.4.1 Protection from Work. Employees adversely affected by virtue of their use of any legally obtained drugs (prescription or non-

prescription) cannot be allowed to perform a safety-sensitive job in such a condition.

- 6.4.2 Notification Required. Prior to commencing work, each employee must report immediately to their supervisor/manager the use of any prescription or non-prescription drug which may affect driving performance or contains a cautionary label regarding the operation of equipment or vehicles. Employees taking medication with cautionary labels will provide proper medical authorization to work from a physician. Employees failing to report use of any prescription or non-prescription drug affecting work will be subject to disciplinary action up to and including termination.

6.5 Policy Communication

- 6.5.1 Current Employees. All current employees will receive a copy of the Drug and Alcohol Policy. In addition, the policy will be posted.
- 6.5.2 New Employees. All new employees hired after the effective date of the policy will be given a copy of the CPA Drug and Alcohol Policy as a part of new employee orientation. New employees will acknowledge they have read the policy and such acknowledgment will be noted by signature in employee's personnel files.
- 6.5.3 Defined, CPA Employees. All employees transferring into or new employees being assigned to CPA will be notified of the specific requirement for drug/alcohol testing.

6.6 Training

- 6.6.1 Current Employees. All employees will receive information and training on:
- 6.6.1.1 Effects and consequences of drug and alcohol use on personal health, safety, and the work environment.
 - 6.6.1.2 Manifestations and behavioral clues indicative of drug and alcohol use and abuse.
- 6.6.2 Supervisors/Manager. All supervisor/managers who are authorized to make reasonable suspicion determinations will receive training that meets or exceeds CPA standards for

training on the physical, behavioral and performance indicators of probable drug and alcohol use.

6.6.3 New Hires and New Supervisors.

6.6.3.1 All newly hired employees will participate in an alcohol and other drug abuse policy and drug awareness session.

6.6.3.2 All newly promoted supervisors will not make reasonable suspicion determinations until they participate in a supervisory training process to acquaint them with the physical, behavioral and performance indicators of probable drug use.

6.7 Role of the Medical Review Officer (MRO) and Consulting Physician

6.7.1 Duties

6.7.1.1 Recipient of Drug Testing Results. The MRO will be the sole recipient of SAMHSA drug testing results from the laboratory and positive results of all non-SAMHSA drug-testing results. After verification of positive or negative result and the applicant/employee has been consulted by the MRO, the MRO will contact the CPA Drug and Alcohol Coordinator and inform him/her of the positive or negative result.

NOTE: The MRO shall immediately contact the CPA Drug and Alcohol Coordinator should the employee be a Ports Police Officer or a Fire Fighter so the individual will be temporarily placed in a non-safety sensitive job status until the verification process of the result has been completed.

6.7.1.2 Verification of Positives: The MRO will verify that the laboratory report of a positive result is reasonable. The MRO, if necessary:

- (1) When requested by the applicant/employee, will review the individual's medical history, including any medical records and biomedical information provided.

- (2) When requested by the applicant/employee, will afford the individual an opportunity to discuss the test results with the MRO or a local designated consulting physician.
- (3) Will determine whether there is a legitimate medical explanation for the result, including legally prescribed medication.
- (4) Will request, as needed, pertinent analytical records or require re-analysis of any specimen to verify results.
- (5) Will determine that there is clinical evidence, in addition to the urine test, of unauthorized use of any opium, opiate, or opium derivative if the laboratory does not confirm the presence of 6-monoacetylmorphine.

6.7.1.3 Post-Accident Specimen Collection Facilitation. The MRO or local consulting physician, when requested, will assist in facilitating the collection of specimens related to an accident event.

6.7.1.4 Fit for Work Consultation. The MRO or local consulting physician will, when requested, be available for consultation to determine the ability of an employee to report to work or continue work when under the influence of over-the-counter medication and/or prescription medication.

6.7.1.5 Return to Work Consultation. The MRO or local consulting physician will, when requested, review the records and examine, when appropriate, all employees returning to duty after having refused to take a drug/alcohol test. The MRO will consult with treatment counselors, and the CPA staff when making the evaluation.

6.7.2 Release of Results. Test results will be released only under the following circumstances:

6.7.2.1 The MRO will report all positive test results (after review) and all positive and negative SAMHSA test results to CPA's Executive Director and Drug and Alcohol Coordinator.

- 6.7.2.2 The MRO may release the results to a third party only when the person tested signs an authorization for the release to an identified person.
- 6.7.2.3 The MRO may release the results of a drug/alcohol test to the person who was tested to the Executive Director and Drug and Alcohol Coordinator.
- 6.7.3 Reporting. The MRO will only report to CPA's Executive Director and/or CPA's Drug and Alcohol Coordinator.
- 6.7.4 Relationships.
 - 6.7.4.1 Testing Laboratories. The MRO will be the primary contact for technical inquiries to the testing laboratory.
 - 6.7.4.2 Treatment and Rehabilitation Facilities. The MRO and the Drug Coordinator will have direct contact with substance abuse professionals regarding drug positives.
 - 6.7.4.3 Employee Assistance Counselors. The MRO will, if appropriate, confer with any employee assistance counselor when evaluating a return to duty status.
- 6.7.5 Reports.
 - 6.7.5.1 The MRO will retain records for five (5) years of reports of individuals who do not pass a drug/alcohol test. Reports of individuals who do pass a drug/alcohol test will be retained for one (1) year. Records related to the collection process will be retained for two (2) years.
 - 6.7.5.2 The MRO will provide CPA the necessary information for the preparation of Federal reports.

6.8 Referral for Testing

- 6.8.1 Pre-Employment Testing. All offers of CPA employment are contingent upon the applicant successfully passing a drug test. No applicant will be assigned to work until they have passed a urine drug test. Drug testing will be at applicant's own expense.

NOTE: Due to the non-availability of a drug testing facility in Rota and Tinian, selected applicant(s) for Rota and Tinian will be waived until during the next random drug testing is conducted

at their location, then they will submit to a urine drug test as part of their employment.

Applicants selected for immediate employment and have not yet received their drug testing results will sign an employment agreement. If the drug test results show "positive", the employee will immediately be released from employment.

An employee must reimburse CPA for drug testing expense.

- 6.8.1.1 Test Specimens. Urine – all applicants being hired will be subject to SAMHSA or a NIDA panel test for illegal and unauthorized substances.
- 6.8.1.2 Notification of Testing Requirement. Applicants will be notified of the requirement to pass a drug test at the time of application.
- 6.8.1.3 Canceled Test. When a pre-employment drug test is determined to be a canceled test by the MRO, the applicant will be required to immediately submit another urine specimen for testing.
- 6.8.1.4 Reapplication After a Positive Test. Applicants who test positive without adequate explanation of the results will not be considered for employment for two (2) years, during available announced positions, after which period they must present proof of wellness. Applicants must complete a waiting period of not less than two years after the date of release from their last employment, complete a drug rehabilitation program, not apply for any management or safety sensitive position, and must submit a statement of Fitness for Duty from the MRO or a certified physician/counselor and an agreement similar to a Return to Duty Contract.
- 6.8.1.5 Release of Statement of Any Drug Testing History. Applicants who were previously employed with CPA or with the CNMI Government, and applicants who have had an offer for CPA employment withdrawn due to a previous positive urine test result, must provide CPA a written release of drug testing history for the two (2) years immediately prior to the application date.

6.8.2 Reasonable Suspicion Testing. All employees will be subject to drug/alcohol testing if there is reasonable suspicion to believe he/she may be under the influence of some drug or alcohol.

6.8.2.1 Reasonable Suspicion Defined. Reasonable suspicion for drug/alcohol testing means specific contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee. In other words, a reasonable suspicion decision consists of specific facts, circumstances, physical evidence, physical signs and symptoms, or a pattern of performance and/or behavior that would cause a trained supervisor to reasonably conclude an employee may have engaged in on the job drug or alcohol use, or may be under the influence of some drug/substance, including alcohol.

NOTE: An alcohol reasonable suspicion determination must be based on observations and facts related to an employee's condition and/or performance just before or while the employee is to perform or has performed work for CPA.

6.8.2.2 Examples of Reasonable Suspicion include, but are not limited to:

- (1) Unsatisfactory work performance, including accidents and incidents, adequately documented, and where some drug or alcohol related documentation indicates a linkage or a change in an employee's prior patterns of work performance, and where some drug or alcohol performance-related documentation indicates a linkage.
- (2) Physical symptoms consistent with substance abuse.
- (3) Evidence of illegal substance use, possession, sale or delivery.
- (4) Fights (to mean physical contact) and assaults, or erratic or violent behavior.

6.8.2.3 Test Specimens.

- (1) Breath – employees will be subject to the collection of a breath sample(s) to determine if current consumption of alcohol is present.
- (2) Urine – employees will be subject to a urine drug test covered substances.

6.8.2.4 Steps in Reasonable Suspicion Testing.

- (1) Properly Trained Supervisor. Only a supervisor with government-approved training in the physical, behavioral, and performance indicators of probable drug and alcohol use is permitted to make reasonable suspicion testing decisions.
- (2) Objective Inquiry. When reasonable suspicion exists, the affected employee will be questioned and observed. A decision to request a specimen will be based on eyewitness reports, facts of the event, and observed physical and behavioral characteristics of the affected employee. The employee will be interviewed in a private area.
- (3) Verification. All requests to an employee for a drug/alcohol test will be verified by another supervisor or manager who has received training in recognition of signs and symptoms of drug and alcohol abuse. Such verification may be done in person or telephonically.
- (4) Relief of Duty. The employee may be relieved of duty until the results of the drug and/or alcohol test are complete and verified.
- (5) Transportation Assistance. The employee will be accompanied to the collection site by a supervisor or manager. The employee will be provided transportation home. If the employee refuses and demands to drive his/her vehicle, CPA shall notify law enforcement.
- (6) Report. The events of a request for a specimen will be reduced to writing and will be reviewed by CPA management.

6.8.3 Post-Accident Testing.

All employees will be subject to drug/alcohol testing if an accident occurs meeting the definitions of either 1.1(1), (2), or (3), or 1.2, or 1.12(2), (3), (4).

6.8.3.1 Test Specimens.

- (1) Breath – employees will be subject to the collection of a breath sample(s) to determine if current consumption of alcohol is present.
- (2) Urine – employees will be subject to a urine drug test.
- (3) Blood – in accidents and incidents that cause severe sample may be drawn for future testing if breath alcohol testing is not readily available.

6.8.3.2 Steps in Post-Accident Testing.

- (1) Supervisor Training. Only a supervisor with approved training in the physical, behavioral, and performance indicators of probable drug and alcohol use is permitted to make post-accident testing decisions. Notify next level of supervisor of the incident.
- (2) Objective Inquiry. A supervisor's decision to request testing shall be based on eyewitness reports, facts of the event, and observed physical and behavioral characteristics of the employee. Specifically, the properly trained supervisor shall require the driver of any government vehicle or the operator of any government equipment involved in the accident to be tested.
- (3) Transportation Assistance. The employee shall be accompanied to the collection site by a supervisor or manager, and shall be provided transportation home from the collection site. If the individual refuses and demands to drive his/her vehicle, the supervisor or manager shall notify the Ports Police Department. The physical health of the driver, responsible employee, or general public is always a higher priority than the collection of a drug and/or alcohol sample.

- (4) Notify the Hospital of the Need for a Specimen. If the employee is injured and unable to consent to a urine sample, wait until the treating physician determines the employee is able to understand a request, sign the necessary forms, and provide a sample. If the employee is unconscious, ask the treating physician to collect a specimen. If the hospital takes a sample but refuses to release a specimen, ask them to retain it in their custody and freeze it with proper chain of custody procedures.
- (5) Duty Pending Test Results. Until the results of the drug and alcohol test are complete and verified, no employee reasonably suspected of having been under the influence of alcohol or drugs at the time of the accident shall be allowed to perform or continue to perform a safety-sensitive duty.
- (6) Cooperate with Law Enforcement. Allow local law enforcement to conduct their investigation. The police may require a breath/alcohol test or blood specimen to be drawn for a legal determination of blood alcohol.
- (7) Explain. Tell the employee that a drug and/or alcohol test is as much to protect him/her as it is to determine facts for CPA. Point out to the employee that a negative finding will objectively put to rest any suspicion of drug/alcohol involvement in the accident.
- (8) Notify the MRO. Explain the circumstances of the accident. The MRO will telephonically assist in facilitating the specimen collection process.
- (9) Collection Timing. The specimen should be collected as soon as possible after the accident.
- (10) Alcohol Collection. Alcohol testing must occur within two (2) hours of the accident. If the collection occurs after two (2) hours but within eight (8) hours of the accident, a report must be filed with CPA for CPA-covered employees. After eight (8) hours has elapsed, breath alcohol testing will be done at the discretion of CPA.
- (11) Urine Collection. Urine collection must occur within thirty-two (32) hours of the accident.

- (12) Work with the Coroner in a Fatality Accident. If the accident results in an employee's death, an autopsy most likely will be performed. As soon as possible after the accident, request in writing and in person that the medical examiner, coroner, or pathologist obtain a urine specimen of at least 100 milliliters to be placed into a specimen bottle and sealed according to directions.
- (13) Collect Accident Documentation Promptly. Immediately following the accident. Accident investigators, either employees or contracted individuals, should be used to accurately document critical information. Note the time and date of both the occurrence of the accident and specimen collection.

6.8.3.3 The Supervisor Report. The supervisor ordering post-accident testing shall put in writing, in detail, the facts leading to the decision. This report shall be considered confidential and will be maintained in the employee's drug and alcohol test file, which is confidential, until needed for a disciplinary action.

6.8.3.4 Relief of Duty. An employee may be returned-to-duty, at the supervisor's discretion, pending results from a post-accident/incident event if there is reasonable belief the employee was not under the influence at the time of the accident. If the employee has been medically examined, post-incident, he/she must receive a return to work clearance from CPA's MRO/consulting physician before returning to work.

6.8.4 Return to Duty Testing (Re-Entry to Work) and Follow Up Testing.

6.8.4.1 Return to Duty Testing Criteria. An employee, having previously tested positive for drugs or alcohol, or voluntarily acknowledged being under the influence of drugs or alcohol while on duty, will be required to pass a drug/alcohol test before being returned to duty. Such employees will not be allowed to return to work until they:

- (1) Test negative for the covered substances and are evaluated and released for duty by the Medical Review Officer (if the prior incident was drug related); or
- (2) Test below a 0.02 alcohol concentration and are released by a substance abuse professional (if the prior incident was alcohol related).

6.8.4.2 Follow-Up Testing. An employee, requiring return to duty drug/alcohol testing, may be subject to unannounced drug/alcohol test for up to sixty (60) months after returning to work. There shall be no fewer than six (6) tests in the first 12 months of follow-up testing. The specific number will be recommended by the substance abuse professional. All return to duty and follow-up testing costs will be paid by the employee.

6.8.4.3 Test Specimens.

- (1) Breath – employees will be subject to the collection of a breath sample(s) to determine if current consumption of alcohol is present.
- (2) Urine – employees will be subject to a urine drug test for CPA-covered substances. Employees performing a safety-sensitive function will have two urine specimens (split specimen) collected for the covered substances test under the CPA rule.

6.8.4.4 Canceled Test. When a return to duty drug test is determined to be a canceled test by the MRO, the employee will be required to immediately submit another urine specimen for testing.

6.8.4.5 Compliance with Rules. The employee shall sign an agreement to comply with CPA rules, policies, and procedures relating to employment;

6.8.4.6 Term. The term of the agreement shall be effective for five (5) years after employee's return to duty; and

6.8.4.7 Breach of Contract. The agreement shall state that any violation of the Return to Duty Contract shall be grounds for termination.

6.8.5 Random Testing.

6.8.5.1 Random Testing Defined. Random testing means that drug tests are unannounced.

6.8.5.2 Selection Rate. The selection rate will be no less than 25% for urine drug testing and 25% for breath alcohol testing.

6.8.5.3 Selection. Using the lottery system, the Executive Director or the Drug/Alcohol Coordinator shall randomly select employees for unannounced drug testing through a random lottery number table that is matched with the employee's social security number or payroll identification number. Each employee selected for testing will remain in the random testing pool to ensure equal chance of being selected for testing.

6.8.5.4 Schedule of Testing. Random testing will be on a quarterly basis or at the discretion of the Executive Director and shall not be less than 25% of the employees selected.

6.8.5.5 Notification of Employee. Employees, when notified of a random selection, shall cease work functions and immediately proceed to the collection site.

- (1) If the selected individual is off-duty, he/she will be placed on the next quarterly selection process.
- (2) If the employee is notified and does not report for testing, he/she will be considered as testing "positive".

6.8.5.6 A CPA employee shall only be tested for alcohol before, during, or just after performing his/her duty.

6.8.6 Re-Testing of a Split Specimen. If the drug test result of the primary urine specimen is verified positive, the employee performing a safety-sensitive function may request that the MRO direct the split specimen to be tested in a different DHHS-certified laboratory for presence of the drug(s) for which a positive result was obtained in the test of the primary specimen. Such request must be in writing to the MRO and within seventy-

two (72) hours of the employee having been notified of the verified positive drug test result. Re-tests will be at the employee's expense.

6.8.6.1 The employee will automatically be placed on Leave Without Pay (LWOP) status for the duration of the re-testing procedure.

6.8.6.2 Should the second test return and is verified by an MRO as a negative, the employee will be cleared, reimbursed of testing expenses, reinstated with back pay, and return back to regular duty.

6.8.6.3 Should the second test return and is verified by an MRO as a positive, the employee will automatically be terminated if his/her position is a safety-sensitive function.

6.8.6.4 The employee shall have the right to appeal the dismissal to the CPA Appeal Committee, in writing, within five (5) working days after being notified of the second test.

6.9 Specimen Collection

6.9.1 Specimen Collection Sites. Urine and/or breath specimens will be collected at sites approved by CPA or a designated representative of CPA.

6.9.2. Specimen Collection Persons. The only persons authorized to collect specimens are as follows:

6.9.2.1 Urine – Persons trained in the SAMHSA or NIDA collection process.

6.9.2.2 Breath – Persons (employees of CPA or the collection site) who have been trained as Breath Alcohol Technicians in a CPA or CNMI Government approved training program.

6.9.2.3 Blood – Persons authorized or certified by CNMI law to draw blood.

6.9.3 Specimen Collection Protocol. Breath and urine specimens shall be collected strictly in accordance with established collection

protocols, and shall strictly adhere to the collection requirements specified in 49 CFR Part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs."

- 6.9.4 Split Specimens. All urine collections for CPA-covered employees will be split into two specimens and shipped to the laboratory. One specimen, called the primary specimen, shall be tested for CPA. The other specimen, called the secondary specimen, shall be the property of the employee, to be tested only upon the request of the employee.
- 6.9.4.1 Results. The laboratory conducting the urine test shall give the results only to the MRO. The MRO shall discuss the test result with the tested individual and then report the result to the CPA Drug Coordinator.
- 6.9.4.2 Invalid Test. If the MRO decides that the test is invalid, the candidate shall immediately submit another urine specimen for testing.
- 6.9.4.3 Alternative Explanations for Positive Test Results. Upon receiving a report of a positive test result, the MRO shall determine if there is any alternative medical explanation for the result, including the use of prescribed medication by the employee. Such a determination shall be based on information received from the employee such as the tested individual's medical history and records. If the MRO determines it to be necessary he/she may request pertinent analytical records from the laboratory or require a re-analysis of the specimen.
- 6.9.4.4 The MRO shall report the urine test as negative and shall take no future action if he/she determines:
- (1) There is a legitimate medical explanation for a positive test result, other than the use of the specific drug; or
 - (2) Base on a review of laboratory inspections reports, quality assurance and quality control data, and other drugs test results, the positive drug test result is scientifically insufficient for further action.

6.10 Laboratory Testing

- 6.10.1 Approved Laboratory Defined. Only laboratories and laboratory systems approved for the testing of urine specimens by the U.S. Department of Health and Human Services, SAMHA, will be used.
- 6.10.2 Reports. The laboratory will provide CPA with summary information on number of tests and results.

6.11 Supervisor Responsibilities

- 6.11.1 Reasonable Suspicion and Post-Accident Testing. Supervisors and managers are expected to base testing requests on objective observations and to thoroughly document all steps.
- 6.11.2 Confidentiality. Supervisors and managers will communicate information regarding a fit for work incident strictly on a need-to-know basis.
- 6.11.3 Accountability. Supervisors and managers who knowingly disregard the requirements of this policy with respect to fit for work concerns will be regarded as neglecting their responsibilities, and may be disciplined up to and including termination.

6.12 Employee Assistance and Rehabilitation

- 6.12.1 Intent. CPA highly encourages employees who have personal problems to utilize the Employee Assistance Program (EAP) before those problems affect their job performance. Employees who voluntarily seek assistance in dealing with emotional distress, personal health problems, or problems relating to alcohol or drug use before there is a performance issue, will be provided the same leave benefits as with any other health-related issue. Employees will be held accountable for acceptable job performance regardless of participation in or requests for referral to the EAP. In no case will disciplinary amnesty be granted to employees asking for assistance and referral.
- 6.12.2 Management Referrals. Employees who are referred as a part of supervisory performance counseling or intervention are assured

of confidentiality. Only those in the chain of responsibility and Human Resources may be aware of an EAP referral/treatment request.

- 6.12.3 Positive Test Referrals. If an employee tests positive for the presence of alcohol or prohibited drugs and is retained as an employee, he/she shall be referred to CPA's EAP for assessment, and will be required to fulfill specified steps of treatment before being considered ready for evaluation for return to duty to any position at CPA. CPA employees may be allowed the opportunity for rehabilitation following apposite alcohol or drug test under the following conditions:
- 6.12.3.1 Voluntary self-referrals by the employee prior to any type of incident or accident.
 - 6.12.3.2 Management intervention/referral prior to any incident or accident.
 - 6.12.3.3 First time positive drug or alcohol test (unrelated to any incident or accident) for an employee not performing a safety-sensitive function while under the influence.
- 6.12.4 Return to Duty Evaluation. No employee shall return to work after a positive test for alcohol (0.02 or above) or drugs (positive finding from the laboratory and/or MRO) until they have been evaluated and released for duty by the MRO (CPA-covered substances) and/or a substance abuse professional (CPA, non-CPA covered substances and alcohol).
- 6.12.5 Confidentiality and Conduct. A direct request by the employee for assistance will be made a part of the employee's medical file. Any related performance issue or disciplinary action will be in the employee's personnel file.
- 6.12.6 Free of Discrimination. Employees will not have job security or promotional opportunities jeopardized solely because of a request for help.
- 6.12.7 Re-Entry to Work.
- 6.12.7.1 After Mandatory Referral. Employees re-entering the work force after a mandatory referral for a fit for work

issue will agree to a re-entry contract. That contract may include, but is not limited to:

- (1) A release to work statement from an approved treatment specialist.
- (2) Evidence of a plan setting out after-care and follow-up treatment procedures with the assistance counselor or a treatment specialist and MRO/Consulting Physician for a minimum of six (6) months. Longer periods of follow-up may be specified by the assistance counselor.
- (3) A review and release for work by a designated CPA representative and the MRO/Consulting Physician (for drug positives) or CPA's substance abuse professional (for alcohol positives).
- (4) A negative test for drugs, unauthorized substances and alcohol.
- (5) An agreement to unannounced drug/alcohol testing (for up to five (5) years).
- (6) A statement of expected compliance with CPA work rules, policies, and procedures.
- (7) Specific agreement by the employee that violation of the agreement will be grounds for termination.

6.12.7.2 After Voluntary Self-Referral. Employees self-referring to a substance abuse treatment program, with the prior knowledge of their supervisor or CPA's management, must agree to a re-entry contract. The contract will include:

- (1) A release to work statement form an approved treatment specialist.
- (2) An evaluation and release to work by a designated CPA representative.

6.13 Confidentiality, Recordkeeping, and Reports

6.13.1 Confidentiality.

6.13.1.1 Test Results. All test results will be regarded as medical data and will be stored in a separate location than the employee's general performance file. The status of an employee's drug/alcohol test will be communicated within CPA on a strict need-to-know basis.

6.13.1.2 Employee Assistance Referrals. Any knowledge of an employee's attendance at a substance abuse treatment program will be treated the same as medical data and will be file din the employee's medical file. The status of an employee's involvement with employee assistance and/or substance abuse treatment will also be communicated within CPA on a strict need-to-know basis.

6.13.2 Record Keeping.

6.13.2.1 Test/Collection Records. Original test results will be maintained by the MRO. CPA will also maintain records received from the MRO regarding test results which will be stored in a secure location with controlled access. All records relating to the urine and alcohol collection process will be maintained by CPA, the MRO, and the collection site (if other than the MRO and/or on-site collection).

6.13.2.2 Record Retention Schedule.

- (1) Ten (10) years – records relating the administration of the fit for work policy, including policy and program development, employee awareness and supervisory training, collection site training, and program administration.
- (2) Five (5) years – records of positive drug and alcohol tests, refusals to take required drug/alcohol tests, calibration documentation, and referrals to the substance abuse professional.
- (3) Two (2) years – records relating to the breath and urine collection process.
- (4) One (1) year – records of negative drug and alcohol rest results.

6.13.3 CPA Reports. The Drug Coordinator will submit, to the Executive Director, an annual report summarizing the results of the anti-drug and alcohol misuse prevention program.

6.14 Business Use of Alcohol

- 6.14.1 Never A Business Obligation. The consumption of alcohol should never be considered a business obligation.
- 6.14.2 Separation of Business and Business Entertainment. Employees will not consume beverages containing alcohol while conducting business. Conducting business can be defined as any event where the interests of CPA are being obligated and/or represented. Business entertainment can be defined as events where the primary purpose is friendship and socialization. When in doubt, the best advice is "don't drink". Lunch, with the expectation of returning to business or the workplace, would not be considered business entertainment.
- 6.14.3 CPA-Sponsored Social Events. Employees who consume alcohol-containing beverages at CPA-sponsored social events are highly encouraged not to drive after drinking.

SECTION 7. MISCELLANEOUS

7.01 Rules Governing Conflict of Interest and Nepotism

No person shall hold a job which a member of his/her immediate family exercises supervisory authority over.

For purposes of this part, the phrase "immediate family" shall include those persons described in Section 5.09 of this Manual.

7.02 Internal Operating Procedures

Internal office operating procedure shall be governed by the Executive Director. From time to time, written memoranda will be issued by the Executive Director. Policies and procedures so issued shall be followed.

7.03 Promulgation of Personnel Policies and Procedures

All existing personnel and each new employee shall be advised of the existence of this Personnel Manual and all memoranda governing internal operating procedures. This Manual and all internal operating memoranda shall be kept in a place in each office where all employees will have access to the same.

7.04 Employee Incentive Program

7.4.1 Objective. To motivate CPA employees, promote employee morale and increase productivity, an Employee Incentive Program is hereby established.

7.4.2 Introduction. The growth of CPA since it was established in 1976 has been phenomenal. Revenue has tripled within the last 10 years and the size of its workforce has doubled. Facilities have expanded by more than 100% due largely to the tourism industry. Major capital improvement projects are in progress. A multi-million dollar harbor improvement project has been completed, and many more are being planned for the future.

As CPA produces positive results and continues to chart its course, recognition is made to employees who are responsible for CPA's significant accomplishments. After all, CPA employees are extremely important resource and responsible for executing our plans. Through its Employee Incentive Program, it is CPA's intent to recognize deserving employees and continue to produce a multitude of positive results.

7.4.3 Establishing an Employee Award Committee. An Employee Award Committee shall oversee the program and make sure that actions and activities are directed in timely and non-discriminatory fashion. Additionally, the committee shall be responsible for developing the award program and make it comprehensive. The committee shall be comprised of supervisors including the Executive Director or Deputy Director and shall be no less than four (4) members. Supervisors who do not serve in the committee may be appointed as alternates or to serve for the next term.

7.4.4 Award Program. Employee awards do not necessarily have to be conventional as we are accustomed to seeing in many organizations, i.e. employee of the quarter or year. Various recognition may be used in the program such as Group/Team Awards, Safety Awards, Best Team Player Awards, or recognition tailored to the line of work involved, e.g., ARFF, Security, Terminal Maintenance, and Operations. Nevertheless, the award program should be

developed within the scope of CPA objective which provides for a wide latitude of recognition yet cognizant of applicable rules and regulations.

It is the intent of management, however, to present this basic award program to the supervisors for comments and make changes, as warranted, prior to proceeding towards final draft form.

- a. BRONZE AWARD – For Most Improved in Attendance and Promptness. Employees who are punctual and have perfect attendance for a specific month shall be recognized. Each supervisor shall review attendance records of employees at the end of each month and report to the Committee. Two or more employees from one department may receive this award.

Possible awards may include a letter of commendation, a certificate signed by the Executive Director and Deputy Director, monetary gift, publicity or a combination thereof. The Committee shall determine the amount and identify the source of funds.

The Bronze Award recognizes improved attendance, promptness and help CPA avoid paying for overtime hours of employees covering shifts of absent personnel. Overall, it will encourage employees to report to work as scheduled and perform as expected.

- b. SILVER AWARD - Employee of the Quarter. At the end of each quarter, the supervisors shall evaluate the job performance of each employee using CPA's rating sheet. The committee shall review the rating of each candidate from every department and make a recommendation to the Executive Director as to which candidate deserves the award using a ranking system – from Candidate No. 1, Candidate No. 2...Candidate No. 8 and so on. The committee's recommendation shall include complete justification in writing in a format acceptable to the Executive Director.

Types of awards may include monetary gift, certificates, or time off (for example, 2 days off via administrative leave), publicity or a combination thereof.

The Silver Award is intended to serve as recognition of the employees' superior work performance and provide opportunities for average performers to improve during the remainder of the year. These quarterly evaluations may also serve as the basis of assisting in the employees' year-end performance, as explained below.

- c. GOLD AWARD - Employee of the Year. This award is the ultimate goal of every high performer. Using CPA's rating sheet and the quarterly evaluations, each supervisor nominates one (1) candidate from his or her department for "outstanding performance" throughout the year. The committee shall review the nominations and recommend the best candidate to the Executive Director for the award. A complete justification shall be submitted with the recommendation.

Types of awards may include monetary gift, a certificate of recognition, administrative or educational leave to attend NMC classes (for example, 80 hours off over one-year period), publicity or a combination thereof.

The Gold Award will facilitate year-end performance evaluations and assist CPA supervisors in determining whether an employee deserves an annual increment, merit increase, or both.

- 7.4.4 Summary. The Incentive Award Program is intended to serve dual purposes. First, it would encourage employees to perform better and increase productivity. The program will help CPA recognize deserving employees and simultaneously improve employees' work performance. Second, the evaluation process will assist CPA supervisors in identifying problem areas in their early stages and make improvements accordingly for the remainder of the year.

The awards stated herein are traditional and may be augmented or improved. Comments or suggestions from the supervisors are solicited. Their input is crucial in making the program successful, practicable and simple. The supervisors and committee members shall be ultimately responsible for improving the program to better serve CPA.

SECTION 8.
ETHICS POLICY GUIDELINES FOR
CPA BOARD MEMBERS, MANAGEMENT AND STAFF

8.01 **Purpose of Ethics Policy Guidelines**

- (a) Most jurisdictions have statutes that prohibit board members and management employees from using their public offices for private gain. These statutes are sometimes criminal or quasi-criminal in nature.
- (b) Many ethics infractions deal with the misuse of agency equipment such as vehicles, computers and telephones. Other ethics infractions deal with inappropriate expense reimbursement.
- (c) CPA Board members and its Executive Director should always strive to avoid any improper act or conduct, including the appearance of impropriety.

8.02 **Conflict of Interest and Impartiality**

- (a) The CPA Board members and CPA management staff should always act fairly, should be non-partisan and should be unbiased when carrying out their duties and responsibilities.
- (b) The goal of all CPA agency decisions is to further the best interest of the public. CPA Board members and management employees should not have any conflict or potential conflict of interest in any matter requiring board action or management decision.
- (c) CPA Board members and management staff should always avoid any improper act or conduct, including the appearance of impropriety.

8.03 Recusal Due to Conflict

- (a) A Board member should not neglect his/her duties and responsibilities as a Board member, including regular attendance at meetings, being prepared, and carrying out of committee assignments.
- (b) A Board member should not participate in board decisions in which he/she will realize any direct or indirect financial or non-financial benefit. A Board member shall not participate in matters in which his/her personal interest would compromise his/her objectivity or where the appearance of bias would compromise his/her impartiality in a matter requiring board action or approval.

8.04 Public Communications

- (a) A Board member may not speak or act on behalf of the Board without proper authorization. He/she may, however, voice his/her opinion on a matter before the Board.
- (b) CPA management staff should obtain authorization from the Board or the Executive Director before transmitting any official, public communication to the general public or to the news media.
- (c) The Executive Director and the Board Chairperson shall coordinate the matter of press releases and official public communications issued by CPA.

8.05 Board Member Conduct

- (a) CPA Board members and management staff shall conduct themselves in a manner that promotes the integrity of CPA, the Board and management, and CPA's decision-making processes.
- (b) CPA Board members shall recognize responsibility of all board members to promote the public interest in its decision-making process.

8.06 Policy-Making Role of the Board

- (a) A Board member shall not be involved in the day-to-day management and personnel matters of CPA, unless required by law, the CPA by-laws, rule or policy.
- (b) The Board shall make policy decisions; the Executive Director and management staff shall implement the policies and decisions of the Board.

8.07 Matters of Confidentiality

- (a) CPA Board members and management staff shall always maintain the confidentiality of documents and information that are confidential by nature or law.
- (b) CPA Board members and management staff shall protect the confidentiality of CPA matters that are confidential in nature or at law, or matters which are still being considered by the Board, prior to Board decision, action or approval.

8.08 Disclosure of Conflict of Interest

- (a) Board members shall disclose all actual or potential conflicts of interest(s) in any matter requiring Board action or approval.
- (b) Upon becoming aware of a conflict of interest or that there is an appearance of a conflict of interest, a Board member shall immediately recuse himself/herself, on the record, from participating in matter requiring Board action or approval.

8.09 Other Inappropriate Conduct or Behavior

- (a) A Board member shall not engage in any inappropriate relationship, sexual or otherwise, with a CPA official or employee while serving as a Board member.
- (b) A Board member shall not direct, encourage or knowingly allow any CPA official or employee to engage in any inappropriate conduct or behavior with another CPA official or employee, such as fraternizing with a subordinate employee.

- (c) CPA management employees and staff shall not withhold any information to the Board which relates to or affects a Board decision or action or which affect or would affect the integrity of CPA.
- (d) Board members shall not engage CPA staff in the performance of non-CPA related activities. Board members shall not unnecessarily interfere with CPA staff members' performance of their duties and responsibilities.
- (e) An "inappropriate conduct or behavior" by a CPA Board member, management employee or staff is conduct or behavior which is contrary to applicable law, rules, regulations or policy, such as the Commonwealth Ethics Code, CPA's Enabling Statute, or these Ethics Policy Guidelines.

8.10 Applicability of Ethics in Government Act

These Ethics Policy Guidelines shall be in addition to the Ethics In Government Act requirements and any other ethics law applicable to CNMI Government officials and employees. Whenever any of these policies is in conflict with applicable law, the law shall govern.

SECTION 9. APPLICABILITY

9.01 In General

All provisions of these Personnel Regulations shall apply to all persons who have the status of employees of CPA, except those employees exempted from its coverage in Section 2.01, unless expressly made applicable to exempted employees. The Board and any independent contractor or consultant retained by the Board are not employees of CPA and the provisions hereof shall not apply to such persons, unless specifically made applicable herein.

9.02 Applicability of Particular Sections

The following provisions of these Personnel Regulations shall also apply to all ungraded CPA employees hired under contract:

- Section 3.02 - Payment of Salary;
- Section 3.10 - Severance Pay;
- Section 4.03 - Political Activities;

- Section 4.04 - Equal Employment Opportunity;
- Section 4.05 - Policy Against Sexual Harassment;
- Section 5 - All employment benefits (unless employment contract specifies differently);
- Section 6 - Drug and Alcohol Policy;
- Section 7.01 - Conflict of Interest & Nepotism;
- Section 7.05 - Ethics Policy Guidelines.

SECTION 10. AMENDMENTS AND MODIFICATIONS

The provisions of these Personnel Regulations contained herein may be modified or amended by a majority vote of the Personnel Affairs Committee. Any such amendment or modification shall become effective upon ratification by the Board of Directors, and adopted in accordance with the Administrative Procedural Act.

SECTION 11. REGULATORY AUTHORITY AND APPLICABILITY OF CNMI PERSONNEL SERVICE SYSTEM RULES AND REGULATIONS

11.01 Regulatory Authority

These personnel rules and regulations are promulgated pursuant to the Commonwealth Ports Authority's statutory authority to hire its own employees who are exempted from the CNMI Civil Service System, 2 CMC §2122(n) and pursuant to CPA's Authority to promulgate necessary rules and regulations, 2 CMC §2122(j). The rules and regulations herein are promulgated in accordance with the Administrative Procedural Act, 1 CMC §9104, et. seq.

11.02 Applicability of CNMI Personnel Service System Rules and Regulations

Whenever CPA's Personnel Rules and Regulations do not have any particular regulation on a personnel matter or issue affecting CPA or any of its employees, CPA shall refer to and shall apply the CNMI Personnel Service System Rules and Regulations to address such personnel matter or issue, until such time as the CPA Board of Directors has adopted a regulation addressing such personnel matter or issue.

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SECTION 3.05

CPA executive, administrative, and professional employees listed below are not eligible to receive overtime compensation:

Executive Director	Port Manager, Saipan
Deputy Director	Asst. Port Manager, Saipan
Executive Assistant	Telecommunication Specialist
Comptroller	Deputy Comptroller
Accounting Manager	Accounting Supervisor
Personnel Manager	Office Manager
Staff Engineer	Public Information Officer
Executive/Board Secretary I & II	Executive Secretaries
Property/Lease Program Manager	Enforcement/Lease Compliance Officer
Airport Manager	Assistant Airport Manager
Special Projects & Procurement Coord.	Administrative Assistants
Supervisor, Seaport Operations	Staff Attorney
Supervisor, Operations	Asst. Supervisor, Operations
Supervisor, Terminal Maintenance	Asst. Supervisor, Terminal Maintenance
Chief, Ports Police	Asst. Chief, Ports Police
Chief, ARFF	Asst. Chief, ARFF
Rota Ports Manager	Tinian Ports Manager
Asst. Ports Manager (Rota & Tinian)	Supervisor, Radio/Weather Observer
Asst. Chief, Ports Police/ARFF	Supervisor, Maintenance/Custodial
Asst. Supervisor, Maintenance/Custodial	Supervisor, Seaport Operations
Supervisor, Landscaping & Gardening	Asst. Supervisor, Landscaping & Gardening
Port Development & Operations Specialist	All new managerial, supervisory and assistant level personnel not listed above.

TABLE OF SUGGESTED PENALTIES

The following table is intended as a guide in determining appropriate penalties for CPA employees guilty of acts of willful misconduct, negligence, or dishonesty. The offenses listed obviously do not include every possible offense. In the case of an offense not listed, the gravity of the offense should be compared with those listed in determining the appropriate penalty. Penalties are given as a range (e.g., official reprimand to removal) to allow for differences in the seriousness of the offense, or extenuating circumstances, and the past record of the employee.

Type of Offense	1 st Offense	2 nd Offense	3 rd Offense
Failure to carry out a legitimate order from a supervisor	Final written warning to suspension up to 30 days	Discharge	
Unprovoked use of abusive language in addressing supervisor/tenant/customer; insubordination; resisting authority	Written warning to 15 days suspension to discharge	Discharge	
Theft of property from CPA or other employee	Discharge		
Commitment of a dishonest act or complicity in a dishonest act	Discharge		
Reporting for work under the influence of alcohol or drugs	Follow penalty under CPA Drug & Alcohol Policy		
Drug addiction or sale of drugs	Follow penalty under CPA Drug & Alcohol Policy		
Willful damage of CPA property or property of others	Suspension of 15 days to discharge	Discharge	
Inside or outside conduct detrimental to the interests of the CPA to include malicious gossip and/or the spreading of rumors	Warning to suspension up to 30 days to discharge	Discharge	
Conviction of a felony	Discharge		
Falsifying CPA's records	Discharge		
Removal of CPA's records or release of confidential information	Suspension up to 30 days to discharge	Discharge	
Failure to disclose any exception to CPA standards policy	Suspension up to 30 days to discharge	Discharge	

Type of Offense	1 st Offense	2 nd Offense	3 rd Offense
Sexual harassment or immoral conduct as defined by "Sexual Harassment" policy	Discharge		
Resisting a robber	Discharge		
Possession of weapons or firearms on CPA's premises	Discharge		
Assault on supervisor, other employee or tenant or threatening/intimidating supervisor, other employee or tenant	Suspension up to 30 days to discharge	Discharge	
Falsifying a time sheet/card	30 days suspension to discharge	Discharge	
Intentionally misrepresenting work time by punching another employee's time sheet/card or having one's own time sheet/card punched or filled out by another	30 days suspension to discharge	Discharge	
Asking a subordinate to show hours, more or less, than actually worked on their time sheet/card	30 days suspension to discharge	Discharge	
Falsifying employment application	Discharge		
Failure to return from leave of absence	Terminate using appropriate termination procedure		
Violating safety rules	Written warning	Discharge	
Failure to report an injury or accident at time of occurrence	Written warning to suspension up to 15 days	Suspension up to 30 days to discharge	Discharge
Leaving the work site or office without permission for personal reasons during working hours	Written warning to 15 days suspension to discharge	Discharge	
Soliciting unauthorized contributions on CPA's premises	Written warning	Suspension up to 30 days to discharge	Discharge
Taking borrowed (not stolen) CPA's property from the office without permission	Written warning	15 days suspension to discharge	Discharge
Fighting or attempting to provoke a fight on CPA's property	Written warning	Discharge	
Use of another employee's tools without permission	Written warning to 15 days suspension	15 days suspension to discharge	Discharge

Type of Offense	1 st Offense	2 nd Offense	3 rd Offense
Distributing printed matter on CPA premises without permission	Written warning	Suspension up to 15 days to discharge	Discharge
Negligence, including failure to perform work assignments as directed	Verbal warning	Performance review. Remedial action	Discharge
Failure to comply with specialized dress code	Verbal warning	Written warning	Discharge
Using CPA phone for personal long distance telephone calls without authorization	Written warning	Discharge	
Deficient job performance	Performance review. Remedial action	Reassignment, demotion, or release	
Failure to maintain CPA performance standards	Performance review	Reassignment, demotion, or release	
Sleeping during working hours	Written warning to 30 days suspension	30 days suspension to discharge	Discharge
Willful idleness, wasting of time	Verbal warning to written warning	Suspension up to 30 days	Discharge
Absence from working without notifying supervisor	Written warning	Final written warning to suspension up to 15 days	Discharge
Absence from work for three consecutive days without notifying supervisor	Final written warning to up to 30 days suspension	Discharge	
In excess of one unauthorized absence (provided supervisor notified in advance) in a one-month period or three in any six-month period	Written warning	Final written warning to up to 15 days suspension	Discharge
Late for work more than once in a week or three times in any one month	Written warning	Final written warning to 15 days suspension	Discharge
Creating or contributing to unsanitary conditions by poor housekeeping	Recorded verbal warning	Written warning	Discharge
Improper use or care of CPA property	Recorded verbal warning	Written warning	Discharge

Type of Offense	1 st Offense	2 nd Offense	3 rd Offense
Selling tickets or commercial products of any kind on CPA property without prior approval	Recorded verbal warning	Written warning	Discharge
Closing a department or office during designated hours of operation without Executive Director's approval	Discharge		
Unauthorized use of government motor vehicle	15 days suspension to discharge	Discharge	

Important: It should be understood that this listing in no way limits management's right to take action for offenses not included. In addition, the proposed action serves as a guideline, whereby, management reserves the right to deviate from these regulations as deemed appropriate. Each offense will be reviewed in and of itself, its cause and its effect on the well-being of CPA. Action will be taken based on those findings and, as applicable, in accordance with the procedures outlined under this policy.

**COMMONWEALTH PORTS AUTHORITY (CPA)
SALARY SCHEDULE**

PAY LEVEL	STEP Minimum 1	2	3	4	5	STEP Intermediate 6	7	8	9	10	11	STEP Maximum 12
1												
Hourly	2.843	2.985	3.133	3.289	3.453	3.625	3.806	3.995	4.195	4.404	4.623	4.853
Biweekly	227.45	238.77	250.62	263.10	276.22	289.98	304.47	319.60	335.57	352.29	369.85	388.26
Annual	5,913.70	6,208.02	6,516.12	6,840.60	7,181.72	7,539.48	7,916.22	8,309.60	8,724.82	9,159.54	9,616.10	10,094.76
2												
Hourly	2.985	3.133	3.289	3.453	3.625	3.806	3.995	4.195	4.404	4.623	4.853	5.095
Biweekly	238.77	250.62	263.10	276.22	289.98	304.47	319.60	335.57	352.29	369.85	388.26	407.62
Annual	6,208.02	6,516.12	6,840.60	7,181.72	7,539.48	7,916.22	8,309.60	8,724.82	9,159.54	9,616.10	10,094.76	10,598.12
3												
Hourly	3.133	3.289	3.453	3.625	3.806	3.995	4.195	4.404	4.623	4.853	5.095	5.349
Biweekly	250.62	263.10	276.22	289.98	304.47	319.60	335.57	352.29	369.85	388.26	407.62	427.93
Annual	6,516.12	6,840.60	7,181.72	7,539.48	7,916.22	8,309.60	8,724.82	9,159.54	9,616.10	10,094.76	10,598.12	11,126.18
4												
Hourly	3.289	3.453	3.625	3.806	3.995	4.195	4.404	4.623	4.853	5.095	5.349	5.616
Biweekly	263.10	276.22	289.98	304.47	319.60	335.57	352.29	369.85	388.26	407.62	427.93	449.30
Annual	6,840.60	7,181.72	7,539.48	7,916.22	8,309.60	8,724.82	9,159.54	9,616.10	10,094.76	10,598.12	11,161.18	11,681.80
5												
Hourly	3.453	3.625	3.806	3.995	4.195	4.404	4.623	4.853	5.095	5.349	5.616	5.897
Biweekly	276.22	289.98	304.47	319.60	335.57	352.29	369.85	388.26	407.62	427.93	449.30	471.73
Annual	7,181.72	7,539.48	7,916.22	8,309.60	8,724.82	9,159.54	9,616.10	10,094.76	10,598.12	11,126.18	11,681.80	12,264.98
6												
Hourly	3.625	3.806	3.995	4.195	4.404	4.623	4.853	5.095	5.349	5.616	5.897	6.190
Biweekly	289.98	304.47	319.60	335.57	352.29	369.85	388.26	407.62	427.93	449.30	471.73	495.21
Annual	7,539.48	7,916.22	8,309.60	8,724.82	9,159.54	9,616.10	10,094.76	10,598.12	11,126.18	11,681.80	12,264.98	12,875.46
7												
Hourly	3.806	3.995	4.195	4.404	4.623	4.853	5.095	5.349	5.616	5.897	6.190	6.500
Biweekly	304.47	319.60	335.57	352.29	369.85	388.26	407.62	427.93	449.30	471.73	495.21	519.97
Annual	7,916.22	8,309.60	8,724.82	9,159.54	9,616.10	10,094.76	10,598.12	11,126.18	11,681.80	12,264.98	12,875.46	13,519.22
8												
Hourly	3.995	4.195	4.404	4.623	4.853	5.095	5.349	5.616	5.897	6.190	6.500	6.824
Biweekly	319.60	335.57	352.29	369.85	388.26	407.62	427.93	449.30	471.73	495.21	519.97	545.89
Annual	8,309.60	8,724.82	9,159.54	9,616.10	10,094.76	10,598.12	11,126.18	11,681.80	12,264.98	12,875.46	13,519.22	14,193.14
9												
Hourly	4.195	4.404	4.623	4.853	5.095	5.349	5.616	5.897	6.190	6.500	6.824	7.165
Biweekly	335.57	352.29	369.85	388.26	407.62	427.93	449.30	471.73	495.21	519.97	545.89	573.18
Annual	8,724.82	9,159.54	9,616.10	10,094.76	10,598.12	11,126.18	11,681.80	12,264.98	12,875.46	13,519.22	14,193.14	14,902.68
10												
Hourly	4.404	4.623	4.853	5.095	5.349	5.616	5.897	6.190	6.500	6.824	7.165	7.522
Biweekly	352.29	369.85	388.26	407.62	427.93	449.30	471.73	495.21	519.97	545.89	573.18	601.75
Annual	9,159.54	9,616.10	10,094.76	10,598.12	11,126.18	11,681.80	12,264.98	12,875.46	13,519.22	14,193.14	14,902.68	15,645.50

CPA PAY SCHEDULE

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PAY LEVEL	STEP Minimum 1	2	3	4	5	STEP Intermediate 6	7	8	9	10	11	STEP Maximum 12
11												
Hourly	4,623	4,853	5,095	5,349	5,616	5,897	6,190	6,500	6,824	7,165	7,522	7,625
Biweekly	369.85	388.26	407.62	427.93	449.30	471.73	495.21	519.97	545.89	573.18	601.75	610.00
Annual	9,616.10	10,094.76	10,598.12	11,126.18	11,681.80	12,264.98	12,875.46	13,519.22	14,193.14	14,902.68	15,645.50	15,860.00
12												
Hourly	4,853	5,095	5,349	5,616	5,897	6,190	6,500	6,824	7,165	7,522	7,625	8,006
Biweekly	388.26	407.62	427.93	449.30	471.73	495.21	519.97	545.89	573.18	601.75	610.00	640.44
Annual	10,095.76	10,598.12	11,126.18	11,681.80	12,264.98	12,875.46	13,519.22	14,193.14	14,902.68	15,645.50	15,860.00	16,651.44
13												
Hourly	4,920	5,165	5,423	5,693	5,977	6,276	6,588	6,918	7,263	7,625	8,006	8,405
Biweekly	393.56	413.17	433.81	455.46	478.14	502.04	527.06	553.42	581.00	610.00	640.44	672.41
Annual	10,232.56	10,742.42	11,279.06	11,841.96	12,431.64	13,053.04	13,703.56	14,388.92	15,106.00	15,860.00	16,651.44	17,482.66
14												
Hourly	5,165	5,423	5,693	5,977	6,276	6,588	6,918	7,263	7,625	8,006	8,405	8,825
Biweekly	413.17	433.81	455.46	478.14	502.04	527.06	553.42	581.00	610.00	640.44	672.41	706.02
Annual	10,742.42	11,279.06	11,841.96	12,431.64	13,053.04	13,703.56	14,388.92	15,106.00	15,860.00	16,651.44	17,482.66	18,356.52
15												
Hourly	5,423	5,693	5,977	6,276	6,588	6,918	7,263	7,625	8,006	8,405	8,825	9,266
Biweekly	433.81	455.46	478.14	502.04	527.06	553.42	581.00	610.00	640.44	672.41	706.02	741.26
Annual	11,279.06	11,841.96	12,431.64	13,053.04	13,703.56	14,388.92	15,106.00	15,860.00	16,651.44	17,482.66	18,356.52	19,272.76
16												
Hourly	5,693	5,977	6,276	6,588	6,918	7,263	7,625	8,006	8,405	8,825	9,266	9,728
Biweekly	455.46	478.14	502.04	527.06	553.42	581.00	610.00	640.44	672.41	706.02	741.26	778.24
Annual	11,841.96	12,431.64	13,053.04	13,703.56	14,388.92	15,106.00	15,860.00	16,651.44	17,482.66	18,356.52	19,272.76	20,234.24
17												
Hourly	5,977	6,276	6,588	6,918	7,263	7,625	8,006	8,405	8,825	9,266	9,728	10,213
Biweekly	478.14	502.04	527.06	553.42	581.00	610.00	640.44	672.41	706.02	741.26	778.24	817.05
Annual	12,431.64	13,053.04	13,703.56	14,388.92	15,106.00	15,860.00	16,651.44	17,482.66	18,356.52	19,272.76	20,234.24	21,243.30
18												
Hourly	6,276	6,588	6,918	7,263	7,625	8,006	8,405	8,825	9,266	9,728	10,213	10,723
Biweekly	502.04	527.06	553.42	581.00	610.00	640.44	672.41	706.02	741.26	778.24	817.05	857.81
Annual	13,053.04	13,703.56	14,388.92	15,106.00	15,860.00	16,651.44	17,482.66	18,356.52	19,272.76	20,234.24	21,243.30	22,303.06
19												
Hourly	6,588	6,918	7,263	7,625	8,006	8,405	8,825	9,266	9,728	10,213	10,723	11,256
Biweekly	527.06	553.42	581.00	610.00	640.44	672.41	706.02	741.26	778.24	817.05	857.81	900.51
Annual	13,703.56	14,388.92	15,106.00	15,860.00	16,651.44	17,482.66	18,356.52	19,272.76	20,234.24	21,243.30	22,303.06	23,413.26
20												
Hourly	6,918	7,263	7,625	8,006	8,405	8,825	9,266	9,728	10,213	10,723	11,256	11,819
Biweekly	553.42	581.00	610.00	640.44	672.41	706.02	741.26	778.24	817.05	857.81	900.51	945.55
Annual	14,388.92	15,106.00	15,860.00	16,651.44	17,482.66	18,356.52	19,272.76	20,234.24	21,243.30	22,303.06	23,413.26	24,584.30

CPA PAY SCHEDULE

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PAY LEVEL	STEP <i>Minimum</i> 1	2	3	4	5	STEP <i>Intermediate</i> 6	7	8	9	10	11	STEP <i>Maximum</i> 12
21												
Hourly	7.263	7.625	8.006	8.405	8.825	9.266	9.728	10.213	10.723	11.256	11.819	12.409
Biweekly	581.00	610.00	640.44	672.41	706.02	741.26	778.24	817.05	857.81	900.51	945.55	992.74
Annual	15,106.00	15,860.00	16,651.44	17,482.66	18,356.52	19,272.76	20,234.24	21,243.30	22,303.06	23,413.26	24,584.30	25,811.24
22												
Hourly	7.625	8.006	8.405	8.825	9.266	9.728	10.213	10.723	11.256	11.819	12.409	12.563
Biweekly	610.00	640.44	672.41	706.02	741.26	778.24	817.05	857.81	900.51	945.55	992.74	1,005.05
Annual	15,860.00	16,651.44	17,482.66	18,356.52	19,272.76	20,234.24	21,243.30	22,303.06	23,413.26	24,584.30	25,811.24	26,131.30
23												
Hourly	8.006	8.405	8.825	9.266	9.728	10.213	10.723	11.256	11.819	12.409	12.563	13.191
Biweekly	640.44	672.41	706.02	741.26	778.24	817.05	857.81	900.51	945.55	992.74	1,005.05	1,055.29
Annual	16,651.44	17,482.66	18,356.52	19,272.76	20,234.24	21,243.30	22,303.06	23,413.26	24,584.30	25,811.24	26,131.30	27,437.54
24												
Hourly	8.105	8.510	8.935	9.381	9.848	10.340	10.854	11.397	11.966	12.563	13.191	13.850
Biweekly	648.40	680.80	714.79	750.44	787.87	827.17	868.34	911.78	957.28	1,005.05	1,055.29	1,107.98
Annual	16,858.40	17,700.80	18,584.54	19,511.44	20,484.62	21,506.42	22,576.84	23,706.28	24,889.28	26,131.30	27,437.54	28,807.48
25												
Hourly	8.510	8.935	9.381	9.848	10.340	10.854	11.397	11.966	12.563	13.191	13.850	14.542
Biweekly	680.80	714.79	750.44	787.87	827.17	868.34	911.78	957.28	1,005.05	1,055.29	1,107.98	1,163.34
Annual	17,700.80	18,584.54	19,511.44	20,484.62	21,506.42	22,576.84	23,706.28	24,889.28	26,131.30	27,437.54	28,807.48	30,246.84
26												
Hourly	8.935	9.381	9.848	10.340	10.854	11.397	11.966	12.563	13.191	13.850	14.542	15.268
Biweekly	714.79	750.44	787.87	827.17	868.34	911.78	957.28	1,005.05	1,055.29	1,107.98	1,163.34	1,221.45
Annual	18,584.54	19,511.44	20,484.62	21,506.42	22,576.84	23,706.28	24,889.28	26,131.30	27,437.54	28,807.48	30,246.84	31,757.70
27												
Hourly	9.381	9.848	10.340	10.854	11.397	11.966	12.563	13.191	13.850	14.542	15.268	16.032
Biweekly	750.44	787.87	827.17	868.34	911.78	957.28	1,005.05	1,055.29	1,107.98	1,163.34	1,221.45	1,282.52
Annual	19,511.44	20,484.62	21,506.42	22,576.84	23,706.28	24,889.28	26,131.30	27,437.54	28,807.48	30,246.84	31,757.70	33,345.52
28												
Hourly	9.848	10.340	10.854	11.397	11.966	12.563	13.191	13.850	14.542	15.268	16.032	16.833
Biweekly	787.87	827.17	868.34	911.78	957.28	1,005.05	1,055.29	1,107.98	1,163.34	1,221.45	1,282.52	1,346.64
Annual	20,484.62	21,506.42	22,576.84	23,706.28	24,889.28	26,131.30	27,437.54	28,807.48	30,246.84	31,757.70	33,345.52	35,012.64
29												
Hourly	10.340	10.854	11.397	11.966	12.563	13.191	13.850	14.542	15.268	16.032	16.833	17.675
Biweekly	827.17	868.34	911.78	957.28	1,005.05	1,055.29	1,107.98	1,163.34	1,221.45	1,282.52	1,346.64	1,413.97
Annual	21,506.42	22,576.84	23,706.28	24,889.28	26,131.30	27,437.54	28,807.48	30,246.84	31,757.70	33,345.52	35,012.64	36,763.22
30												
Hourly	10.854	11.397	11.966	12.563	13.191	13.850	14.542	15.268	16.032	16.833	17.675	18.558
Biweekly	868.34	911.78	957.28	1,005.05	1,055.29	1,107.98	1,163.34	1,221.45	1,282.52	1,346.64	1,413.97	1,484.67
Annual	22,576.84	23,706.28	24,889.28	26,131.30	27,437.54	28,807.48	30,246.84	31,757.70	33,345.52	35,012.64	36,763.22	38,601.42

CPA PAY SCHEDULE

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January 29 2002

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PAY LEVEL	STEP	2	3	4	5	STEP	7	8	9	10	11	STEP	
	Minimum 1					Intermediate 6						Maximum 12	
31	Hourly	11.397	11.966	12.563	13.191	13.850	14.542	15.268	16.032	16.833	17.675	18.558	19.486
	Biweekly	911.78	957.28	1,005.05	1,055.29	1,107.98	1,163.34	1,221.45	1,282.52	1,346.64	1,413.97	1,484.67	1,558.90
	Annual	23,706.28	24,889.28	26,131.30	27,437.54	28,807.48	30,246.84	31,757.70	33,345.52	35,012.64	36,763.22	38,601.42	40,531.40
32	Hourly	11.966	12.563	13.191	13.850	14.542	15.268	16.032	16.833	17.675	18.558	19.486	20.461
	Biweekly	957.28	1,005.05	1,055.29	1,107.98	1,163.34	1,221.45	1,282.52	1,346.64	1,413.97	1,484.67	1,558.90	1,636.85
	Annual	24,889.28	26,131.30	27,437.54	28,807.48	30,246.84	31,757.70	33,345.52	35,012.64	36,763.22	38,601.42	40,531.40	42,558.10
33	Hourly	12.563	13.191	13.850	14.542	15.268	16.032	16.833	17.675	18.558	19.486	20.461	21.484
	Biweekly	1,005.05	1,055.29	1,107.98	1,163.34	1,221.45	1,282.52	1,346.64	1,413.97	1,484.67	1,558.90	1,636.85	1,718.69
	Annual	26,131.30	27,437.54	28,807.48	30,246.84	31,757.70	33,345.52	35,012.64	36,763.22	38,601.42	40,531.40	42,558.10	44,685.94
34	Hourly	13.191	13.850	14.542	15.268	16.032	16.833	17.675	18.558	19.486	20.461	21.484	22.558
	Biweekly	1,055.29	1,107.98	1,163.34	1,221.45	1,282.52	1,346.65	1,413.97	1,484.67	1,558.90	1,636.85	1,718.69	1,804.62
	Annual	27,437.54	28,807.48	30,246.84	31,757.70	33,345.52	35,012.64	36,763.22	38,601.42	40,531.40	42,558.10	44,685.94	46,920.12
35	Hourly	13.850	14.542	15.268	16.032	16.833	17.675	18.558	19.486	20.461	21.484	22.558	23.686
	Biweekly	1,107.98	1,163.34	1,221.45	1,282.52	1,346.65	1,413.97	1,484.67	1,558.90	1,636.85	1,718.69	1,804.62	1,894.85
	Annual	28,807.48	30,246.84	31,757.70	33,345.52	35,012.64	36,763.22	38,601.42	40,531.40	42,558.10	44,685.94	46,920.12	49,266.10

SOURCE: Extracted from Civil Service Salary Schedule under Public Law 7-31, which mandates CPA to adopt and follow.

CPA's Minimum Wage: Pay Level 12, Step 5

Hourly: \$5.90

Biweekly: 471.73

Annual: 12,264.98

If annual salary amounts contained in this Schedule are compared to the amounts in the Civil Service Schedule of PL 7-31, Variances exist by a margin of not more than 12 cents (\$0.12) due to manner of computations. However, hourly rates and bi-weekly amounts for every pay level and step are identical.



Commonwealth of the Northern Mariana Islands
OFFICE OF THE GOVERNOR
Division of Environmental Quality



P.O. Box 501304 C.K., Saipan, MP 96950-1304
 Tels.: (670) 664-8500 /01
 Fax: (670) 664-8540

PUBLIC NOTICE

ADOPTION OF AMENDMENTS TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS DRINKING WATER REGULATIONS

The Director of the Division of Environmental Quality (DEQ), Office of the Governor, Commonwealth of the Northern Mariana Islands (CNMI), announces the adoption of amendments to the CNMI Safe Drinking Water Regulations. The amendments are adopted pursuant to the authority of the CNMI Environmental Protection Act, P.L. 3-23, 2 CMC §§ 3101 *et seq.* (as amended by P.L. 11-103), 1 CMC §§ 2646 to 2649, and Public Law 11-108.

Section 7.1 of the Drinking Water Regulations, 14 Com. Reg. at 10283 (Dec. 15, 1992), as amended by 17 Com. Reg. at 13709 (Sept. 15, 1995), sets forth the fees for laboratory analyses performed by DEQ. The amendments revise section 7.1 of the Drinking Water Regulations to eliminate the laboratory fee schedule and allow the Director to set reasonable fees for laboratory analyses and revise those fees on a semi-annual basis.

DEQ published the amendments for public comment in the Commonwealth Register Volume 23, Number 11, pages 18642 to 18647 (November 23, 2001). No comments were received. DEQ adopts the amendments with one minor change to the date of fee publication. The adopted amendments are published with this notice.

In accordance with 1 CMC § 9105(b), these regulations are effective 10 days after publication in the Commonwealth Register. Copies of the adopted regulations are available at the Offices of the Division of Environmental Quality, located on the third floor of the Morgen Building, San Jose, Saipan, MP, 96950.

Issued by:

Date: 1/29/02

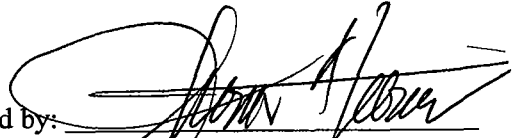
Antonio I. Deleon Guerrero, Acting Director
 Division of Environmental Quality

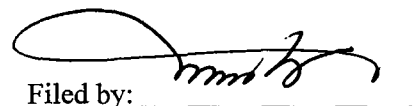
Pursuant to 1 CMC § 2153, as amended by P.L. 10-50, the regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the Office of the Attorney General.

Dated this 29th day of January, 2002.

ROBERT T. TORRES
 Acting Attorney General

By:
 ALLAN L. DOLLISON
 Assistant Attorney General

Received by: 
THOMAS TEBUTEE
Special Assistant For Administration
Date: 1/28/02

Filed by: 
SOLEDD B. SASAMOTO
Registrar of Corporations
Date: 1/28/02



Commonwealth of the Northern Mariana Islands
OFFICE OF THE GOVERNOR
Division of Environmental Quality



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Fax: (670) 664-8540

CERTIFICATION OF ADOPTION

I, Antonio I. Deleon Guerrero, Acting Director of the Division of Environmental Quality, which is promulgating the amendments to the Commonwealth of the Northern Mariana Islands Drinking Water Regulations proposed on November 23, 2001 and published in the Commonwealth Register Vol. 23, No. 11 at page 18647, by signature below, hereby certify that as published such Rules are a true, complete, and correct copy of the amendments to the Drinking Water Regulations previously proposed by the Division, which, after the expiration of appropriate time for public comment, have been adopted with the minor modification set forth below:

Section 7.1(b) Fee Publication, line 2 – change January 1, 2002 to February 1, 2002.

By signature below, I also certify that the amendments to the Drinking Water Regulations attached hereto and published herewith, are a true, correct and complete copy of the amendments adopted by the Division of Environmental Quality. I further request and direct that and this Certification of Adoption and the accompanying Public Notice be published in the Commonwealth Register.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 29th day of 01, 2002, Saipan, Commonwealth of the Northern Mariana Islands.

Antonio I. Deleon Guerrero
Acting Director
Division of Environmental Quality

DEQ adopts amendments to section 7.1 of the Drinking Water Regulations as follows:

7.1 Certified Laboratories

For the purpose of determining compliance with the maximum contaminant levels set forth in Part 5, samples may be considered only if they have been analyzed by a laboratory certified by the Division, except that measurement for chlorine residual may be performed by any person acceptable to the Division.

(a) Division Laboratory Fees

The Division shall charge reasonable fees for laboratory analyses performed by the Division's laboratory. Fees shall be set by the Director and revised as necessary, but not more frequently than semi-annually, to reflect changes in costs, new analysis methods, and the operational expenses of the laboratory.

(b) Fee Publication

The Division will make an original schedule of laboratory fees available to the public no later than February 1, 2002. Thereafter, revisions shall be available to the public when issued. The schedule and any revisions will be available on request at each of the Division's offices.



COMMONWEALTH PORTS AUTHORITY

Main Office: SAIPAN INTERNATIONAL AIRPORT
P.O. BOX 501055 • SAIPAN • MP 96950-1055
Phone: (1-670) 664-3500/1 FAX: (1-670) 234-5962
E-Mail Address: cpa.admin@saipan.com

PUBLIC NOTICE AND CERTIFICATION OF REGULAR ADOPTION OF THE REGULATION SUSPENDING FOR A PERIOD OF SIX MONTHS THE TERMINAL TARIFF RATE INCREASES WHICH TOOK EFFECT ON OCTOBER 1, 2001

The undersigned Carlos H. Salas, Executive Director of the Commonwealth Ports Authority (CPA), do hereby certify that the regulations suspending for a period of six months the terminal tariff regulation rate increases which took effect on October 1, 2001, and which were originally adopted by the CPA Board of Directors as emergency regulations and published in the Commonwealth Register, on October 19, 2001, Vol. 23, No. 10, at pages 18421-18425 inclusive, were subsequently adopted by the CPA Board of Directors at its regular meeting on December 20, 2001, a quorum being present, as permanent regulation in accordance with 1 CMC §9104(a) of the CNMI Administrative Procedure Act. No public comments were received and no changes were made by the CPA Board to the emergency regulations previously published.

I hereby request 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 this 31st day of December, 2001, at Saipan, Commonwealth of the Northern Mariana Islands.

CARLOS H. SALAS
CPA Executive Director

Filed by:
SOLEDAD B. SASAMOTO
Registrar of Corporation

Dated: 1/28/02

Received by:
THOMAS TEBUTEB
Special Assistant for Administration

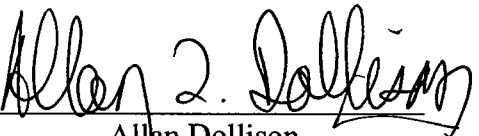
Dated: 1/28/02

REVIEW BY ATTORNEY GENERAL

Pursuant to 1 CMC § 2153, as amended by P.L. 10-50, the rules and regulations referred to in the foregoing Public Notice and Certification of Adoption have been reviewed and approved by the CNMI Attorney General.

Dated this 28th day of JANUARY, 2002.

ROBERT T. TORRES
Acting Attorney General

By: 
Allan Dollison
Assistant Attorney General



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Pedro P. Tenorio
Governor

Jesus R. Sablan
Lt. Governor

Caller Box 10007
Saipan, MP 96950
Telephone: (670) 664-2200/2300
Fax: (670) 664-2211/2311

SUPER TYPHOON FAXAI (31W)

EMERGENCY DECLARATION NO. 13-2001

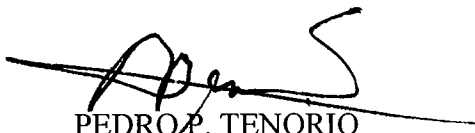
DATE: 12/24/2001

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

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands declared readiness **TYPHOON CONDITION II** for the Islands of **ANATAHAN, ALAMAGAN** and **AGRIHAN** effective **12:30 A.M., DECEMBER 24, 2001**; and

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

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that the operational portions of the CNMI Emergency Operation Plan be executed, effective **12:30 A.M., DECEMBER 24, 2001**, on the islands of **ANATAHAN, ALAMAGAN** and **AGRIHAN**, continuing so long as required by the emergency situation.


PEDRO P. TENORIO
Governor
Commonwealth of the Northern Mariana Islands



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Pedro P. Tenorio
Governor

Jesus R. Sablan
Lt. Governor

Caller Box 10007
Saipan, MP 96950
Telephone: (670) 664-2200/2300
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SUPER TYPHOON FAXAI (31W)

EMERGENCY DECLARATION NO. 14-2001

DATE: 12/24/2001

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

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands
has **UPGRADED TYPHOON CONDITION II** to **TYPHOON CONDITION I** for the
Islands of **ALAMAGAN** and **AGRIHAN** effective **5:30 A.M., DECEMBER 24, 2001;**
and

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

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is
directed that the operational portions of the CNMI Emergency Operation Plan be
executed, effective **5:30 A.M., DECEMBER 24, 2001**, on the islands of **ALAMAGAN**
and **AGRIHAN**, continuing so long as required by the emergency situation.

A handwritten signature in black ink, appearing to read "Pedro P. Tenorio", written over a horizontal line.

PEDRO P. TENORIO
Governor
Commonwealth of the Northern
Mariana Islands



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Pedro P. Tenorio
Governor

Jesus R. Sablan
Lt. Governor

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SUPER TYPHOON FAXAI (31W)

EMERGENCY DECLARATION NO. 15-2001

DATE: 12/24/2001

SUBJECT: Termination of the Commonwealth of the Northern Mariana Islands' Emergency Operation of the EOP

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands
Has **DECLARED** an "**ALL CLEAR CONDITION**" for the Island of **ANATAHAN**
effective **8:30 A.M., DECEMBER 24, 2001**; and

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

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that the operational portions of the CNMI Emergency Operation Plan be terminated, effective **8:30 A.M., DECEMBER 24, 2001**, on the island of **ANATAHAN**.

A handwritten signature in black ink, appearing to read "Pedro P. Tenorio", written over a horizontal line.

PEDRO P. TENORIO
Governor
Commonwealth of the Northern
Mariana Islands



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Pedro P. Tenorio
Governor

Jesus R. Sablan
Lt. Governor

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SUPER TYPHOON FAXAI (31W)

EMERGENCY DECLARATION NO. 16-2001


DATE: 12/24/2001

SUBJECT: Termination of the Commonwealth of the Northern Mariana Islands' Emergency Operation of the EOP

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands
Has **DECLARED** an "**ALL CLEAR CONDITION**" for the Island of **ALAMAGAN**
effective **6:00 P.M., DECEMBER 24, 2001**; and

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

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that the operational portions of the CNMI Emergency Operation Plan be terminated, effective **6:00 P.M., DECEMBER 24, 2001**, on the island of **ALAMAGAN**.


PEDRO P. TENORIO
Governor
Commonwealth of the Northern
Mariana Islands



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Pedro P. Tenorio
Governor

Jesus R. Sablan
Lt. Governor

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SUPER TYPHOON FAXAI (31W)

EMERGENCY DECLARATION NO. 17-2001

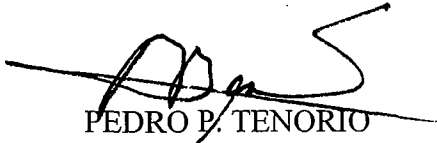
DATE: 12/24/2001

SUBJECT: Termination of the Commonwealth of the Northern Mariana Islands' Emergency Operation of the EOP

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands
Has **DECLARED** an "**ALL CLEAR CONDITION**" for the Island of **AGRIHAN**
effective **9:00 P.M., DECEMBER 24, 2001**; and

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

NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that the operational portions of the CNMI Emergency Operation Plan be terminated, effective **9:00 P.M., DECEMBER 24, 2001**, on the island of **AGRIHAN**.


PEDRO P. TENORIO
Governor
Commonwealth of the Northern
Mariana Islands