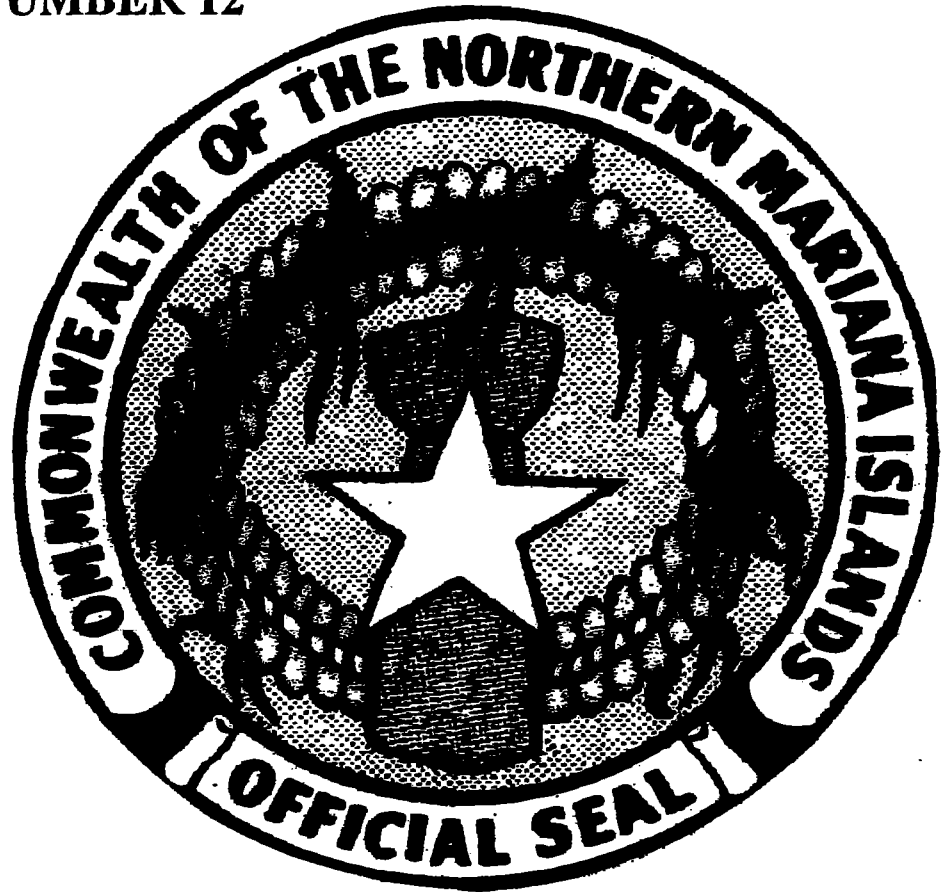


**COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
SAIPAN, MARIANA ISLANDS**

VOLUME 24 NUMBER 12



DECEMBER 27, 2002

COMMONWEALTH

REGISTER

COMMONWEALTH REGISTER

VOLUME 24 NUMBER 12

DECEMBER 27, 2002

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COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor


TYPHOON PONGSONA (31W)

EMERGENCY DECLARATION NO. 08-2002

DATE: 12/11/2002

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 **SAIPAN, TINIAN, ROTA** and **ANATAHAN** effective **8:30 A.M., DECEMBER 07, 2002**; and WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operation Plan (EOP), 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 **8:30 A.M., DECEMBER 07, 2002**, on the islands of **SAIPAN, TINIAN, ROTA** and **ANATAHAN**, continuing so long as required by the emergency situation.


PAUL A. MANGLONA
Acting Governor
Commonwealth of the Northern
Mariana Islands



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

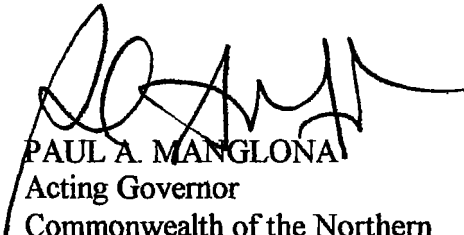
TYPHOON PONGSONA (31W)

EMERGENCY DECLARATION NO. 09-2002

DATE: 12/11/2002

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 I** for the Island of **ROTA** and **TYPHOON CONDITION III** for the Islands of **ALAMAGAN** and **AGRIHAN** effective **9:00 P.M., DECEMBER 07, 2002**; and WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operation Plan (EOP), 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 **9:00 P.M., DECEMBER 07, 2002**, on the islands of **ROTA, ALAMAGAN** and **AGRIHAN** continuing so long as required by the emergency situation.


PAUL A. MANGLONA
Acting Governor
Commonwealth of the Northern
Mariana Islands



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
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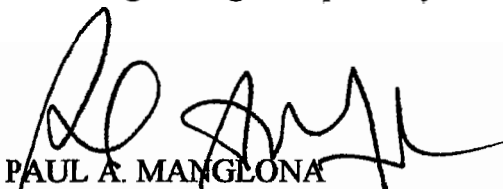
TYPHOON PONGSONA (31W)

EMERGENCY DECLARATION NO. 10-2002

DATE: 12/11/2002

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 I** for the Islands of **SAIPAN, TINIAN** and **ANATAHAN TYPHOON CONDITION II** for the Islands of **ALAMAGAN** and **AGRIHAN** effective **11:30 A.M., DECEMBER 08, 2002**; and WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operation Plan (EOP), 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 **11:30 A.M., DECEMBER 08, 2002**, on the islands of **SAIPAN, TINIAN, ANATAHAN, ALAMAGAN** and **AGRIHAN** continuing so long as required by the emergency situation.


PAUL A. MANGLONA
Acting Governor
Commonwealth of the Northern
Mariana Islands



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor


TYPHOON PONGSONA (31W)

EMERGENCY DECLARATION NO. 13-2002

DATE: 12/11/2002

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

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands Has **DECLARED** an "**ALL CLEAR CONDITION**" for the Island of **ANATAHAN** effective **12:00 P.M., DECEMBER 09, 2002**; and WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operation Plan (EOP), 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 **12:00 P.M., DECEMBER 09, 2002**, on the island of **ANATAHAN** continuing so long as required by the emergency situation.


PAUL A. MANGLONA
Acting Governor
Commonwealth of the Northern
Mariana Islands



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

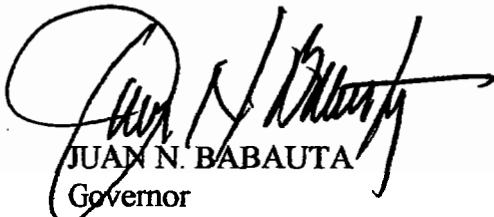
TYPHOON PONGSONA (31W)

EMERGENCY DECLARATION NO. 14-2002

DATE: 12/12/2002

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

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands has **DECLARED** an "ALL CLEAR CONDITION" for the Island of **ALAMAGAN** effective **2:00 A.M., DECEMBER 10, 2002**; and WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operation Plan (EOP), 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 **2:00 A.M., DECEMBER 10, 2002**, on the island of **ALAMAGAN** continuing so long as required by the emergency situation.


JUAN N. BABAUTA
Governor
Commonwealth of the Northern
Mariana Islands



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

TYPHOON PONGSONA (31W)

EMERGENCY DECLARATION NO. 15-2002

DATE: 12/11/2002

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

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands has **DECLARED** an "**ALL CLEAR CONDITION**" for the Island of **AGRIHAN** effective **9:00 A.M., DECEMBER 10, 2002**; and WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operation Plan (EOP), 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 **9:00 A.M., DECEMBER 10, 2002**, on the island of **AGRIHAN** continuing so long as required by the emergency situation.

A handwritten signature in black ink, appearing to read "Juan N. Babauta".

JUAN N. BABAUTA
Governor
Commonwealth of the Northern
Mariana Islands



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor


TYPHOON PONGSONA (31W)

EMERGENCY DECLARATION NO. 11-2002

DATE: 12/11/2002

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 I** for the Islands of **ALAMAGAN** and **AGRIHAN** effective **7:00 A.M., DECEMBER 09, 2002**; and WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operation Plan (EOP), the declaration automatically puts into execution the operational portions of the Plan; NOW, THEREFORE, pursuant to the executive powers vested in the Governor, it is directed that the operational portions of the CNMI Emergency Operation Plan be executed, effective **7:00 A.M., DECEMBER 09, 2002**, on the islands of **ALAMAGAN** and **AGRIHAN** continuing so long as required by the emergency situation.


PAUL A. MANGLONA
Acting Governor
Commonwealth of the Northern
Mariana Islands



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor


TYPHOON PONGSONA (31W)

EMERGENCY DECLARATION NO. 12-2002

DATE: 12/11/2002

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

WHEREAS, the Governor of the Commonwealth of the Northern Mariana Islands has **DECLARED** an "ALL CLEAR CONDITION" for the Islands of SAIPAN, TINIAN and ROTA effective 9:00 A.M., DECEMBER 09, 2002; and WHEREAS, in accordance with provisions of the Commonwealth of the Northern Mariana Islands' Emergency Operation Plan (EOP), 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 9:00 A.M., DECEMBER 09, 2002, on the islands of SAIPAN, TINIAN and ROTA continuing so long as required by the emergency situation.


PAUL A. MANGLONA
Acting Governor
Commonwealth of the Northern
Mariana Islands



Commonwealth of the Northern Mariana Islands MARIANAS PUBLIC LANDS AUTHORITY

NOTICE OF FINDINGS AND STATEMENT OF REASONS FOR ADOPTION OF THE EMERGENCY LAND COMPENSATION CLAIMS RULES AND REGULATIONS

EMERGENCY: The Board of Directors (the "Board") of the Marianas Public Lands Authority ("MPLA"), Commonwealth of the Northern Mariana Islands, finds that under 1 CMC § 9104(b), the public interest requires the adoption of the attached Emergency Land Compensation Claims Rules and Regulations (these "regulations"). The Board further finds that the public interest mandates adoption of these regulations upon fewer than thirty (30) days notice, and that these regulations shall become effective immediately after filing with the Registrar of Corporations, subject to the approval of the Attorney General and the concurrence of the Governor, and shall remain effective for 120 days.

REASONS FOR EMERGENCY: The Board finds that pursuant to Public Law 13-17, the Land Compensation Act of 2002 (the "Act"), effective July 23, 2002, as amended by Public Law 13-25, effective September 20, 2002, and Public Law 13-39, effective December 13, 2002, the Commonwealth currently owes to its citizens of Northern Marianas descent at least Forty Million Dollars (\$40,000,000) for land acquired by eminent domain or other legal process.

Public Law 13-39 provides for the interim financing of the public debt in order to expedite the processing of claims. The Board finds that in fulfilling its statutory mandate, MPLA, through the Commonwealth Development Authority ("CDA"), is currently arranging for interim financing of the public debt to fund the retirement of land compensation claims against the Commonwealth. CDA, at the request of and after consultation with MPLA, is authorized to secure on behalf of the Commonwealth bond proceeds anticipation financing in the principal amount of \$40,000,000 for such purpose from a financial institution.

Public Law 13-25, Section 13 requires the MPLA Commissioner and the Board to promulgate these regulations to implement the intent of the Act. The Board finds that immediate approval and adoption of these regulations is necessary in order to facilitate and complete the interim financing process. In his message to the Legislature after signing Public Law 13-39 into law, Governor Juan N. Babauta emphasized that, "[i]ts quick passage illustrates the united intentions of the Legislature and this Administration working together to expedite resolution of this issue." Governor Babauta further emphasized that, "[m]any of our people have been waiting patiently for compensation from this government and we thank them for their patience."


Therefore, the Board finds that, in the interest of the public, it is necessary that these regulations be approved and adopted immediately in order to acquire the funds needed to retire the outstanding land compensation claims against the Commonwealth, and to inject funds into our depressed economy at the earliest possible time in order to continue this expedited effort.

CONTENTS: These regulations provide for the authority, purpose, definitions, processing of claims, methods of disbursement of monetary compensation, and administrative hearing procedure.


INTENT TO ADOPT: The Board intends to adopt these regulations as emergency regulations only, pursuant to 1 CMC §§ 9104(b) and 9105(b)(2).

PUBLIC NOTICE: Upon approval of these regulations, MPLA will publish in a newspaper of general circulation in the Commonwealth, notice to affected persons that copies of the regulations are available at MPLA for a nominal copying fee.

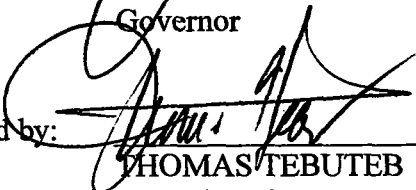
AUTHORITY: The Board is authorized to adopt and issue regulations under Public Law 13-17, as amended.

Issued by: 
ANA DEMAPAN-CASTRO
Chairperson, Board of Directors

Date: 12.26.02

Concurred by: 
JUAN N. BABAUTA
Governor


Date: 12/27/02

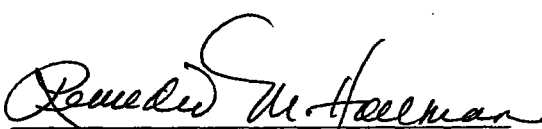
Received by: 
THOMAS TEBUTEB
Special Assistant
for Administration

Date: 12-26-02

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

Dated this 26 day of December, 2002


RAMONA V. MANGLONA
Attorney General

Filed and
Recorded by: 
REMEDIO M. HOLLMAN
Acting Registrar of Corporations

Date: 12-27-02

EMERGENCY LAND COMPENSATION CLAIMS RULES AND REGULATIONS MARIANAS PUBLIC LANDS AUTHORITY

PART ONE

AUTHORITY, PURPOSE AND DEFINITIONS

SECTION I: AUTHORITY

These emergency rules and regulations (regulations) are hereby promulgated and issued by the Board of Directors for the Marianas Public Lands Authority, Commonwealth of the Northern Mariana Islands (Commonwealth), pursuant to its powers, duties, and authorities under Public Law 13-17, also known as the "Land Compensation Act of 2002," effective July 23, 2002, as amended by Public Law 13-25, effective September 20, 2002, and Public Law 13-39, effective December 13, 2002.

SECTION II: PURPOSE

The purpose of these regulations is to provide for a comprehensive method of processing claims and disbursing monetary compensation to Landowners whose lands had been taken by the Commonwealth for a public purpose, and for the efficient administrative hearing process pursuant to Public Law 13-17, effective July 23, 2002, as amended by Public Law 13-25, effective September 20, 2002, and Public Law 13-39, effective December 13, 2002.

SECTION III: DEFINITIONS

- A. *Acquire (Acquisition)*. The act by which the Commonwealth first entered and used private land for a public purpose.
- B. *Administrative Procedure Act (APA)*. The Commonwealth Administrative Procedure Act, codified as 1 CMC § 9101 et seq.
- C. *Appraisal*. The act or process of developing an opinion of value on privately owned land and improvement(s) at the time of taking.

- D. *Appraisal Report.* The written or oral communication of an appraisal; the document transmitted to the client upon completion of an appraisal assignment.
- E. *Appraisal Review.* The act or process of developing and communicating an opinion about the quality of another appraiser's work.
- F. *Appraisal Reviewer.* The in-house MPLA or independent appraisal reviewer appointed by the Board who is a certified general real estate appraiser, licensed to practice in the Northern Mariana Islands; one who reviews the work of other appraisers for completeness, adequacy, relevance, appropriateness and reasonableness in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP).
- G. *Appraiser.* A certified general real estate appraiser, licensed to practice in the Northern Mariana Islands.
- H. *Board of Directors (Board).* The policy-making body for the Marianas Public Lands Authority responsible for the management, use and disposition of all Commonwealth submerged and surface public lands pursuant to Public Law 12-33, effective December 5, 2000, as amended by Public Law 12-71, effective November 13, 2001.
- I. *Commissioner.* The MPLA Commissioner or his/her designee.
- J. *Commonwealth.* The Government of the Commonwealth of the Northern Mariana Islands.
- K. *Eligibility for Monetary Compensation.* The legal standing for which Landowners are deemed qualified for monetary compensation after the Commonwealth has officially certified private land it acquired for public purposes, and after each claimant case file is officially deemed as complete and final by the Board as recommended by the Commissioner pursuant to Part Two, Section I of these regulations.
- L. *Evidence of Clear Title.* The legal standing for which a Landowner is duly registered as the legal owner of property acquired by the Commonwealth pursuant to the authoritative records of the Commonwealth Division of Land Registration and Survey, Office of the Commonwealth Recorder and, when necessary, the valid proof of clear title performed by a licensed title search company.

- M. *Hearing Officer.* The in-house MPLA Hearing Officer including Hearing Officer(s) *Pro Tempore* appointed by the Board/Commissioner to conduct administrative hearings on land compensation claims as authorized by Public Law 13-25, and in accordance with the APA and Part Three of these regulations.
- N. *Landowner, Owner or Claimant.* A person of Northern Marianas descent duly registered as the legal owner(s) of real property taken or acquired by the Commonwealth, and the person, persons, entity or entities qualified to receive monetary compensation pursuant to Public Law 13-17, as amended.
- O. *Land Taking.* Land owned by persons of Northern Marianas descent as defined in Article XII of the Commonwealth Constitution, and which had been taken by the Commonwealth for a public purpose.
- P. *Marianas Public Lands Authority (MPLA).* The independent public corporation established under the control and general supervision of the Board pursuant to Public Law 12-33, as amended by Public Law 12-71, and headed by the Commissioner, to execute, implement and enforce the Board's policies, decisions, orders, and regulations.
- Q. *Market Value.* The most probable price as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.
- R. *Monetary or Just Compensation.* The monetary payment offered to a Landowner whose land had been taken by the Commonwealth for a public purpose; the amount of compensation offered to the Owner based on the appraised market value of the land taken.
- S. *Other Claims.* Any other use of private land acquired by the Commonwealth for a public purpose as defined by 1 CMC § 121.
- T. *Outstanding Land Compensation Claims.* Unsettled land claims against the Commonwealth resulting from the Commonwealth's acquisition of privately owned lands for a public purpose.

- U. *Party.* Any person named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in a land compensation claim hearing proceeding against the Commonwealth pursuant to Public Law 13-17, as amended.
- V. *Person.* Any individual, partnership, corporation, association, clan, lineage, governmental subdivision, or public or private organization of any character other than the Commonwealth, who is a Landowner disputing a written offer for just compensation by the Commissioner with respect to land taken by the Commonwealth for a public purpose.
- W. *Ponding Basin.* A natural or artificial depression on the soil surface having computed surface area and depth to contain volume of rainfall run-off from watershed or tributary areas within the proximity of roadway facilities.
- X. *Public Purpose.* The acquisition of private land for the public's benefit as defined by 2 CMC § 4143(e)(1), (2) and (7), and (f).
- Y. *Right-of-Way.* The public right to pass over land owned by another, usually based upon an easement, path, or thoroughfare.
- Z. *Time-of-Taking.* The date the Commonwealth first entered and used private land for a public purpose. For purposes of establishing a benchmark year for the time-of-taking prior to the *Covenant*, all private land acquired by the Commonwealth's predecessor, the Trust Territory Government, for a public purpose before March 24, 1976 will be considered acquired on March 24, 1976.
- AA. *Wetland.* An area inundated or saturated by surface or groundwater with a frequency sufficient to support a prevalence of plant or aquatic life that require saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands include swamps, marshes, mangroves, lakes, natural ponds, surface springs, streams, estuaries and similar areas in the Northern Mariana Islands chain. (*Office of Coastal Resources Management Rules and Regulation* promulgated pursuant to 2 CMC § 1501 et seq., the *Coastal Resources Management Act of 1983*.)

PART TWO
PROCESSING OF CLAIMS AND METHODS OF
DISBURSEMENT OF MONETARY COMPENSATION

SECTION I: ACQUISITION

- A. All private property acquired by the Commonwealth must be made pursuant to 2 CMC § 4712, 2 CMC § 4141 et seq., and Part Two, Section I of these regulations, as follows:
1. Certification, Declaration or Determination to Acquire. The acquisition of private land for a public purpose as defined in 2 CMC § 4143(e)(2) shall originate at the Office of the Governor and must include the following:
 - a. A certification by the Governor of the public use(s) or purpose(s) for which the Commonwealth is acquiring the land parcel(s), as provided in 2 CMC § 4143(e)(2); or a Declaration or Determination by the Legislature of the public use(s) or purpose(s) for which the Commonwealth is acquiring the land parcel(s), as provided in 2 CMC § 4143(e)(1);
 - b. Boundary survey(s) and/or legal description(s); and
 - c. Identification of encumbrances and disputes, if any.
 2. Evidence of Clear Title. There shall be a finding of clear title to the land acquired. The Commonwealth may require the Owner to furnish a preliminary title report, which verifies that he/she has unencumbered title to the land to be monetarily compensated whenever there is insufficient title evidence as to his/her ownership of the land in question.
 3. Preliminary Acquisition Notice to Owner. The Office of the Governor shall issue a written preliminary acquisition notice to the Owner. The notice, which must be sent by U.S. postal priority mail or hand delivered and acknowledged that it was delivered and received, shall:

- a. Inform the Owner of the Commonwealth's interest in acquiring his/her land and the public purpose for which it is needed; and,
 - b. Inform the Owner of Public Law 13-17 as amended, and these regulations, and request written permission to survey and appraise the subject land.
4. Survey and Appraisal of Private Land to be Acquired.
 - a. Upon receipt of the Owner's authorization, the Commonwealth shall survey the Owner's property, if necessary, and secure an approved plat. Concurrently, MPLA shall solicit and contract for an independent appraiser to appraise the property to be acquired in accordance with the Commonwealth Procurement Regulations.
 - b. MPLA shall give the appraiser reasonable time to complete the appraisal report. MPLA and the appraiser shall agree on the time for completion and submittal of the appraisal report upon execution of the agreement for appraisal assignment.
5. Review of Appraisal Report and Determination of Market Value.
 - a. Upon completion and submittal of the appraisal report, MPLA shall either accept the report or require a review. If a review is required, the Appraisal Reviewer shall have 30 days to review the appraisal report for any deficiencies. The Appraisal Reviewer shall be given additional time for review if warranted.
 - b. If the Appraisal Reviewer finds deficiencies in the appraisal report, MPLA shall notify the appraiser of such deficiencies, and give the appraiser reasonable time to make corrections.
 - c. If the appraiser refuses to make corrections or change the appraisal report pursuant to the recommendations of the Appraisal Reviewer, then the appraiser shall submit in writing his/her reasons within 15 days from receipt of the Appraisal Reviewer's report on deficiencies.

- d. If the appraiser refuses to make corrections or if the Appraisal Reviewer finds deficiencies after re-submittal, the Appraisal Reviewer shall submit his/her own recommendation as to the market value of the land.
- e. MPLA shall determine the market value of the private land based on the appraiser's report and the Appraisal Reviewer's report, if any.
- f. MPLA may reject any appraisal report which it determines is unsatisfactory under the requirements of these regulations.

6. Written Offer to Owner.

- a. Within 30 days after the determination of market value, MPLA shall transmit a written offer to the Owner, which shall be sent by mail or delivered in person with proof of service. The written offer may include the following:
 - i. A recital of the market value of the private land; and
 - ii. A copy of any approved appraisal report, subject to copying charges.
- b. All written offers shall be subject to approval by the Board.
- c. Within 60 days after receipt of the written offer, the Owner must either accept or reject the written offer. MPLA shall deem the written offer rejected if the Owner fails to respond within 60 days.
- d. If the Owner rejects in writing the written offer, he/she shall have 30 days to present evidence relevant to the market value of his/her land. If MPLA determines that the evidence presented by the Owner warrants a revision of the market value, MPLA may modify the determination of the market value, in consultation with the Appraisal Reviewer or with the appraiser.

7. Land Compensation Settlement Agreement. If the Owner agrees to the offer made in the course of the negotiations,

MPLA and the Owner shall enter into a *Land Compensation Settlement Agreement*, which shall be subject to the approval of the Board at the recommendation of the Commissioner, and include at least the following:

- a. The agreed value of the Owner's land;
 - b. The legal description of the Owner's land;
 - c. The Owner's promise to warrant clear title to the land;
and
 - d. The signatures of the Owner and the Board or its designee(s).
8. Alternate Means of Acquisition. If the Commonwealth and an Owner do not reach an agreement as provided in Part Two, Section I, Subsection 7, the Commonwealth may proceed to acquire the private land by other legal means.
9. Processing of Monetary Compensation. Within 15 days of the conclusion of negotiations, MPLA shall:
- a. Prepare a Warranty Deed for the Owner to convey title to his/her land as follows:
 - i. To the Commonwealth for land used as right of way; or
 - ii. To MPLA for land used for ponding basins and wetlands and other claims.
 - b. Pay agreed compensation to the Owner.
10. Disposition of Acquisition Records, Documents and Reports. All materials for land compensation claims settlement should contain the following:
- a. Governor's certification, or the declaration or determination by the Legislature of the public uses or purposes for which the private land is being acquired;
 - b. Preliminary acquisition notice to Owner;
 - c. Owner response to acquisition notice;

- d. Solicitation for appraisal;
- e. Selection and agreement for appraisal services;
- f. Approved survey maps;
- g. Approved appraisal report;
- h. Appraisal reviewer's recommendation;
- i. Written offers to Owner;
- j. Proof of service and/or acknowledgement;
- k. Rejection/request for negotiations by the Owner;
- l. Owner's acceptance of offer;
- m. Proof of clear title;
- n. Copy of notice published in the local newspaper or broadcast on local radio, with the dates of publications or broadcasts;
- o. Land Compensation Settlement Agreement;
- p. Warranty Deed;
- q. Notice to Owner to vacate land; and
- r. Any material pertaining to the land compensation.

SECTION II: PRIORITY

- A. Priority for compensation is pursuant to Public Law 13-17, Section 4(d), based on the time of taking and compliance with these regulations, in the following order:
 - 1. First, rights-of-way;
 - 2. Second, ponding basins; and
 - 3. Third, wetlands and other claims.

SECTION III: ELIGIBILITY AND DISBURSEMENT OF MONETARY COMPENSATION

- A. The Commissioner shall deem a pending land claim settlement case file complete pursuant to Part Two of these regulations, and shall thereafter submit it to the Board for approval.
- B. The Board shall approve land compensation settlements as complete before disbursement of monetary compensation. MPLA shall thereafter notify each land claimant of the Board's official action, and shall dispose of each settlement case file upon the issuance of a payment check to each claimant.
- C. The Commissioner shall publish all land compensation settlement claims in at least 1 local newspaper of general circulation in Chamorro, Carolinian and English, once a week for 2 consecutive weeks.

PART THREE

APPEAL: ADMINISTRATIVE HEARING PROCEDURE

SECTION I: HEARING OFFICER

- A. Jurisdiction and Authority. Pursuant to Public Law 13-25, Section 10, the Hearing Officer shall have jurisdiction and authority to conduct all hearings and issue final written findings, orders, or decisions on land compensation claims timely requested in writing by Landowners who dispute the Commissioner's written offer of just compensation.
- B. Conflict of Interest and Appearance of Partiality. In the event that the Hearing Officer has determined that a conflict of interest exists, he/she shall disqualify himself/herself, and request the Board/Commissioner to assign a Hearing Officer *Pro Tempore* to hear and issue written findings, order or decision on the claim.
- C. Independent Judgment. The Hearing Officer, in carrying out his/her duties and responsibilities pursuant to the APA and these regulations, shall exercise his/her independent judgment on the evidence before him/her, free from pressures by any party, MPLA

Board members, MPLA staff, Commonwealth agencies or officials, or any person.

- D. Final Decision. The decision of the Hearing Officer is final, unless timely appealed to the Board.

SECTION II: HEARING CONDUCT AND PROCEDURE

- A. Administrative Proceedings. The Hearing Officer shall conduct and regulate the course of all administrative proceedings, and issue decisions on claims timely filed by any Landowner who disputes the method used to determine, or the amount of, just compensation offered by the Commonwealth to resolve a land compensation claim, in accordance with Public Law 13-17, as amended, the APA, and Part Three of these regulations.
- B. Written Request for Hearing. If, upon a written offer of just compensation, a Landowner disputes the method used to determine, or the amount of, the just compensation offered by the Commonwealth to resolve the land compensation claim, the Landowner shall have 20 days to make a written request to MPLA for an administrative hearing to protest the offer.
- C. Notice of Status and Scheduling Conference. Following a Landowner's timely filed written request for an administrative hearing, and within 30 days of the filing of the written protest by the Landowner, the Hearing Officer shall issue a Notice of Status and Scheduling Conference. The Notice shall be served in accordance with the Commonwealth Rules of Civil Procedure. The Notice of Status and Scheduling Conference shall include the following:
1. The date, time, and place of hearing;
 2. The nature of the hearing;
 3. The legal authority and jurisdiction under which the hearing is to be held;
 4. The matters asserted;
 5. The names of all parties and other persons to whom notice is being given by the Hearing Officer;

6. The official file or other reference number given to a particular claim; and
 7. Notice to each party of their right to have an attorney represent them, at their own expense.
- D. Status and Scheduling Conference. The matters to be addressed at such conference are:
1. The possibility of a settlement;
 2. Possible stipulations and admissions;
 3. The setting of an evidentiary hearing; and
 4. Such additional matters as may contribute to the orderly and expeditious resolution of the issues.
- E. Notice of Evidentiary Hearing. The Hearing Officer, during the status conference, shall set the date, time, and place for an evidentiary hearing. Following the status conference, the Hearing Officer shall issue a written Notice for Evidentiary Hearing, which shall be served in accordance with the Commonwealth Rules of Civil Procedure. The Notice shall include the following:
1. The date, time, and place of hearing;
 2. The nature of the hearing;
 3. The names of all parties and other persons to whom notice is being given by the Hearing Officer;
 4. The land compensation claim number;
 5. Notice to parties of their right to have an attorney represent them if they choose, at their own expense;
 6. The right to present witnesses; and
 7. The right to submit documents or other written evidence.
- F. Evidentiary Hearing. The Hearing Officer shall conduct evidentiary hearings on land compensation protests in order to make determinations on the questions involved in the protest. The Hearing Officer shall have the general power to:

1. Issue subpoenas for attendance of witnesses;
2. Issue subpoenas for production of documents;
3. Administer oaths;
4. Regulate the course of the hearing;
5. Hold conferences for the settlement or simplification of the issues;
6. Dispose of procedural requests or similar matters;
7. Make or recommend orders or decisions in accordance with the APA; and
8. Exercise other powers that may be necessary to effectively implement Public Laws 13-17 and 13-25.

SECTION III: TIMING FOR ISSUANCE OF FINDINGS, DECISION AND ORDER

The Hearing Officer shall issue his/her findings, order or decision pursuant to 1 CMC § 9110 et seq., within 30 days after the hearing is completed.

SECTION IV: APPEAL OF HEARING OFFICER FINDINGS, DECISION, OR ORDER

Any party adversely affected by findings, order, or decision of the Hearing Officer may appeal in writing pursuant to Public Law 13-25, Section 11.

SECTION V: JUDICIAL REVIEW

Appeal from an order or decision of the Board shall be brought pursuant to Public Law 13-25, Section 12.

SECTION VI: SEVERABILITY

If any provision of these regulations shall be held invalid by a court of competent jurisdiction, the remainder of such regulations, other than those held invalid, shall not be affected.

**AMENDED NOTICE OF EMERGENCY REGULATIONS AND
NOTICE OF INTENT TO ADOPT AMENDMENTS TO SECTION
2300 RULES AND REGULATIONS FOR THE OPERATION OF
POKER MACHINES**

Emergency: The Secretary of Finance for the Commonwealth of the Northern Mariana Islands finds that, pursuant to Title 1 CMC, Division 9, Chapter 1, and specifically under 1 CMC § 9104 (b), the public interest requires the adoption, on an emergency basis, of amendments to the “Rules and Regulations for the Operation of Poker Machines” in the Commonwealth of the Northern Mariana Islands (Poker Machine Rules), Department of Finance Regulation 2300 et seq. These Poker Machine Rules were originally published in the Commonwealth Register Vol. 17, No. 04, on April 15, 1995, beginning at page 13218, amended and adopted in Commonwealth Register Vol. 17, No. 6, on June 15, 1995 at page 13539. These Poker Machine Rules were further amended by emergency regulation on November 22, 1995, published in the Commonwealth Register Vol. 17, No. 12, at pages 13850-55 on December 15, 1995, and adopted in Commonwealth Register Vol. 18, No. 2, at pages 14031-32 on February 15, 1996.

The Secretary of Finance further finds that the public interest mandates adoption of these amendments to the Poker Machine Rules upon fewer than thirty (30) days notice, and that these amendments to the Poker Machine Rules shall become effective immediately after filing with the Registrar of Corporations, subject to the approval of the Attorney General and the concurrence of the Governor and shall remain effective for a period of 120 days, unless sooner adopted as permanent regulations.

Reasons for the Emergency: The Secretary of Finance finds that there is currently no law, rule or regulation in effect to limit the hours of operation of poker machines. Consequently, most, if not all, establishments that operate poker machines are open 24 hours a day. These around the clock operations have made these establishments particularly vulnerable to crime. In 2001 and 2002, over 65% of all reported criminal offenses occurring on the premises of poker machine establishments were reported to the Department

of Public Safety between the hours of 10:00 p.m. and 10:00 a.m. Enforcement efforts with respect to the operation of poker machines by the Department of Finance are seriously hampered by the 24 hour operation of these establishments. The public interest therefore requires that reasonable limitations be placed on the hours of operation of poker machine establishments in order to safeguard the safety of the public and also to enhance the ability of the Department of Finance to enforce the Poker Machine Rules.

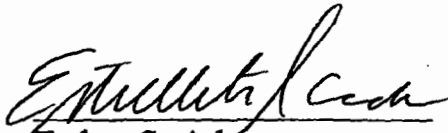
Contents: The adoption of these amendments to the Poker Machine Rules will limit the hours of operation of poker machines in all establishments in the Commonwealth of the Northern Mariana Islands to the hours of 10 a.m. to 10 p.m. exceptions to this limitation are poker machines which are operated by and on the premises of a licensed casino and establishments which have a uniformed security officer, equipped with a two-way radio or a cellular telephone, on duty 24 hours a day. Furthermore, within 90 days from the date of this amendment, all licensees must develop and implement a written safety and security plan providing for, at a minimum, the continual use of electronic surveillance recording equipment.

Notice of Intent to Permanently Adopt: It is the intention of the Secretary of Finance to adopt these emergency amendments as permanent amendments to the Poker Machine Rules with such adoption pursuant to 1 CMC §§ 9104 (a) (1) and (2). Therefore, publication in the Commonwealth Register of these amendments to the Poker Machine Rules, this Notice, and an opportunity for public comment pursuant to the requirements of the CNMI Administrative Procedure Act are hereby provided. Comments on these amendments to the Poker Machine Rules may be sent to: Frank B. Villanueva, Secretary of Finance, P.O. Box 5234 CHRB, Saipan, MP 969950, or delivered in person to the Office of the Secretary of Finance in the building immediately adjacent to the CHRB Post Office.

Authority:

The Secretary of Finance is authorized to publish these amendments to the Poker Machine Rules pursuant to one or more of the following: 1 CMC § 2553 (a); 1 CMC § 2557; 4 CMC § 1507; the CNMI Administrative Procedure Act, 1 CMC § 9109 et seq.; and other applicable Commonwealth law.

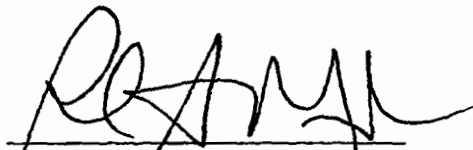
Issued by:



Esther S. Ada
Acting Secretary of Finance

12/2/02
Date

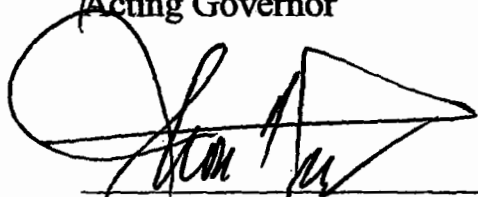
Concurred by:



Paul A. Manglona
Acting Governor

12/2/02
Date

Received by:

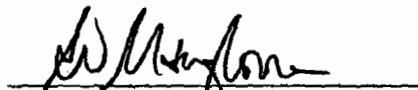


Thomas A. Tebuteb
Special Assistant for Administration

12-2-02
Date

Attorney General Review

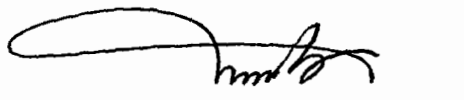
Pursuant to 1 CMC § 2153 (g), the emergency regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the Office of the Attorney General.



Ramona V. Manglona
Attorney General

12/2/02
Date

Filed and Recorded by:



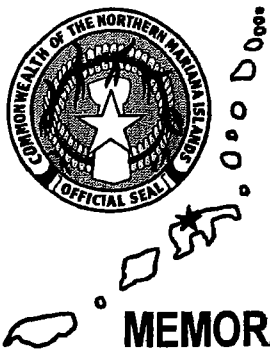
Soledad B. Sasamoto
Registrar of Corporations

12/2/02
Date

**AMENDMENT TO PART XV, SECTION 2300 RULES AND REGULATIONS FOR
THE OPERATION OF POKER MACHINES**

Section 2300.21 (formerly "Reserved") is hereby further amended to read as follows:

"Section 2300.21. Hours of Operation. The operation of poker machines in the Commonwealth shall be limited to the hours between 10:00 a.m. to 10 p.m. Provided, however, that this limitation shall not apply to poker machines which are operated by and on the premises of a licensed casino. Nor will this limitation apply to establishments that have a uniformed security officer, equipped with a two-way radio or a cellular telephone, on duty 24 hours per day. Within 90 days from the date of this amendment, all licensees shall develop and implement a written safety and security plan providing for, at a minimum, the continual use of electronic surveillance recording equipment.



Commonwealth of the Northern Mariana Islands Coastal Resources Management

P.O. Box 10007, 2nd Floor Morgen Building
San Jose, Saipan, MP 96950



Tels: (670) 234-6623/7320
Fax: (670) 234-0007

MEMORANDUM

PUBLIC NOTICE

NOTICE OF PROPOSED AMENDMENTS TO THE COASTAL RESOURCES MANAGEMENT RULES AND REGULATIONS

AUTHORITY:

The Coastal Resources Management Office hereby notifies the public of proposed amendments to the Coastal Resources Management Rules and Regulations. The CNMI Coastal Resources Management Agency Officials (CRMA) indicated herein are authorized under 2 CMC § 1531(d) to regularly review adopted regulations and adopt new regulations as necessary in accordance with the Administrative Procedures Act [1 CMC § 9101 et. seq.].


PUBLIC COMMENT:

In accordance with 1 CMC § 9104(a), the public has the opportunity to comment on the proposed amendments. Interested persons may obtain copies of the proposed amendments from the CRM Office on the 2nd Floor of the Morgen Building, San Jose, Saipan. Written comments regarding the proposed amendments are to be submitted within thirty (30) days of publication of this notice in the Commonwealth Register and should be directed to the Administrator, Coastal Resources Management Office, P.O. Box 10007 Saipan, MP 96950. Comments may also be submitted via fax, 664-8315.

CONTENTS:


The amendments are intended to conform the CRM Office program to federal requirements and further implement the polices of the Coastal Resources Management Act by requiring consideration of and implementation of locally appropriate measures for the control of Non Point Source Pollution with respect to Marina Siting and Design for new and expanding facilities, Marina Operation and Maintenance for new and expanding facilities, Watershed Protection, Construction Site chemical control, and Existing Development permitting decisions, and to make corrections of typographical errors to ensure clarity and consistency between Public Law 3-47 and the Regulations. Modifications of the regulations are consistent with the coastal resources management policies in 2 CMC § 1511.

Issued By CRM Agency Officials:




Lorraine A. Babauta
Executive Director
Commonwealth Utilities Corporation

Date: 6/19/02




Ferrin M. Atalig
Secretary
Department of Commerce

Date: 11/13/02



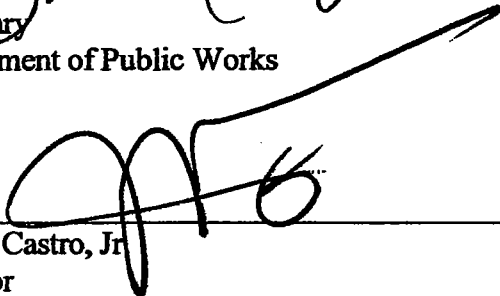
Thomas B. Pangelinan
Secretary
Department of Lands & Natural Resources

Date: 11/14/02



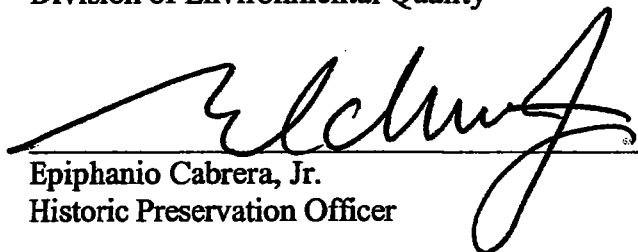
Juan S. Reyes
Secretary
Department of Public Works

Date: 11/21/02



John I. Castro, Jr.
Director
Division of Environmental Quality

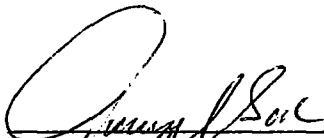
Date: 12/5/02



Epiphanio Cabrera, Jr.
Historic Preservation Officer

Date: 11/18/02

Concurred by:




Joaquin D. Salas
CRMO Administrator

Date: 12/10/02

Attorney General Review:

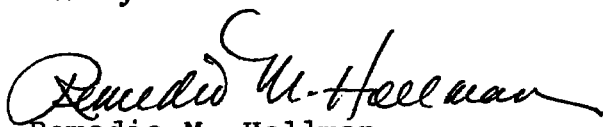
Pursuant to 1 CMC § 2153, as amended by P.L. 10-50, the regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the office of the Attorney General.



Ramona V. Mangiona,
Deputy Attorney General

Date: 12/23/02

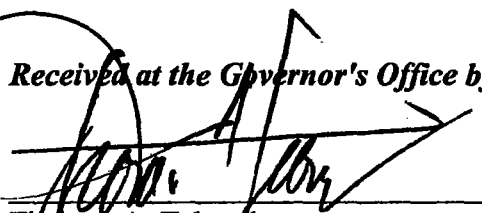
Filed By:



Remedio M. Hollman
Soledad B. Sasarnoto,
Registrar of Corporations (Temp)

Date: 12/23/02

Received at the Governor's Office by:



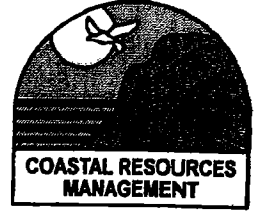
Thomas A. Tebutob
Special Assistant for Administration

Date: 12/23/02



Commonwealth of the Northern Mariana Islands Coastal Resources Management

P.O. Box 10007, 2nd Floor Morgen Building
San Jose, Saipan, MP 96950



Tels: (670) 664-8300/14
Fax: (670) 664-8315

NOTISIAN PUBLIKU

Notisia Pot I Man Ma Ofresi Na Amendasion I Areklamento Yan Regulasi3n Siha Para I Coastal Resources Management (CRM)

Aturidat:

I Ofisinan i CRM este na momento ha infotoma i henerat publiku pot i man ma ofresi na amendasion i Areklamento Yan Regulasi3n siha para i CRM. I Ofisiat Ahensian i CRM (CRMA), ma indika na pagu gi presente man ma aturisa siha gi papa 2 CMC Sek. 1531 (d) para hu sesso' ribisa i man ma adopta na regulasi3n siha yan hu fan adopta nuebu na regulasi3n siha anai nisisariu pot para hu konsiste yan i Administrative Procedures Act [1 CMC Sek. 9101 et. seq.].

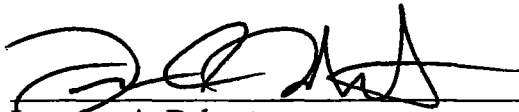
Opinion Publiku:

Kininsiste nu i 1 CMC 9104 (a), i publiku guaha oppottunidat-niha para hu na halom opinion pot i man ma ofresi na amendasion siha. I man interesao na petsona siha hu fañuli kopia siha pot i man ma ofresi na amendasion siha ginen i Ofisinan I CRM gi Segundo na bibenda giya Morgen Building, gi San Jose, Saipan. Tinige' opinion siha pot asunton man ma ofresi na amendasion para uma submitti gi halom trenta (30) dias na tiempo anai ma pupblisa este na notisia gi Rehistran i Commonwealth yan debidi uma entrega i Administradot i Ofisinan i CRM, P.O. Box 10007, Saipan, MP 96950. Opinion siha siha ha' lakkue ma submitte gi fax numiron tilifon 664-8315.

Sinaguan:

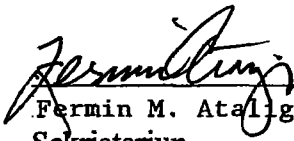
I amendasion man ma intensiona para hu kotfotma i Programan Ofisinan i CRM para i nisisidat i Fedurat siha yan hu implimenta areklamenton i policy siha gi Coastal Resources Management Act pot para u guaha konsiderasion siha pot yan implimentan-fia ni salape' ni mana guahayi ginen i Lehlatura gi tano-ta para hu manea i Non Point Source Pollution pot para hu respecta i Marina Siting yan i planon i nuebu yan inekstenden i fasilidat siha, i Operasion i Marina yan i Maintenance para i nuebu yan inekstenden i fasilidat siha, i Watershed Protection, i Construction Site Chemical Control, yan i presente gi badan Development permitting decisions, yan hu kurihi i man lachi anai ma type siha pot para hu asigura na klaru yan konsiste sigun i Lai Publiku 3-47 yan i regulasi3n siha. I tinilaikan i regulasi3n siha man konsiste yan i policy i CRM sigon I2 CMC Sek. 1511.

Linaknos Ofisiat Siha Ginen I CRM Agency:



Lorraine A. Babauta
Eksekatibun Direktot
Commonwealth Utilities Corporation

Fecha: 4/19/02



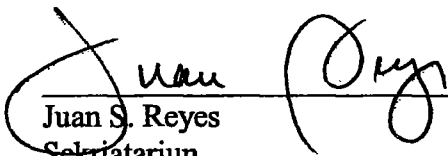
Fermin M. Atalig
Sekriatariun
Dipattmonton I Commerce

Fecha: 11/13/02



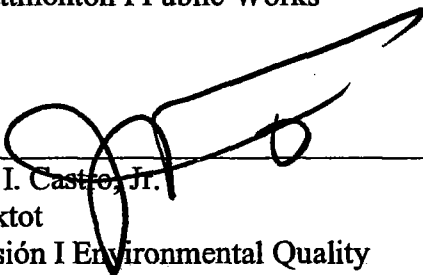
Tomas B. Pangelinan
Sekriatariun
Dipattmonton I Lands and Natural Resources

Fecha: 11/14/02



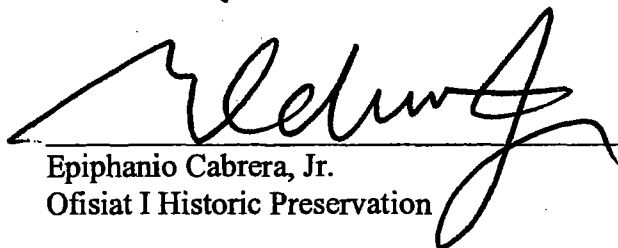
Juan S. Reyes
Sekriatariun
Dipattmonton I Public Works

Fecha: 11/21/02



Juan I. Castro, Jr.
Direktot
Dibisión I Environmental Quality

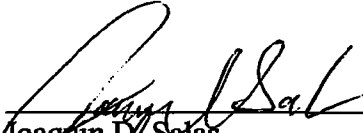
Fecha: 12/5/02



Epiphonio Cabrera, Jr.
Ofisiat I Historic Preservation

Fecha: 11/18/02

Kinonfotma as:



Joaquín D. Salas
Atministradot
Ofisinan I Coastal Resources Management

Fecha: 12/10/02

Ribisan I Abugádo Henerat:

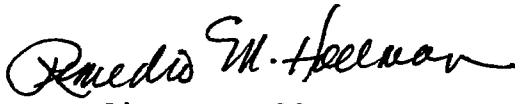
Sigun i l CMC Sek. 2153, ni ma amenda ginen i Lai Puplicu 10-50, i regulasi3n siha ni checheton esta man ma ribisa yan ma apreba taimanu ha' sigon i mafotmaña yan ligat ginen i ofisinan i Abugádo Henerat.



Ramona V. Manglona
Delegádon Abugádo Henerat

Fecha: 12/23/02

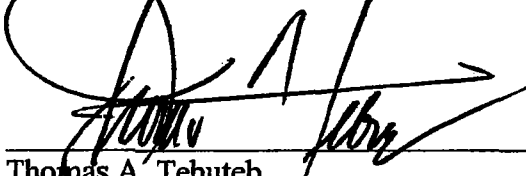
Pine'lo as:



Remedio M. Hollman
~~Soledad B. Sasamoto~~
Rehistradoran I KoporasióSiha (Temp)

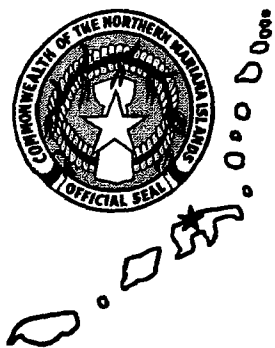
Fecha: 12/23/02

Ma risibi i Ofisinan I Gobietno as:



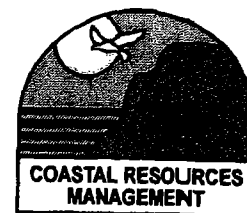
Thomas A. Tebuteb
Espisiat Na Ayudánten Atministrasi3n
Ofisinan I Gobietno

Fecha: 12/23/02



Commonwealth of the Northern Mariana Islands Coastal Resources Management

P.O. Box 10007, 2nd Floor Morgen Building
San Jose, Saipan, MP 96950



Tels: (670) 664-8300/14
Fax: (670) 664-8315

ARONGORONGOL TOULAP

ARONG REEL POMWOL LIWEL KKAAL NGALI ALLÉGHÚL COASTAL RESOURCE MANAGEMENT

BWANGIL:


Coastal Resource Management ekke arongaar aramas Toulap reel pomwol liwel kkaal ngáli alléghúl Coastal Resource Management. Coastal Resource Management agency officials (CRMA) ee schuungi bwe llól bwángil 2 CMC sub section 1531 (D) re amwuri allégh kkaal ikka aa adoptló me re adoptaay allégh kka ee ffé iye ee welepakk me apilúghúlúgh ngáli Administrative Procedures Act (1 CMC sub section 9101 et seq.)

MÁGNEMÁNGIL TOULAP:

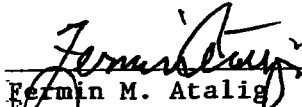
Reel apilúghúlúghúl 1 CMC sub section 9104 (a), nge emmwel bwe Toulap rebwe isisilong yaar mángemáng reel pomwol liwel kkaal. Schóókka re tipáli ebwe yoor yaar copial reel pomwol liwel kkaal nge rebwe ló bweibwogh mereel bwuasiyol CRM llól aruuwal bibenda mereel Morgen Building, San Jose, Saipan, mángemáng reel pomwol liwel kkaal ebwe atotoolong llól (30) iliigh rál sáangi igha ee arongowow mellól Commonwealth Register me ebwe mweteló reel Administrator, Coastal Resources Management Office, P.O. Box 10007, Saipan, MP 96950. Mángemáng nge emmwel ebwe akkafang sangi I Via Fax, 664-8315.

AUTOL:


Liwel kkaal nge ekke pomwoli bwe ebwe fisch Bwulasiyol CRM Program ngáli Federal reuirement me ebwe ayoora alléghúl Coastal Resource Management Act iye ekke tingór me ebwe ayoora llól Local appropriate measures reel lemelemil Non Point Source Pollution ngáli Marina Siting me Design ngáli new me expanding facilities, Marina Operation Maintenance sáangi new and expanding facilities Watershed Protection, Construction Site chemical control, me Existing Development Permitting decisions, me ebwe ayoora liwel reel typographical errors iye ebwe ffat me apilúghúlúgh llól alléghúl Toulap 3-47 me allégh kkaal. Liwel reel allégh kkaal ikka ee fisch ngáli Coastal Resources Management llól 2 CMC sub section 1511.


Lorraine A. Babauta
Executive Director
Commonwealth Utilities Corporation

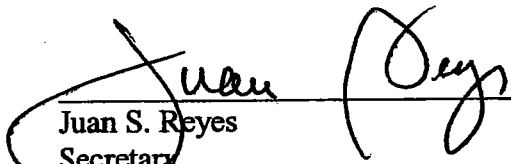
Ral: 11/19/02


Fermin M. Atalig
Secretary
Department of Commerce

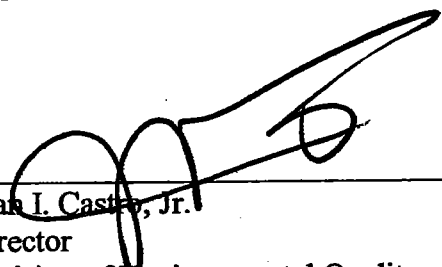
Ral: 11/13/02


Tomas B. Pangelinan
Secretary
Department of Lands and Natural Resources

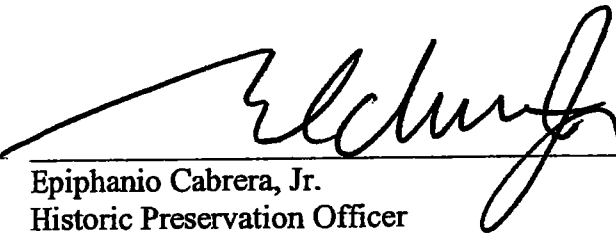
Ral: 11/14/02


Juan S. Reyes
Secretary
Department of Public Works

Ral: 11/21/02

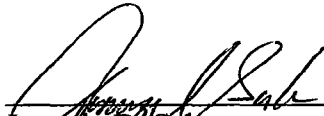

Juan I. Castro, Jr.
Director
Division of Environmental Quality

Ral: 12/5/01


Epiphanio Cabrera, Jr.
Historic Preservation Officer

Ral: 11/14/02

Concurred by:

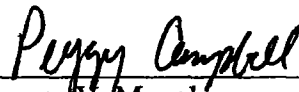


Joaquin D. Salas
Administrator
Coastal Resources Management Office

Ral: 12/10/02

Attorney General Review:

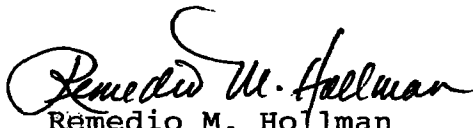
Sangil 1 CMC sub section 2153, iye aa liwel rereel alleghul Toulap 10-50, allegh kkaal ikka ee apasch nge aa takkal amwuri me alughulughlo llo! Bwulasiyol Attorney General.



Ramona V. Manglona
Deputy Attorney General

Ral: 12/23/02

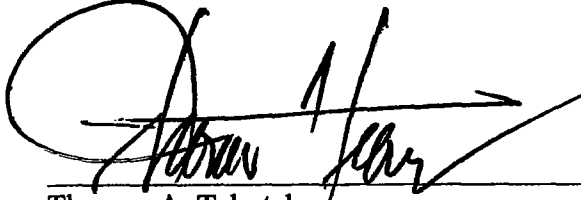
Isaliyal:



Remedio M. Hollman
Soledad B. Sasamoto
Registrar of Corporations (Temp)

Ral: 12/23/02

Bwughiyal mereel Bwulasiyol Gobetno:



Thomas A. Tebuteb
Special Assistant for Administration

Ral: 12/20/02

OFFICE OF COASTAL RESOURCES MANAGEMENT

ADOPTED RULES AND REGULATIONS

(This page is intended for quick reference only, please refer to the Commonwealth Code and Commonwealth Recorder for all legal review purposes)

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OFFICE OF COASTAL RESOURCES MANAGEMENT
RULES AND REGULATIONS

Department of Lands and Natural Resources
Department of Commerce ~~and Labor~~
~~Department of Community and Cultural Affairs~~
Historical Preservation Office
~~Department of Public Health~~
Division of Environmental Quality
Department of Public Works
Commonwealth Utilities Corporation

SECTION 1. SHORT TITLE.

These Rules and Regulations shall be cited as the "Coastal Resources Rules and Regulations of 1990."

SECTION 2. AUTHORITY.

Pursuant to the authority of CNMI Public Law 3-47, § 8(d) and 9(c), and 1 CMC § 9115, the following Rules and Regulations are hereby established. They shall apply to all areas designated by CNMI P.L. 3-47, § 7, as subject to the jurisdiction of the CRM Program.

SECTION 3. PURPOSE

These Rules and Regulations govern practice and procedure within the federally-approved CRM Program and set standards for the CRM Program in implementing its responsibilities, as approved by the Office of Coastal Resources Management, U.S. Department of Commerce. Provisions of these Rules and Regulations are not intended to negate or otherwise limit the authority of any agency of the Commonwealth Government with respect to coastal resources, provided that actions by agencies shall be consistent with provisions contained herein. These Rules and Regulations shall be consistent with the Federal Coastal Zone Management Act (CZMA) and applicable rules and regulations.

SECTION 4. CONSTRUCTION.

These Rules and Regulations shall be constructed to secure the just and efficient administration of the CRM Program and the just and efficient determination of the CRM Permit Process. In any conflict between a general rule or provision and a particular rule or provision, the particular shall control over the general.

SECTION 5. DEFINITIONS.

A. "Adverse Impacts" means but is not limited to

- (i) the alteration of chemical/or physical properties of coastal or marine waters that would prevent the existence of the natural biological habitats and communities;
- (ii) the accumulation of toxins, carcinogens, or pathogens which could potentially threaten the health and safety of humans or aquatic organisms;
- (iii) the disruption of ecological balance in coastal and marine waters that support natural biological communities;
- (iv) the addition of man made substances foreign to the coastal or marine environment for which organisms have had no opportunity for adaptation and whose impacts are largely known;
- (v) the disruption or burial of bottom communities and;
- (vi) the interference with traditional fishing activities.

B. "APC" means an Area of Particular Concern consisting of a delineated geographic area including within coastal resources which are subject to special management within the standards established in Section 9 (c).

APC addressed in these Rules and Regulations include lagoon and reef, wetland and mangrove, shoreline, and port and industrial, all of which are separately defined herein. APC's shall also include new APCs as may be designated hereinafter.

C. "Aquaculture or Mariculture Facility" means a facility, either land or water based, for the culture or commercial production of aquatic plants or animals, for research or food production, sales, or distribution.

D. "Beach" means an accumulation of unconsolidated deposits along the shore with their seaward boundary being at the low-tide or reef flat platform level and extending in landward direction to the strand vegetation of first change in physiographic relief to topographic shoreline.

E. "Coastal Land" means all lands and the resources thereon, [and] therein, and thereunder located within the territorial jurisdiction of the CRM Program, as specified by Section 7 of P.L. 3-47.

F. "Coastal Resources" means all coastal lands and waters and the resources therein located within the territorial jurisdiction of the CRM Program, as specified by Section 7 of P.L. 3-47.

G. "Conclusion of Law" means statements of the propositions of law that the decision maker arrives at after, and as a result of, finding certain facts in a case.

H. "CRM" means Coastal Resources Management.

I. "CRM Administrator" means the Coastal Resources Management Program Administrator, appointed by the CNMI Governor to administer the CRM Program, pursuant the CNMI P.L. 3-47, § 2.

J. "CRM Agency Officials" means the designated representative of Coastal Resources Management Agencies; such agencies include the Department of Lands and Natural Resources, the Department of Commerce ~~and Labor~~, the Department of Public Works, the Division of Environmental Quality ~~in the Department of Public Health and Environmental Services~~, Historic Preservation Office, in the Department of Community and Cultural Affairs, and the Commonwealth Utilities Corporation, hereafter CUC.

K. "CRM Appeals Board" means the Coastal Resources Management Appeals Board, consisting of three members appointed by the CNMI Governor, pursuant to CNMI P.L. 3-47, § 10.

L. "CRM Coastal Advisory Council" means the Council established by CNMI P.L. 3-47, § 5, comprised of the mayors of Rota, Tinian, Saipan, and Northern Islands, the Special Assistant for Carolinian Affairs, Chairman of the Marianas Public Land Corporation, the Executive Director of the Commonwealth Ports Authority, the Executive Director of Marianas Visitors Bureau, the President of the Chamber of Commerce, and the Historic Preservation Officer. In addition, the Council includes one member of the public representing fisheries, one member of the public representing the construction industry, one member of the public representing a subsistence lifestyle, and one staff member each from the Commonwealth Legislature House and Senate Committees on Resources and Development.

M. "CRM Office" means the Coastal Resources Management Office, within the Office of the CNMI Governor, headed by the CRM Administrator, pursuant to CNMI P.L. 3-47, § 2.

N. "CRM Permit" means a permit that is issued by CRM Agency Officials for a proposed project that is subject to CRM Program jurisdiction.

O. "CRM Program" means the Coastal Management Program established by CNMI P.L. 3-47, including the CRM Office, the CRM Administrator, the CRM Agency Officials, the CRM Appeals Board, and the CRM Coastal Advisory Council, all of which are charged with implementing coastal resources management in the Commonwealth of the Northern Mariana Islands.

P. "Degradation" means a diminution or reduction of strength, efficacy, value or magnitude.

Q "Development" means the placement or erection of any solid material or structure, discharge or disposal of any dredge materials or of any gaseous, liquid, solid, or thermal waste, the grading, removing, dredging, mining, or extraction of any materials, a change in the density or intensity of use of land including, but not limited to, subdivision of land and any other division of land including, ~~but not limited to, subdivision of land and any other division of~~ lot parceling, a change in the intensity of use of water, the ecology related thereto, or the access thereto, a construction or reconstruction, demolition, or alteration of any structure, including any facility of any private or public utility, and the removal of significant vegetation.

R. "Direct and Significant Impact" means the impact which is casually related to or derives as a consequence of a proposed project, use, development, activity or structure which contributes to a material change or alteration in the natural or social characteristics of any coastal resources.

S. "Endangered or Threatened Wildlife" means species of plants or animals which are: 1) determined to be of such limited numbers as to be in immediate danger of extinction or reduction to a critically low population level in and around the Commonwealth of the Northern Mariana Islands if subjected to continued taking or reduction, or alteration of habitat; or 2) so designated by the U.S. Department of Interior's Fish and Wildlife Service on the latest list of "Endangered and Threatened Wildlife and Plants."

T. "Findings of Fact" means determination of fact by way of reasonable interpretation of evidence.

U. "Lagoon and Reef APC" means that geographic area of particular concern consisting of a partially enclosed body of water formed by sand pits, baymouth bars, barrier beaches or coral reefs, of the Northern Mariana Islands chain.

V. "Littoral Drift" means the movement of sedimentary material within the near-shore zone under the influence of tides, waves and currents.

W. "Major Siting" means any proposed project which has the potential to directly and significantly impact coastal resources, as provided for in Section 11 A of these regulations. The phrase includes, but is not limited to the following:

(i) Energy related facilities, waste-water treatment facilities pipelines, transportation facilities, surface water control project, harbor structures;

- (ii) Sanitary land fills, disposal of dredged materials, mining activities, quarries, basalt extraction, incinerator projects;
- (iii) Dredging and filling in marine or fresh waters, point source discharge of water or air pollutants, shoreline modification, ocean dumping, artificial reef construction;
- (iv) Proposed projects with potential for significant adverse effects on submerged lands, groundwater recharge areas, cultural areas, historic or archeological sites and properties, designated conservation and pristine areas, or uninhabited islands, sparsely populated islands, mangroves, reefs, wetlands, beaches and lakes, areas of scientific interest, recreational areas, limestone, volcanic and cocos forest, and endangered or threatened species or marine mammal habitats;
- (v) Major recreational developments and major urban or government developments;
- (vi) Construction and major repair of highways and infrastructure development;
- (vii) Aquaculture or mariculture facilities, and silvaculture or timbering operations; and
- (viii) Any project with the potential of affecting coastal resources which requires a federal license, permit or other authorization from any regulatory agency of the U.S. Government.
- (ix) Any project, or proposed project, that may cause underground injection of hazardous wastes, of fluids used for extraction of minerals, oil and energy, and of certain other fluids with potential to contaminate ground water. Any such project, or proposed project, shall be primarily governed by the CNMI Underground Injection Control Regulations and supplemented by these Regulations.
- (x) Any other proposed project which by consensus of the CRM Agency Officials, has the potential for causing a direct and significant impact on coastal resources including any project having a peak demand of 500 kilowatts per day and/or 3,500 gallons of water per day as established by CUC demand rates for particular types of projects.
- (xi) Proposed projects that modify areas that are particularly susceptible to erosion and sediment loss; areas that provide important water quality benefits and/or are necessary to maintain riparian and aquatic biota and/or necessary to maintain the natural integrity of waterbodies and natural drainage systems.**

X. "Marine Resources" means those resources found in or near the coastal waters of the Commonwealth such as fish, dissolved minerals, aquatic biota and other resources.

Y. "Party" means a person, legal or natural, or any department of government, organization or other entity that is a CRM Permit applicant or intervenor, or a successor in interest.

Z. "Permit Holder" means a person or entity that holds the beneficial interest in a CRM Permit and may be either a CRM Permit applicant, a successor in interest if the project site has been sold, leased, or otherwise transferred, or a real party in interest if the benefit of the CRM Permit is for one other than the applicant or a successor in interest.

AA. "Persons" means the Government of the United States of America or any agency or department thereof; or the Government of the Commonwealth or any agency or department of any municipality thereof; any sovereign state or nation; a public or private institution; a public or private corporation, association, individual, acting singly or as a group.

BB. "Port and Industrial APC" means the land and water areas of particular concern surrounding the commercial ports of the Northern Mariana Islands chain which consists of projects, industrial uses and all related activities.

CC. "Project" means any structure, use development or other activity subject to CRM Program territorial jurisdiction as specified by section 7 of P.L. 3-47.

DD. "Resource" means natural advantages and products including, but not limited to, marine biota, vegetation, minerals and scenic, aesthetic, cultural and historic resources subject to the territorial jurisdiction of the CRM Program.

EE. "Shoreline APC" means the geographic area of particular concern consisting of the area between the mean high water mark or the edge of a shoreline cliff and on hundred fifty (150) feet inland on the islands of the Northern Mariana Islands chain.

FF. "Under Penalty of Perjury" means any statement, oral or written, certified as true and correct under penalty of perjury, pursuant to CNMI P.L. 3-48, and which precludes the necessity of a notarized affidavit for written statements, as in the following example:

I declare under the penalty of perjury that the foregoing is true and correct and that this declaration was executed on (date), at _____, CNMI.

----- (Signature)

GG. "Water-dependent Use" means a waterfront location that is necessary for its physical function, such as seaports and other similar facilities.

HH. "Water-oriented Use" means facing or overlooking the shoreline or water, but not requiring a location on the shoreline or waterfront, such uses include but are not limited to restaurants, hotels and residential developments.

II. "Wetland and Mangrove APC" means any geographic area of particular concern which include areas inundated by surface or ground water with a frequency sufficient to support a prevalence of plant or aquatic life that require saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands include swamps, ~~marshes~~ marshes, mangroves, lakes, natural ponds, surface springs, streams, estuaries and similar areas in the Northern Mariana Islands chain.

JJ. "Federally Excluded Lands" means those federally owned lands excluded from the territorial jurisdiction of the CRM program as specified by Section 7 of P.L. 3-47.

KK. "Hazardous Material" means a material or combination of materials which may: 1) cause or contribute to an increase in mortality or an increase in serious illness; 2) pose a potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed.

LL. "Impact" is any modification in an element of the environment, including modification as to quality, quantity, aesthetics, or human or natural use thereof.

MM. "Infrastructure" means those structures, support systems and appurtenances necessary to provide the public with such utilities as are required for economic development, including but not limited to, systems providing water, sewerage, transportation and energy.

NN. "Infrastructure Corridors" means a strip of land, not including highways, forming passageways which carry infrastructure.

OO. "Coastal Resources Management Program Boundaries" means the edge of the area subject to CRM Program territorial jurisdiction, as specified in Section 7 of P.L. 3-47.

PP. "Coastal Waters" all waters and the submerged lands under the marine resources subject to the territorial jurisdiction boundaries of the Coastal Resources Management Program as specified in Section 7 of P.L. 3-47.

QQ. "Water-related Use" means requiring water itself as a resource, but does not require a waterfront location. Includes most industries requiring cooling water, or industries that receive raw material via navigable waters

for manufacture or processing. Such uses must have adequate setbacks, as required by the CRM office.

RR. "Minor Permits" are those permits specified in Section 7(D)(iv) of these regulations.

SS. "Underground Injection" means a "well injection"

TT. "Well Injection" means the subsurface emplacement of "fluids" through a bored, drilled, or driven "well", or through a dug well, where the depth of the dug well is greater than the largest surface dimension.

UU. "Fluid" means any materials or substance which flows or moves, whether in a semisolid, liquid, sludge, gas, or any other form or state.

VV. "Well" means a bored, drilled or driven shaft, or a dug hole, whose depth is greater than the largest surface dimension.

WW. "Minor Developments" means

(a) Normal maintenance and repair activities for existing structures or developments which cause only minimal adverse environmental impact;

(b) Normal maintenance and repair of existing rights of way; underground utility lines, including water, sewer, power, and telephone; minor appurtenant structures to such; pad mounted transformers and sewer pump stations; provided that normal maintenance and repair shall not include the extension or expansion of existing lines, structures or right of way;

(c) Temporary, not to exceed six (6) months pala-pala construction for fundraising, carnival or cultural activities;

(d) Construction of picnic shelter (pala-pala), picnic tables and/or barbecue pits;

(e) Construction of non-concrete volleyball or tennis courts;

(f) Temporary photographic activities (such as advertising sets) which are demonstrated by the applicant to have an insignificant impact on coastal resources;

(g) Public landscaping and beautification projects;

(h) Memorial and monument projects covering ten (10) square meters or less;

(i) Security fencing which does not impede public access;

(j) Placement of swimming, navigation or temporary or small boat mooring buoy;

(k) Single family residential **construction or** expansion including sewer connections within **Shoreline APC**;

(l) Archeological **and related** scientific research **approved by HPO**, evaluated on a case-by-case basis, and found by CRMO to cause no **significant** adverse environmental impacts;

(m) Agricultural activities;

(n) Debris incineration;

(o) ~~Normal maintenance and repair of existing drainage~~ **channels and storm drains**;

(p) Strip clearing for survey sighting activities, except in Wetland APC;

(q) Construction of bus stop shelters;

(r) Construction of an accessory building incident to an existing acceptable activity in the Port and Industrial APC.

(s) Temporary storage of hazardous or nuisance materials including but not limited to construction chemicals, used oil, automotive fluids, batteries, paints, solvents, unregistered or unlicensed vehicles, accumulation of trash, garbage, or other refuse.

XX. "Aggrieved Person" means any applicant or person who has been adversely affected by the decision of the Coastal Resources Management Agencies Officials and can demonstrate that she/he participated in the CRMO hearing process either by submitting written comments or making oral statements during any hearing held on the project and that these comments were not adequately addressed by the final permit decision.

YY. "Affected Person" means a public official, adjacent land owner or a member of the general public who can demonstrate to the Administrator the actual or potential bias or conflict of interest of a CRM Agency Official and can demonstrate that she/he participated in the CRMO hearing process either by submitting written comments or making oral statements during any hearing held on the project and that these comments were not adequately addressed by the final permit decision.

(ZZ. Reserved for "Adjacent Landowner" definition)

AAA. "Management Measures" are economically achievable measures to control the addition of pollutants to surface and ground waters, which reflect the greatest degree of pollutant reduction achievable through the application of the best available nonpoint pollution control practices, technologies, processes, siting criteria, operating methods, or other alternatives.

BBB. "Best Management Practices (BMPs)" means a measure, facility, activity, practice, structural or non-structural device, or combination of practices that are determined to be the most effective and practicable means (including technological, economic, and institutional considerations) of controlling point and nonpoint pollutants at levels compatible with environmental quality goals to achieve stormwater management control objectives.

CCC. "Nonpoint Source Pollution (NPS)" means contamination that comes from many diffuse sources rather than from a specific point, such as an outfall pipe, including pollutants contained in runoff and groundwater that does not meet the legal definition of "point source" in section 502(14) of the Federal Clean Water Act.

DDD. "Point Source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural storm water discharges and return flows from irrigated agriculture. (Federal Clean Water Act, section 502(14), 33 U.S.C. § 1362(14)).

EEE. "Nonpoint Source" means any source of water pollution that does not meet the legal definition of "point source" as defined in section 502(14) of the Federal Clean Water Act.

FFF. "Watershed" means all land and water within the confines of a drainage divide.

GGG. "Riparian" means pertaining to the banks and other adjacent, terrestrial (as opposed to aquatic) environs of freshwater bodies, watercourses, and surface-emergent aquifers (e.g., springs, seeps), whose imported waters provide soil moisture significantly in excess of that otherwise available through local precipitation.

SECTION 6. CRM PERMIT REQUIREMENT.

A. When CRM Action Required. Prior to the commencement of a proposed project wholly or partially within an APC, or which constitutes a Major Siting under Section 11(A) herein, or which has a direct and significant impact on an APC the party responsible for initiating the proposed project shall obtain a CRM Permit.

B. Multiple APC Permit. If a proposed project is to be located in more than one APC, CRM Permit standard and policies for each applicable APC shall be evaluated in a single CRM Permit decision.

SECTION 7. EXCEPTIONS TO CRM PERMIT REQUIREMENTS.

A. Excluded Federal Land. Notwithstanding the language of Section 6, a CRM Permit shall not be required for proposed projects on federally excluded lands provided that all activities on federally-excluded which have a direct and significant impact on areas subject to CRM program as specified in Section 7 of P.L. 3-47, shall be consistent with these rules and regulations and applicable Federal and Commonwealth laws.

B. Emergency Services or Repairs. During or immediately after an environmentally destructive event such as typhoon, storm, earthquake, shipwreck, oil or other hazardous substances spill, the CRM Administrator may issue a temporary permit for emergency repair and clean-up subject to the following conditions.

(i) The temporary permit shall be valid for up to six (6) months or until a regular CRM permit is processed whichever is less in time.

(ii) Any repair permitted under this Section shall be limited in scope to replacement of pre-existing structures.

(iii) A person granted a temporary permit shall file a CRM permit application within twenty (20) days of the issuance of the temporary permit.

(iv) The CRM Administrator must find that the proposed repair or clean-up is necessary to prevent further immediate damage or injury to structures, vessels, the environment or the public welfare.

C. Exceptions from Coastal Permit Requirements

(i) A Coastal permit may not be required for the following types of project's except as set forth in clauses (ii) and (iii) of this subsection C. Any relief from the coastal permit requirements does not remove a project proponent's responsibility to comply with CRM Program goals and policies, nor does it exempt a project from any other Commonwealth regulatory authority.

(a) A proposed project situated completely outside of any APC and which does **not require a minor or major siting permit.**

(b) Agricultural activities on lands which have been historically used for such activities; cutting of trees and branches by hand tools, not driven by power or gas.

(c) Hunting, fishing and trapping.

(d) The preservation of scenic, historic and scientific areas including wildlife preserves which do not require any development.

(e) Construction of small scale non-intensive projects such as single family dwellings, duplexes, out-buildings and small neighborhood business outside of an APC.

(ii) If any proposed project or expansion of a previous project that was exempted by Subsection 7(C)(i) [above] may have a direct and significant impact on coastal resources, as determined by the CRM Administrator then the project proponent or owner shall be required to apply for a CRM Permit.

(iii) Should it be found that a particular proposed project exempted by Subsection 7(C)(i) above may have a direct and significant impact on coastal resources, the CRM office or its designee may conduct such investigation(s) as may be appropriate to ascertain the facts and may require the person(s) applying for such proposed project(s) to provide all of the necessary information regarding the project in order that a determination may be made as to whether the proposed project requires a coastal permit.

D. Permit for Minor Developments Under Expedited Procedures.

(1) Applications for permits for minor development, **as defined in Section 5(WW)**, shall be expeditiously processed so as to enable their promptest feasible disposition.

(2) Applications for permits for minor developments on Saipan will be received at the Coastal Resources Management Office and the CRM Administrator will review and make a determination on the application based ~~in~~ **on** P.L. 3-47 and these CRM Rules and regulations.

(3) Applications for permits for minor developments on Tinian and Rota will be made to the Tinian and Rota Coastal Coordinators, respectively, who will review and make a determination on the application based on P.L. 3-47 and these CRM Rules and Regulations.

(4) Failure of the CRM Program Administrator to approve or deny an application for a minor permit within ten (10) working days from receipt of application shall be treated as approval of the application, provided that the CRM Program Administrator may extend the deadline by not more than an additional ten (10) days where necessary.

(5) CRM minor permit applications will involve a full evaluation of individual and cumulative impacts and include an application review, site inspection and the issuance of a standard permit (with appropriate

conditions). The conditions to be attached to the minor permit will be based on a case-by-case evaluation of each particular project.

SECTION 8. CRM PERMIT PROCESS

All persons proposing to conduct any activities affecting or which may affect the coastal resources of the Commonwealth must apply for a CRM Permit. A pre-application conference shall be conducted with the applicant by a CRM Staff person at a designated time. At the request of the Applicant, a pre-application conference also may be held with CRM Agency Officials. The pre-application conference shall be held to discuss the proposed activity to provide the applicant with information pertaining to the CRM Program goals, policies and requirements and to answer questions the applicant may have regarding the CRM Program and its requirements. The following permit process shall govern all coastal permit applications except as provided in Section 7 (D).

A. Application. CRM permit application forms shall be maintained at CRM Office on Saipan. Copies of the application form shall also be maintained at CRM Branch Offices on Rota and Tinian. CRM permit applicants shall complete and file an application for each **proposed minor permit**, proposed project within an APC, or those constituting a Major Siting as defined in Section 5 herein. The following conditions shall apply to all CRM Permit applications:

(i) Copies. The applicant shall file an original CRM Permit application with exhibits and attachments and eight (8) copies thereof.

(ii) Filing Location. CRM Permit applications shall be filed at the CRM office in Saipan, though filing may be at the CRM Branch Office on Rota or Tinian, if the proposed project is to be on either of those islands.

(iii) Certification. CRM Permit applications shall be certified by the applicant that the information supplied in the application and its exhibits and attachments are true. The certification shall be by affidavit or declaration under the penalty of perjury.

(iv) Attachments. CRM Permit applications shall, to the extent necessary, contain attachments and necessary supporting materials including statements, drawings, maps, etc., which are relevant to the CRM Permit application.

Except for Minor Permit applications, CRM shall require the applicant to submit evidence establishing that the project will not have significant adverse impact on the coastal environment or its resources. Adverse impacts are defined in Section 5 A Definitions.

(v) Management Measures. CRM Permit applications shall include a description and design of proposed management measures which will

avoid, reduce and/or minimize nonpoint source pollution contributed by the proposed project.

(vi) Fees. CRM Permit Applications shall be accompanied by a non-refundable CRM Permit application fee in accordance with the following fee schedule, by check made payable to CNMI Treasurer.

- (a) No fee for government projects.
- (b) \$25.00 fee for emergency permits.
- (c) \$100.00 fee for minor permits.
- (d) \$500.00 initial fee and \$400.00 renewal fee for parasail and jet ski operating permits.
- (e) All other fees for projects shall be based upon appraisal of construction costs for structures affixed to the ground.

FEE AMOUNT	SIZE OF PROJECT
100.00	less than or equal to 50,000.00
200.00	less than or equal to \$100,000.00
750.00	greater than 100,000. but less than 500,000.00
1,500.00	greater than 500,000. but less than 1,000,000.

For each \$1 million increment in the cost/size of the project there shall be assessed an additional fee of \$1,500.00 up to maximum total fee of \$300,000.00.

(vii) Performance Bond Requirements. A performance bond or equivalent surety may be required by the CRM Program if failure to comply with terms of the application or permit will result in environmental damage. In the event that the project cannot be completed as permitted the applicant shall forfeit the bond or surety equivalent or portion thereof needed to mitigate any damage caused by such failure of performance. Any monies obtained from the bond or surety may be used to complete the site preparation and infrastructure requirements, restore the natural appearance and biological character of the project site and its impacts on adjacent properties or correct any adverse impacts to the environment.

(viii) Information. CRM Permit applications shall include the following for review by the CRM Office:

- (a) Applicant's name;
- (b) Applicant's representative (if any);
- (c) Owner of any real property at the project site;

- (d) Lessee of any real property at the project site;
- (e) Project name;
- (f) Owner of the project if different from applicant;
- (g) The following construction plans:
 - 1) Master site plan including: architectural features in conceptual form, major infrastructure and major amenities (in schematic or single line form).
 - 2) Typical floor plans in conceptual format for all structures and major infrastructure.
 - 3) View corridor plan
 - 4) Site coverage plan – displaying lot density including buildings; infrastructure, amenities, parking area, road networking and open space.
 - 5) Existing conditions map
- (h) The following erosion control and drainage plans:
 - 1) Slope and elevation map
 - 2) Watershed and drainage map
 - 3) Preliminary drainage and erosion control map
 - 4) Preliminary Stormwater nonpoint source management plan.**
 - (i) A map showing the distance of all proposed structures from mean high water and wetlands, as shown on APC maps, if applicable;
 - (j) Estimated costs for all improvements affixed to the property;
 - (k) Copies of CNMI and Federal permits including business license, submerged lands lease, and other necessary permits;
 - (l) Names of adjacent property owners and copies of letters sent to them notifying them of the proposed project;
 - (m) Adjacent property description;
 - (n) Estimates of daily peak demand for utilities including water and electricity and projected usage of utilities and other infrastructure;
 - (o) Map of the vicinity;
 - (p) Topographic survey map with ten (10) foot contour;
 - (q) Elevation plans of the project including a side profile of the project;
 - (r) Title documents to all real property and submerged lands including leases from appropriate parties;
 - (s) Affidavit or declaration made under penalty of perjury that the application is a statement of truth by the principal or authorized agent;
 - (t) In addition, environmental assessments for all CRM Major Sitings shall

include:

1) Project summary, justification and size.

2) Description of existing environment of site including vegetation, wildlife, land uses, historic and cultural resources, soil, geology, topography, weather, and air quality.

3) Description of socio-economic characteristics of the project including income and employment, education, infrastructures, law enforcement, fire protection, hospital, and medical facilities.

4) Discussion of alternatives to the proposed project size/design and how the preferred alternative was selected.

5) Description of the direct, indirect and cumulative environmental and socio-economic effects, both positive and negative, which may result from the project i.e. air and water quality, noise and dust levels, sedimentation and erosion, plant and wildlife habitat and populations, infrastructure capacity (short and long term).

6) Description of how impacts have been avoided or minimized and how any unavoidable impacts will be mitigated.

7) Evaluation of alternative management measures to control nonpoint source pollution and a description of management measures selected for incorporation in the proposed project.

(u) The following plans will be required of all applicants contingent to the issuance of a CRM Major Siting Permit. The time frames for the submission of the plans shall be specified within their respective conditions of the CRM permit. Additional types, numbers and/or quality of plans may also be required prior to permit issuance or as a condition of the permit at the discretion of the CRM Administrator or the CRM ~~Board of Agency Directors~~ **Agency Officials**.

1) Copies of the construction plans including 100% CNMI certified architect and engineering designs and floor plans.

2) Final plans for excavation, earthmoving and stormwater control.

3) Final master site plan

(v) All dimensions shall be stated in English Units (i.e. inches and feet)

(ix) Certification of Completion of Application.

Within thirty (30) days of the date on which an application for a CRM Permit is received by the CRM office, the CRM Administrator shall

review the application and certify its completion to the applicant or notify the applicant of any defects or omitted necessary information. The time commencing review of an application specified in Section 8(c) shall begin on the date an application is certified complete.

B. Notice of Application. The CRM office shall cause notice of each application for CRM Permit to be published in a newspaper of general circulation within the Commonwealth within fifteen (15) days of receipt of the application. The notice shall state the nature, scope, and location of the proposed project, invite comments by the public, provide information on requesting a public hearing and provide information on the procedure for appealing any permit decision.

C. Review of Application. The CRM Administrator and the CRM Agency Officials shall have sixty (60) days following certification of completion of application to grant or deny a CRM Permit except a permit for a minor development. For purposes of Section 9(a) of the Coastal Resources Management Act of 1983 (P.L. 3-47), the term "receipt of any request for review" shall mean "CRM Certification of Completion of a permit application." Except for a permit for a minor development, the CRM Office shall review the application, publish notice of its contents, schedule a CRM Permit hearing if mandatory or requested pursuant to Section 8; or the public and transmit the application to the CRM Agency Officials for review. The CRM Office shall provide technical findings on the impacts of proposed project to assist CRM Agency Officials in reaching a unanimous decision on CRM Permit applications and shall ensure compliance of CRM Permit decisions with these Rules and Regulations and CNMI P.L. 3-47. Where unanimous decision cannot be reached, the matter shall be submitted to the Governor for his determination pursuant to Section 9(d) of P.L. 3-47.

D. CRM Permit Hearing When a hearing ~~or~~ on a permit application is required or requested pursuant to this section the CRM Administrator shall schedule the hearing, inform the party or parties involved of the hearing date and publish notices of the hearing two times in a newspaper of general circulation in the Commonwealth at least fourteen (14) days prior to the hearing.

(i) When Permit Hearing Appropriate. The CRM Administrator shall schedule a CRM Permit Hearing if:

(a) The proposed project is determined to be a Major Siting by the CRM Agency Officials; or

(b) The proposed project does not constitute a Major Siting but falls within one of the Coastal APC's and the applicant, CRM Agency Official, or people pursuant to (d) below, submit a written request for a public hearing; or

(c) If a CRM Agency Official requires a hearing on a proposed project; or

(d) A petition signed by at least five (5) people requesting a public hearing is received by the CRM Office within fourteen (14) days of the date the application is published in the newspaper as required in Section 8 B.

(ii) Review Period. The sixty (60) days period of review or, in the case of a minor permit, the ten (10) days period of review, shall begin on the day the application is certified to be complete by the CRM Office.

(iii) Presiding Officer. The CRM Administrator or his designee shall preside at CRM Permit hearings. The presiding officer shall control the taking of testimony and evidence. Evidence offered in a hearing need not conform with any prescribed rules of evidence; further, the presiding officer may allow and limit evidence and testimony in any manner he reasonably determines to be just and efficient.

(iv) Public Invited. CRM Permit hearings shall be open to the public.

(v) Location. Public meetings may be held at any location within the Commonwealth. Public hearings pursuant to permit applications shall be conducted on the island where the proposed project is located. Appellate hearings shall be held on the same island as the permit hearings, or if no CRM Permit hearing was held, on the island where the proposed project is located. All other public hearings shall be conducted on Saipan.

(vi) Parties. Any party to a hearing on a CRM Permit application may appear on his/her own behalf. Parties may appear through an authorized representative of a partnership, corporation, trust or association. An authorized employee or officer of a government department or agency may represent the department or agency in any hearings.

(vii) Record. The CRM Office shall provide for an audio recording or a stenographic record of CRM Permit hearings. Transcription of the record shall not be required unless requested by a CRM Permit applicant or intervenor, or the CRM Administrator, and except for the latter any party requesting transcription shall pay the cost incurred in the preparation of the transcript. Public access to the contents of the record and CRM records retention responsibilities are discussed in Section 16.

E. Filing of Documents. Documents filed in support of, or in opposition to, CRM Permit applications shall conform to the following standards.

(i) Form and Size. Pleading and briefs shall be bound by staple in the upper left hand corner and shall be typewritten upon white paper eight-and-a-half by eleven inches (8 1/2 X 11") in size. Tables, maps, charts, exhibits or appendices, if larger, shall be folded to that size where practicable. Text shall appear on one side of the paper and shall be double-

spaced, except that footnotes and quotations in excess of a few lines may be single spaced.

(ii) Title and Number. Petitions, pleadings, briefs, and other documents shall show the title and number of the proceeding and the name and address of the party or its attorney.

(iii) Signatures. The original of each application, petition, amendment or other legal document shall be signed in ink by the party or its counsel. If the party is a corporation or a partnership, the document may be signed by a corporate officer or partner. Motions, petitions, notices, pleading and briefs may be signed by an attorney. Certifications as to truth and correctness of information in the document shall be by affidavit or declaration under penalty of perjury by the person charged with making the statements contained therein.

(iv) Copies. Unless otherwise required, there shall be filed with the CRM Office an original and five (5) copies of each document.

F. Decision on CRM Application

(i) Voluntary Disqualification. CRM Agency Officials participating in decisions regarding CRM Permits shall do so in an impartial manner. They shall not contribute to decisions on CRM Permits where there exists an appearance of bias, or where actual bias may prevent them from exercising independent judgement. Should a CRM Agency Official determine, after considering the subject matter of a CRM Permit Application, that bias, or the appearance of bias, might appear to prevent him from exercising independent judgement, he shall excuse himself from that decision and appoint an alternate with comparable qualifications to act in his stead.

(ii) Disqualification by Challenge. If a CRM Agency Official refuses to disqualify himself under Section 8 F(i), an applicant or affected person may petition the CRM Administrator at any time prior to the issuance of a permit decision for disqualification of a CRM Agency Official because of bias or the appearance of bias. A petition for disqualification shall be accompanied by a declaration under the penalty of perjury containing facts supporting the assertion of bias. The CRM Administrator shall review the petition and determine whether the facts give rise to a significant inference of bias, and if so, he shall inform the challenged CRM Agency **Official that he/she is** disqualified. The CRM Administrator shall appoint a qualified alternate from the same Department, to act in the disqualified CRM Official's stead. Alternates are also subject to disqualification by challenge or a party or affected person.

(iii) Unanimous Decision Required. Decisions regarding issuance or denial of CRM Permits by the CRM Officials shall be by unanimous vote. Disagreements among the CRM Agency Officials shall be mediated by the

CRM Administrator, and he shall assist in the preparation of a joint decision in order to achieve unanimous consent. Further, the CRM Administrator shall certify that each CRM Permit decision complies with CNMI P.L.3-47 and applicable rules and regulations.

(iv) Deadlock Resolution by Governor. In the event that the unanimity required by Section 8(F)(iii) is not obtained, and/or the CRM Administrator is unable to certify that a unanimous decision of CRM Agency Officials complies with CNMI P.L. 3-47 and/or applicable rules and regulations, the CRM Administrator shall forward the CRM Permit application to the Governor for resolution of the deadlock.

(a) Referral. Determination that a deadlock exists regarding a decision over a CRM Permit application shall be made by the CRM Administrator within the sixty (60) days period of review by CRM Agency Officials specified by Section 8(C). A deadlocked CRM Permit application shall be referred to the Governor for resolution within ten (10) days following this determination.

(b) Supporting Documentation. In addition to the deadlocked CRM Permit application, the CRM Administrator shall forward all supporting documentation, including additional briefs, if any, filed by the applicant or any intervenor, and statements of support or opposition by CRM Agency Officials. If a deadlock results solely from the CRM Administrator's denial of certification of compliance with CRM laws, then he shall supply a statement of his objections. If a deadlock results from dispute among CRM Agency Officials, then statements reflecting the divergent views on the CRM Permit application shall be obtained from the CRM Agency Officials and forwarded with CRM Permit application to the Governor for his review.

(c) Decision. After receipt of the deadlocked CRM Permit application and accompanying documents, briefs and statements referred to above, the Governor shall have thirty (30) days to render his decision. He may either grant, deny or conditionally grant a CRM Permit, but he must issue written findings of facts and conclusions of law for his decision.

(d) Review. The decision of the Governor in a deadlock resolution under this Section shall be conclusive for purposes of permit issuance or denial. Parties or intervenors objecting to the Governor's decision may, if they seek review of the Governor's decision, appeal directly to the Appeals Board.

(v) Written Findings and Conclusions. Decisions rendered by the CRM Agency Officials on granting, denying or conditionally granting CRM Permits shall be accompanied by written findings of facts and conclusions of law. The CRM office shall assist the Agency Officials in preparing a

consensus draft of finding of fact and conclusions of law for signature by CRM Agency Officials and the CRM Administrator.

(vi) "He Who Decides Must Hear". In those cases where a public hearing is held on a CRM Permit application, the CRM Agency Officials shall review and consider the matters discussed or presented at the hearing. To this end, CRM Agency Officials shall, whenever practicable, attend CRM Permit hearings, and if unable to attend a hearing, they shall listen to the audio recording of the hearing, or obtain and read a stenographic transcript prior to rendering any decision on the affected CRM Permit application.

(vii) Notice. Within ten (10) days of the issuance of a CRM permit decision, CRM shall publish notice of such issuance of a CRM permit decision in a newspaper of general circulation in the Commonwealth.

G. Appeal of CRM Permit Decision. Any aggrieved person as defined in Section 5 may appeal the decision of CRM Agency Officials or in the case of a minor development, the CRM Administrator's decision to grant, deny or condition a new CRM Permit ~~appeal the decision~~ to the CRM Appeals Board by filing a notice of the appeal with the CRM Office within thirty (30) days of the issuance of the CRM Permit decision. The CRM Administrator shall then schedule an appellate hearing before the CRM Appeals Board.

(i) Disqualification; Voluntary or by Challenge. In the same manner and for the same reasons specified for CRM Agency Officials in Section 8(F), the three members of the CRM Appeals Board shall render decisions on CRM Permit applications in an impartial manner. They shall voluntarily disqualify themselves for bias or the appearance of bias, and they are subject to disqualification by challenge in the manner prescribed for CRM Agency Officials in Section 8(F).

(ii) Quorum, Vote. At least two (2) members of the CRM Appeals Board shall constitute a quorum and must be present to act upon review of a CRM Agency Official decision and the vote of at least two (2) members is necessary for Board action on the appeal.

(iii) Briefs, Statements. Any aggrieved person who requests an appeal before the CRM Appeals Board shall file with the CRM Office within fifteen (15) days following its request for appeal, a written statement of objections to the CRM Permit decision. In addition, any existing party may within ten (10) days of receipt of appellant's statement, submit to the CRM Office a statement or brief providing arguments in support of or in opposition to, the permit decision. Statements filed under this subsection shall be filed in accordance with the format and standards listed in Section 8 (E).

(iv) Notice of Appeal, Contents. Any notice of appeal filed with the CRM Office shall contain the following:

- (a) The nature of the petitioner's interest in the CRM permit;
- (b) The effect of the CRM permit on the petitioner's interest; and
- (c) The extent that the petitioner's interest is not represented by CRM, the applicant or other aggrieved persons.

(v) Service of Papers. All parties to an appeal shall serve all other parties with any papers that are required to be filed at the CRM Office and such service shall occur on the same day as filing at the CRM Office.

(vi) Papers Considered by CRM Appeals Board. For the purpose of reviewing the CRM Permit application decision, the CRM Appeals Board shall receive and review the following:

- (a) Findings of facts and conclusions of law adopted by the CRM Agency Officials;
- (b) CRM Permit application;
- (c) CRM Permit, if issued;
- (d) Record of the CRM Permit hearing, if any;
- (e) Statements filed with the CRM Office in support of, or in opposition to, the appeal; and
- (f) Any other documents, correspondence or testimony considered in the permit decision-making process.

(vii) Oral Argument. Upon written request to the CRM Office by the appellant or other party to the appeal, oral argument shall be permitted. The scope of oral argument shall be limited to the written statements in support of, or in opposition to, the appeal. Oral argument shall be scheduled by the CRM Administrator before the full membership of the CRM Appeals Board. Oral argument shall be heard after the submission of written statements by the appellant and opponents, if any, and within twenty-five (25) days after the issuance of the CRM Permit by CRM Agency Officials.

(viii) Scope of Appeal. In reviewing the CRM Permit decision of CRM Agency Officials, the CRM Appeals Board shall reverse the decision below, and remand if necessary when:

- (a) It is clearly erroneous in light of CRM rules and regulations and the policies established in CNMI P.L. 3-47;

(b) It is in violation of applicable Federal or CNMI constitutional or statutory provisions; or

(c) It is arbitrary or capricious; or

(d) It was not issued in accordance with required Procedures

(ix) **Written Decision.** After reviewing the record and considering the arguments, the CRM Appeals Board shall render a written decision detailing the reasons in support of its determination. The decision of the Board shall be the final administrative decision, subject to judicial review. In drafting its decision, the Appeals Board may utilize the resources of the CRM Office.

(x) **Automatic Affirmance.** If no decision is rendered by the CRM Appeals Board within thirty (30) days of the date of the hearing, the CRM Administrator shall issue notice of summary affirmance of the CRM Permit decision. The party or parties aggrieved by the CRM Permit decision, as defined at Section 8(G)(i), may then appeal to the Commonwealth Superior Court, pursuant to Section 8(H).

H. Commonwealth Superior Court. Any aggrieved person may seek judicial review of a final CRM Program action ruling or order in accordance with 1 CMC 9112(b). All parties are encouraged to first exhaust administrative remedies as set forth in these regulations. However, in the event that the CRM Appeals Board does not have a quorum within sixty (60) days then in that event the aggrieved party may seek judicial review from the Commonwealth Superior Court in accordance with 1 CMC 9112.

SECTION 9. STANDARD FOR CRM PERMIT ISSUANCE.

A. General Standards for all CRM Permits. In the course of reviewing all CRM Permit[s] for proposed projects located wholly, partially or intermittently within an Area of Particular Concern (APC), or which have a direct and significant impact on an ~~Area of Particular Concern~~ APC or which are designated as a Major Siting, the CRM Agency Officials and the CRM Administrator shall required the applicant to demonstrate by a fair preponderance of evidence that the project will not have a significant adverse impact on the coastal environment or its resources. The CRM Program Agency Officials and Administrator shall also base their decision on technical findings and the policy set out in Section 3 Public Law 3-47. Adverse Impacts may include but are not limited to those defined in Section 5.

B. General Criteria for all CRM Permits. The CRM Agency Officials and the CRM Administrator shall consider the following when evaluating all CRM Permit applications:

(i) Cumulative Impact. The CRM Administrator and CRM Agency Officials shall determine the impact of existing uses and activities on coastal resources and determine whether the added impact of the proposed project seeking a CRM Permit will result, when added to the existing use, in a significant degradation of the coastal resources. **Consideration shall include potential coastal nonpoint source pollution, watershed setting, and receiving waters of the watershed in which a project is situated.**

(ii) Compatibility. The CRM Administrator and CRM Agency Officials shall determine, to the extent practicable, whether the proposed project is compatible with existing adjacent uses and is not contrary to designated land and water uses being followed or approved by the Commonwealth Government, its departments or agencies.

(iii) Alternatives. The CRM Administrator and CRM Agency Officials shall determine whether or not a reasonable alternative site exists for the proposed project.

(iv) Conservation. The CRM Administrator and CRM Agency Officials shall determine, to the extent practicable, the extent of the impact of the proposed project, **including construction, operation, maintenance and intermittent activities, on its watershed and receiving waters,** marine, freshwater, wetland, and terrestrial habitat, and preserve, to the extent practicable, the physical and chemical characteristics of the site necessary to support **water quality and** living resources.

(v) Compliance with Local and Federal Laws. The CRM Administrator and CRM Agency Officials shall required compliance with Federal and CNMI laws, including, but not limited to, air and water quality standards, land use, Federal and CNMI Constitutional standards, and applicable permit processes necessary for completion of the proposed project.

(vi) Right to a Clean and Healthful Environment. Projects shall be undertaken and completed so as to maintain and, where appropriate, enhance and protect the Commonwealth's inherent natural beauty and natural resources, so as to ensure the protection of the people's constitutional right to a clean and healthful environment.

(vii) Effect on Existing Public Services. Activities and uses which would place excessive pressure on existing facilities and services to the detriment of the Commonwealth's interests, plans and policies, shall be discouraged.

(viii) Adequate Access. The CRM Administrator and CRM Agency Officials shall determine whether the proposed project would provide adequate public access to and along the shoreline.

(ix) Setbacks. The CRM Administrator and CRM Agency Officials shall determine whether the proposed project provides adequate space between the project and identified hazardous lands including floodplains, erosion-

prone areas, storm wave inundation areas, air installation crash and sound zones and major fault lines unless it can be demonstrated such development does not pose unreasonable risks to the health, safety, and welfare of the people of the Commonwealth, and complies with applicable laws.

(x) Management measures for control of nonpoint source pollution. The CRM Administrator and CRM Agency Officials shall determine if the selected management measures are adequate for the control of nonpoint source pollution resulting from project construction, operations and maintenance, including intermittent activities such as repairs, routine maintenance, resurfacing, road or bridge repair, cleaning, and grading, landscape maintenance, chemical mixing, and other nonpoint sources.

C. Specific Criteria, Areas of Particular Concern. Prior to the issuance of any CRM Permit for a proposed project within an APC, the CRM Agency Officials and the CRM Administrator shall evaluate the proposed project in terms of its compatibility with the standards and relative priorities listed below, and the General Standards provided above in Section 9(A). If more than one project requiring a CRM Permit is proposed for a particular location, the project determined by the CRM Regulatory Officials to be the most compatible with the General and Specific Standards provided herein shall be given priority over the less compatible project.

(i) Lagoon and Reef APC; Management Standards.

(a) Any project proposed for location within the Lagoon and Reef APC shall be evaluated to determine its compatibility with the following standards:

- (1) Subsistence usage of coastal areas and resources shall be insured;
- (2) Living marine resources, particularly fishery resources, shall be managed so as to maintain optimum sustainable yields;
- (3) Significant adverse impacts to reefs and corals shall be prevented;
- (4) Lagoon and Reef areas shall be managed so as to maintain or enhance subsistence, commercial and sport fisheries;
- (5) Lagoon and reef areas shall be managed so as to assure the maintenance of natural water flows, natural circulation patterns, natural nutrient and oxygen levels and to avoid the discharge of toxic wastes, sewage, petroleum products, siltation and destruction of productive habitat;
- (6) Areas and objects of historic and cultural significance shall be preserved and maintained and

(7) Underwater preservation areas shall be designated.

(ii) Lagoon and Reef APC; Use Priorities.

(a) General Lagoon and Reef APCs. Activities listed within a use priority category are neither priority-ranked nor exhaustive. Use priorities categories for the lagoon and reef APCs of the Northern Mariana Islands are as follows:

(1) Highest.

(a) Projects promoting conservation of open space, high water quality, historic and cultural resources;

(b) Projects promoting or enhancing public recreation and access;

(c) Water-dependent projects which are compatible with adjacent uses;

(d) Sport and small-scale taking of edible marine resources within sustainable levels;

(e) Activities related to the prevention of beach erosion;

(f) Projects preserving fish and wildlife habitat.

(2) Moderate.

(a) Commercial taking of edible marine resources within sustainable levels;

(b) Aquaculture projects which do not adversely affect the productivity of coastal waters or natural beach processes;

(c) Piers and docks which are constructed with floating materials or which, by design, do not impede or alter natural shoreline processes and littoral drift.

(3) Lowest.

(a) Point sources discharge of drainage water which will not result in significant permanent degradation in the water quality of the lagoon;

(b) Dredge and fill activity for the purpose of constructing piers, launching facilities, infrastructure, and boat harbors, if designed to prevent or mitigate adverse environmental impacts.

(4) Unacceptable.

(a) Discharge of untreated sewage, petroleum products or other hazardous materials;

(b) Taking of sand and aggregate materials not associated with permitted activities and uses;

(c) Destruction of coralline reef matter not associated with permitted activities and uses;

(d) Dumping of trash, litter, garbage or other refuse into the lagoon, or at a place on shore where entry into the lagoon is inevitable;

(e) Dredge and fill activities not associated with permitted construction of piers, launching facilities, infrastructure and boat harbors.

(b) Lagoon and Reef APC; Managaha. Use Priority Categories for Managaha Island (Saipan), in addition to those listed for general Lagoon and Reef APCs, shall be as follows:

(1) Highest.

(a) Maintenance of the island as an uninhabited place used only for cultural and passive recreational purposes.

(2) Moderate.

(a) Improvements for the purposes of sanitation and navigation.

(3) Lowest.

(a) Commercial activity situated on the island related to cultural and passive recreational pursuits.

(4) Unacceptable.

(a) Development, uses or activities which preclude or deter or are unrelated to the use of the island by residents of the Commonwealth for cultural or passive recreational purposes.

(c) Lagoon and Reef APC; Anjota Island. Use Priority Categories for Anjota Island (Rota) shall be as follows:

(1) Highest.

(a) Maintenance of that part of the island outside the port and industrial APC as a wildlife sanctuary and for passive recreation.

(2) Unacceptable.

(a) Expansion of the Port and Industrial Section of Anjota Island which would encroach upon or have significant adverse impact upon the maintenance of a wildlife preserve or upon recreational uses of the island.

(d) Lagoon and Reef APC; Coral Reefs. The use Priority Categories for the Coral Reefs of Saipan, Tinian, and Rota shall be as follows:

(1) Highest.

(a) Maintenance of highest levels of primary productivity.

(b) Creation of underwater preserves in pristine areas.

(2) Moderate.

(a) Dredging of moderately productive corals and reefs associated with permitted uses and activities.

(3) Lowest.

(a) Taking corals for cultural use (i.e. production of lime).

(4) Unacceptable.

(a) Destruction of reefs and corals not associated with permitted projects; and

(b) Taking corals for other than scientific study.

(iii) Wetland and Mangrove APC; Management Standards.

(a) Any project proposed for location within the wetland and mangrove APC shall be evaluated to determine its compatibility with the following standards:

(1) Significant adverse impact on natural drainage patterns, the destruction of important habitat and the discharge of toxic substances shall be prohibited; adequate water flow, nutrients and oxygen levels shall be ensured.

(2) The natural ecological and hydrological processes and mangrove areas shall be preserved.

(3) Critical wetland habitat shall be maintained and, where possible, enhanced so as to increase the potential for survival of rare and endangered flora and fauna;

(4) Public landholding in and adjacent to the wetland and mangrove APC shall be maintained and, to the extent possible, increased, for the purpose of access and/or hazard mitigation, through land trades with the Marianas

Public Land Corporation, land purchasers, creation of easement or through taking by eminent domain;

(iv) Wetland and Mangrove APC; Use Priorities.

(a) Activities listed within a use priority category are neither priority ranked nor exhaustive. Use priority categories for the wetland and mangrove APC are as follows:

(1) Highest.

- (a) Preservation and enhancement of wetland and mangrove areas;
- (b) Preservation of wildlife, primary productivity, conservation areas and historical properties in both wetland and mangrove areas.

(2) Moderate.

- (a) Non-intensive agriculture benefitted by inundation, low density grazing;
- (b) Infrastructure corridors designed to avoid significant adverse impacts to natural hydrological processes and values as wildlife habitat;
- (c) Non-commercial recreation including light duty, elevated, non-permanent structures such as footbridges, observation decks and similar non-enclosed recreational and access structures.

(3) Lowest.

- (a) Residential development designed to avoid adverse environmental impacts and which is not susceptible to damage by flooding.

(4) Unacceptable.

- (a) Land fill and dumping not associated with flood control and infrastructure corridors or other allowable activities and uses;
- (b) Land clearing, grading or removal of natural vegetation not associated with allowable activities, which would result in extensive sedimentation of wetland, mangrove areas and coastal waters.

(v) Shoreline APC; Management Standards.

(a) Any project proposed for location within the shoreline APC shall be evaluated to determine its compatibility with the following standards:

- (1) The impact of onshore activities upon wildlife, marine or aesthetic resources shall be minimized;
- (2) The effects of shoreline development on natural beach processes shall be minimized;
- (3) The taking of sand, gravel, or other aggregates and minerals from the beach and near shore areas shall not be allowed;
- (4) Removal of hazardous debris from beaches and coastal areas shall be strongly encouraged;
- (5) Where possible public landholding along the shore shall be maintained and increased, for the purpose of access and hazard mitigation, through land trades with Marianas Public Land Corporation (MPLC), land purchases, creation of easements, and where no practicable alternative exists, through the constitutional authority of eminent domain; and
- (6) **Marina and small boat harbor projects shall be evaluated for consistency with the following performance standards and goals:**

(a) Effective runoff control. Runoff control shall be implemented which includes the use of pollution prevention activities and the proper design of hull maintenance areas.

(b) Shoreline stabilization shall be implemented where erosion is a nonpoint source pollution problem.

(c) Effective fuel station design shall be implemented to prevent spills and leaks and allow for efficient and effective cleanup of spills.

(d) Effective sewage management facilities shall be installed where needed to reduce the release of sewage to surface waters. Facilities shall be designed to allow for efficient and effective maintenance and signage shall be posted to facilitate the public's use of the facility.

(e) Effective fish waste management shall be implemented through restrictions, public education, and/or facilities for proper disposal of fish waste.

(f) Petroleum Control Management. Petroleum control shall be implemented to reduce the amount of fuel and oil from boat bilges and fuel tank air vents and other vessel activities from entering marina and surface waters.

(g) Boat Cleaning Management. Boat Cleaning operations shall minimize, to the extent practicable, the release of harmful cleaners and solvents as well as paint from in-water hull cleaning.

(h) Public Education Management. Public education , outreach, and training shall promote marina activities that minimize environmental impact.

(i) Boating activities within marina areas shall conform with Department of Public Safety Boating Safety Regulations.

(b) In addition to deciding whether the proposed project is consistent with the above standards, CRM Agency Officials shall consider the following in their review of coastal permit applications:

(1) Whether the proposed project is water-dependent or water-oriented in nature.

(2) Whether the proposed project is to facilitate or enhance coastal recreational, subsistence, or cultural opportunities. (i.e., docking, utt, fishing, swimming, picnicking, navigation devices).

(3) Whether the existing land use, including the existence of roadways, has irreversibly committed the area to uses compatible with the proposed project, particularly water oriented uses, and provided that the proposed project does not create adverse cumulative impacts.

(4) Whether the proposed project is a single-family dwelling in an existing residential area and would occur on private property owned by the same owner as of the effective date of the program, of which all or a significant portion is located in the Shoreline APC, or no reasonable alternative is open to the property owner to trade land, relocate or sell to the government.

(5) Whether the proposed project would be safely located on a rocky shoreline and would cause significant adverse impacts to wildlife, marine or scenic resources.

(6) Whether the proposed project is designated to prevent or mitigate shoreline erosion.

(7) Whether the proposed project would be more appropriately located in the Port and Industrial APC.

(vi) Shoreline APC; Use Priorities.

(a) Activities listed within a use priority category are neither priority ranked nor exhaustive. Use priority categories for the shoreline APCs of the entire Northern Mariana Islands chain are as follows:

(1) Highest.

(a) Public recreational uses of beach area, including the creation of public shoreline parks and construction of structures enhancing access and use, such as barbecue grills, picnic table, docks, shelters or boardwalks;

(b) Compatible water-dependent development which cannot be reasonably accommodated in other locations;

(c) Traditional cultural and historic practices;

(d) Preservation of fish and wildlife habitat;

(e) Preservation of natural open areas of high scenic beauty and scientific value;

(f) Activities related to the prevention of beach erosion through non-structural means.

(2) Moderate.

(a) Single-family dwelling in existing residential areas;

(b) Agriculture/aquaculture which requires or is enhanced by conditions inherent in this APC;

(c) Improvements to or expansion of existing water-oriented structures which are compatible with designated land uses and do not otherwise conflict with or obstruct public recreational use of coastal areas or other water-dependent or water-related uses.

(3) Lowest.

(a) Projects which result in growth or improvements to existing commercial, non-recreational public, or multi-unit residential uses;

(b) Water related and new water-oriented development compatible with designated land uses, which cannot be accommodated in other locations and which neither conflicts with recreational uses nor restricts access to or along the shoreline.

(4) Unacceptable.

(a) New commercial structures, industrial structures, or non-recreational public structures which are not water dependent, water-oriented or water-related;

(b) Disposal of litter and refuse; and

(c) The taking of sand for other than cultural usage, and mining of gravel and extraction of minerals, oil and gas, or other extractive uses.

(vii) Port and Industrial APC; Management Standards.

(a) Any Project proposed for location within the Port and Industrial APC shall be evaluated to determine its compatibility with the following standards:

(1) Projects shall be undertaken and completed so as to maintain and, where appropriate, enhance and protect the Commonwealth's inherent natural beauty and natural resources and so as to ensure the protection of the people's constitutional right to a clean and healthful environment.

(2) In the siting of port and industrial development, its suitability in terms of meeting the long-term economic and social expectations of the Commonwealth.

(3) Recognize the limited availability of the port and industrial resources in making allocation decisions.

(4) Ensure that development is done with respect for the Commonwealth's inherent natural beauty and the people's constitutionally protected right to a clean and healthful environment.

(5) Develop improvements to infrastructure in the Port and Industrial APC.

(6) Prohibit projects which would result in significant adverse impacts, including cumulative impacts on coastal resources outside the Port and Industrial APC.

(7) Conserve shoreline locations for water-dependent projects.

(8) Consider and assist in resolution of possible conflicts by identifying and planning for the potential exercise of Military Retention Area options affecting port resources.

(9) Locate, to the maximum extent practicable, petroleum based coastal energy facilities within the Port and Industrial APC.

(10) Consider development proposals from the perspective of federal port related opportunities and constraints which are applicable to the Commonwealth.

(11) The amount of shoreline frontage utilized by any project, regardless of the extent to which the project may be water-dependent, shall be minimized to the greatest extent practicable.

(viii) Port and Industrial APC; Use Priorities.

(a) Activities listed within a use priority category are neither priority ranked nor exhaustive. Use priority categories for the port and industrial APCs in the entire Northern Mariana Islands chain are as follows:

(1) Highest.

(a) Water-dependent port and industrial activities and uses located on the APC shoreline.

(b) Industrial uses that are not water-dependent but would cause adverse impacts if situated outside the Port and Industrial APC and would not be sited directly on the Port and Industrial APC shoreline, and would not preclude the opportunity for water-dependent activities and uses.

(c) Industries and services that support water-dependent industry and labor, which are not located on the Port and Industrial APC shoreline and do not interfere with water-dependent uses.

(2) Moderate.

(a) Recreational boating facilities;

(b) Clearing, grading or blasting which does not have long-term adverse effects ~~and on~~ environmental quality, drainage patterns or adjacent APCs, so long as the activity is related to the permitted project.

(3) Lowest.

(a) Indefinite storage or stockpiling of hazardous materials;

(b) Indefinite storage of goods, not awaiting water-borne transport, in a shorefront location;

(c) Uses or activities which are acceptable in other APC's and which do not enhance or are not reasonably necessary to support permissible uses, activities and priorities in the Port and Industrial APC.

(4) Unacceptable.

(a) Non-port and industrial related activities and uses which, if permitted, would result in conversion to other uses at the expense

of Port and Industrial related growth, or would induce port and industrial related growth into other APCs or areas; and

(b) Uses and activities which would have an adverse impact on other APCs, the American Memorial Park, Anjota Preserve, historic properties and other significant coastal resources.

(ix) Coastal Hazard APC; Management Standards.

(a) Areas identified as coastal flood hazard zones (V & VE) in the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM's) shall be considered a Coastal Hazards Area of Particular Concern (APC) and any project proposed for location within the Coastal Hazards APC shall be evaluated to determine its compatibility with the following standards:

(1) If the project will have a detrimental impact on existing landforms or coastal processes that provide natural resistance from the forces of coastal hazards such as beaches, wetlands and cliff lines, impacts to these coastal resources shall be avoided to the maximum extent possible;

(2) If the project is located in a geologically unstable zone such as cliff lines, severe slopes, coastal headlands or outcroppings, appropriate mitigation to prevent threat to human life, safety and the environment must be applied;

(3) If the project design, form or use tend to make the structure (or auxiliary structures) more vulnerable to the effects of coastal hazards such as high winds, wave energy, flooding and storm surge, the plans must be certified by a CNMI licensed structural engineer to ensure potential impacts and threats to human life and safety are minimized;

(4) If the project is located within an area which has historically been known to flood or be at a high risk to storm wave inundation or erosion, all design plans must be approved by the DPW Building Control Officer for compliance with the Uniform Building Code (UBC);

(5) If construction of the project may endanger human life or safety due to it's design or siting, it shall not be allowed.

(b) In addition to deciding whether the proposed project is consistent with the above standards, the CRM ~~Board~~ Agency Officials and the CRM ~~Director~~ Administrator shall consider the following in their review of coastal applications:

(1) Whether the project is shoreline dependent;

(2) Whether the project is located in an area where potentially hazardous construction or unsafe structures already exist;

(3) Whether the project is receiving funding by any entity of the federal or local government for its design or construction;

(4) Whether the project will enhance or facilitate recreational or cultural opportunities;

(5) Whether access to or from the shoreline is enhanced or the level of safety to or along the shoreline is increased;

(6) Whether the project is designed to prevent or mitigate for shoreline erosion;

(7) Whether the project meets the requirements of the ~~Unified Building Code~~ (UBC) for structures in flood or storm hazard zones.

(x) Coastal Hazard APC; Use Priorities.

(a) Activities listed within a use priority category are neither priority ranked nor exhaustive. Use priority categories for the port and industrial APCs in the entire Northern Mariana Islands chain are as follows:

(1) Highest.

(a) Projects which preserve, or enhance the natural defense of the shoreline against storm wave attack and flooding;

(b) Public recreational uses of beach area, including the creation of public shoreline parks and the preservation of open space along the shoreline;

(c) Traditional cultural and historic practices;

(d) Preservation of fish and wildlife habitat;

(e) Preservation of natural open areas of high scenic beauty and/or scientific value.

(2) Moderate.

(a) Projects which promote access to and from remote shoreline areas;

(b) Improvements to, or expansion of, existing water oriented structures which are located in low risk hazard areas, are compatible with designated land uses and do not pose a risk to the health and safety of the public.

(3) Lowest

- (a) Projects which result in the start, growth or improvement of commercial, public, or multi-unit/single residential uses in areas identified or known to be in high hazard zones;
- (b) Transportation facilities, public infrastructure or shoreline dependent projects which cannot be reasonably accommodated in other areas;
- (c) Projects which require the installation or placement of shore protection structures.

(4) Unacceptable

- (a) Projects which degrade or modify natural shoreline protective features such as beaches, cliffs or rocky shorelines;
- (b) Projects which require hard shore protection to facilitate or accommodate structural entities of the development unless these developments are associated with boating or marine based facilities;
- (c) Projects which interfere or disrupt the natural shoreline processes such as littoral transport or coastal dynamics.

D. Height Density, Setback, Coverage and Parking Guidelines.

(i) Application.

The following building design and site utilization guidelines will be applied to all projects requiring a Coastal Resources Management permit unless CRM Agency Officials in writing and with concurrence by CRMO Administrator grant an exception. An exception may only be granted when the applicant can demonstrate that there will be no significant impacts on scenic, historical, coastal, biological, and water resources. However, no exception may be granted for shoreline setbacks unless otherwise provided for in Section 9(D) ii. In order to be consistent with the CNMI Building Code (P.L. 6-26) 1990 building heights will be measured according to the definition section of the Uniform Building Code (UBC) Chapter 4 Section 408 Grade and Section 409 Height of Building.

(ii) Shoreline Setbacks.

1. Scope of Regulations

The Shoreline setback regulations herein prescribed apply to all coasts of the Commonwealth except for the Port and Industrial APC's where no shoreline setback regulations shall apply. Shoreline setbacks shall be measured inland from the mean high water level. For purposes of these

regulations the front of any lot shall be that side parallel to the coastline and/or ocean.

2. Shoreline Setbacks:

- | | | |
|----|---|---|
| a) | Shoreline Setback A,
from 0-35 feet | Beach and shoreline reservation zone for use as public access and recreation. Generally, structures are prohibited. |
| b) | Shoreline Setback B,
from 35-75 feet | No vertical construction which will obstruct the visual openness and continuity of the shoreline area is permitted. Open space, rest and recreation areas, swimming pools, terraces, landscaping and related outdoor improvements are not allowed. Parking areas are not permitted. |
| c) | Shoreline Setback C,
from 75-100 feet | Single-story structures, covered porches, trellises and similar improvements not to exceed 12-feet in height measured from the natural grade line. Parking is permitted if otherwise allowed by law. |
| d) | Shoreline Setback D,
from 100-feet or more | Building height based on Property Setback/Height Regulations. If the building is higher than 2 stories, 100 feet from the shoreline shall be considered the property line for applying the Setback/Height Regulations. |

3. Setbacks for Small Shoreline lots:

For any lot where thirty percent (30%) or more of the land area of the lot is affected by the mandatory shoreline setback above, such shoreline setback regulations are modified as follows:

- | | | |
|----|---|--|
| a) | Shoreline Setback A-1,
from 0-20 feet | Beach recreation zone for use as public access and recreation. |
| b) | Shoreline Setback B-1,
from 20-60 feet | Shall be open space with no vertical construction or parking permitted. |
| c) | Shoreline Setback C-1,
from 60-100 feet | Single and two-story structures only, with the total height not to exceed 20 feet. |
| d) | Shoreline Setback D-1,
from 100 feet or more | Building height based on proposed Property Setback/Height Regulations. |

(iii) Height and Side Yard Setback

1. High Rise Development

All high rise developments defined as a structure more than six (6) stories or more than sixty (60) feet above grade are encouraged to locate in areas of existing high rise development. High rise construction is only permissible subject to the following conditions.

(a) High rise structures proposed seaward of any coastal road must be set back one foot from the front and back property lines for each one foot in the overall height of the building.

(b) In order to create view corridors, the applicant for high rise development will be required to draw one datum line perpendicular to the shoreline or beach. All high rise structures shall be orientated so that the longest lateral dimension is parallel to the datum line.

(c) The project design shall incorporate substantial landscaping and tree planting to reduce/screen the visual bulk and mass of buildings as seen from public places such as roads, parks, and other public areas.

(d) The applicant shall prepare a view corridor plan which shall include an inventory of existing views, impacts on existing views and proposed mitigation measures to protect scenic views.

1. Multi-unit Residential

Multi-unit residential buildings must be setback one foot from the front and back of property lines for each one foot in the overall height of the building. All multi-unit residential buildings must be set back at least 10 feet from the side property lines.

2. Commercial:

Commercial buildings must be setback one foot from the front and back property lines for each one foot in the overall height of the building. All commercial buildings must be setback at least 10 feet from the side property lines. The CRMO Administrator may allow a smaller side setback upon a determination that the adjacent property is being or is substantially likely to be used for commercial or industrial purposes.

3. Hotel & Resort:

Hotel and Resort buildings must be setback one foot from the front and back property lines for each, one foot in the overall height of the building.

4. Industrial:

Industrial buildings shall setback a minimum of 20 feet from all property lines. The CRMO Administrator may allow less than a 20 foot setback upon a determination that the adjacent property is being or is substantially likely to be used for Industrial purposes.

(iv) Lot Coverage Density and Parking Regulations.

Lot coverage for structures means the "footprint" of buildings on the site and does not consider the floor area of upper floors or the overall density of the development. Where the first floor is elevated above the ground level, its lot coverage ratio shall be based on the proposed use for the area below the structures.

The lot coverage ratio for open space is considered to include plazas, terraces, decks, and other outdoor areas which are not covered or walled, landscaped areas, recreation and open space improved or unimproved natural areas, covered storm water disposal areas, and pedestrian walkways. The continuity, conservation, and maintenance of open space must be provided for; any later modification must be first approved.

1. One and Two Family Residential:

a) Maximum lot coverage by buildings is 40% for lots on which not all dwellings are connected to a public sewer and 60% for lots on which all dwellings are connected to a public sewer.

b) In developments consisting of more than four lots, the developer and/or subdivider must provide common use open space at a ratio of one acre of common use open space per every five acres of private lots. Up to 50% of the required common open space may be open space useable by the community included in public schools or similar public facilities.

2. Multi Unit Residential:

Maximum lot coverage by buildings is 60%.

A minimum of 1.25 parking spaces must be provided for each dwelling unit.

3. Commercial:

Maximum lot coverage by structures is 75%. A minimum of one parking space must be provided for each 200 feet of commercial space; one parking space for each 150 square feet office space; and one parking space for every four restaurant seats.

4. Hotel & Resort:

a) For buildings exceeding 35 feet in height:

Maximum lot coverage by structures is 20%.
Maximum lot coverage by parking, roads, and service entries is 35%.
Minimum lot coverage for open space is 45%.

b) For buildings less than 35 feet in height:

Maximum lot coverage by structures is 35%.
Maximum lot coverage by parking, roads and service entries is 35%.
Minimum lot coverage for open space is 45%.

c) A minimum of 1 parking space for each 5 ~~quest~~ guest units must be provided.

5. Industrial:

An adequate number of parking spaces for employees and customers must be provided.

SECTION 10. STANDARDS FOR APC CREATION AND MODIFICATION.

A. Authority. The CRM Agency Officials or the CRM Administrator may seek designation of any area within the Commonwealth as an APC or propose a change in any APC boundary. Further, the CRM Administrator may review requests from private parties for designation or modification of APC's.

B. Procedure. Requests for new or modified APCs shall include detailed documentation supporting the APC designation or boundary change. The documentation shall be based on criteria set forth in paragraph (C) below, but may include other information pertinent to the area nominated or proposed boundary change. Within thirty (30) days of a nomination or proposed boundary change, the CRM Administrator shall circulate it to the CRM Agency Officials and the CRM Coastal Advisory Council. The CRM Administrator shall, within that same period, publish notice of the nomination or proposed boundary change, describing the area involved, in a newspaper of general circulation within the Commonwealth. The CRM Office shall be available to receive public comment for a period of forty-five (45) days from the date such notice is published. Within the forty five (45) day comment period, the CRM Agency Officials and the CRM Coastal Advisory Council shall submit to the CRM Office comments and recommendations, and a public hearing shall be conducted by the CRM Office. Within thirty (30) days after the closure of the comment period, the CRM Coastal Advisory Council shall, after adequate consideration of the comments received, issue a recommendation on the nomination to the CRM Agency Officials who shall make the final decision regarding the proposed creation or modification.

C. Criteria for Creation and Modification. In reviewing a request for designation or modification of an APC, the CRM Administrator and the CRM Agency Officials shall consider whether the areas require special management because the areas are:

- (i) Areas of unique, ~~seare~~ scarce, fragile, or vulnerable natural habitat; have a unique or fragile physical configuration (e.g. Saipan Lagoon); are of historical significance, cultural value or scenic importance (including resources on or determined to be eligible for the National or CNMI Register of Historic Places);
- (ii) Areas of high natural productivity or essential habitat for living resources, including fish, wildlife and endangered species and the various trophic levels in the food web critical to their well-being;
- (iii) Areas of substantial recreational value or potential;
- (iv) Areas where developments and facilities are dependent either upon the utilization of, or access to coastal waters or of geographic significance for industrial or commercial development or for dredge spoil disposal;
- (v) Areas of urban concentration where shoreline utilization and water uses are highly competitive;
- (vi) Areas which, if development were permitted, might be subject to significant hazard due to storms, slides, floods, erosions, settlement or salt water intrusion;
- (vii) Areas needed to protect, maintain, or replenish coastal lands or resources, including coastal flood plains, aquifers and their recharge areas, estuaries, sand dunes, coral and other reefs, beaches, and offshore sand deposits;
- (viii) Areas needed for the preservation or restoration of coastal resources due to the value of those resources for conservation, recreational, ecological, or aesthetic purposes.

D. New APC Standards and Use Priorities. Upon a determination to designate a new APC, the CRM Administrator shall draft management standards and use priorities. Designation of the area as an APC and publication of the new Standards and Use Priorities shall be effected by publication of the designated APC and Standards and Use Priorities in the Commonwealth Register pursuant to 1 CMC, ~~D.W.9, Chapter 1~~ § 9101 et seq.

SECTION 11. STANDARDS FOR DETERMINATION OF A MAJOR SITING.

A. Determination of Major Siting. The determination of whether a proposed project, inside or outside a coastal APC, constitutes a Major Siting shall be issued by the CRM Office based on a documented consensus of CRM Program agencies stating the rationale therefore. **The phrase includes but is not limited to the following:**

- (i) Energy related facilities, waste-water treatment facilities, pipelines, transportation facilities, surface water control projects, harbor structures.
- (ii) Sanitary landfills, disposal of dredged materials, mining activities, quarries, basalt extraction, incinerator projects;
- (iii) Dredging and filling in marine or fresh waters, point source discharge of water or air pollutants, shoreline modification, ocean dumping, artificial reef construction;
- (iv) Proposed projects with potential for significant adverse effects on submerged lands, groundwater recharge areas, cultural areas, historic or archaeological sites and properties, designated conservation and pristine areas, or uninhabited islands, sparsely populated islands, mangroves, reefs, wetlands, beaches and lakes, areas of significant interest, recreational areas, limestone, volcanic and cocos forest, and endangered or threatened species or marine mammal habitats;
- (v) Major recreational developments and major urban or government developments;
- (vi) Construction and major repair of highways and infrastructure development;
- (vii) Aquaculture or mariculture facilities, and silvaculture or timbering operations; and
- (viii) Any project with the potential of affecting coastal resources which requires a federal license, permit or other authorization from any regulatory agency of the U.S. Government.
- (ix) Any project, or proposed project, that may cause underground injection of hazardous wastes, of fluids used for extraction of minerals, oil and energy, and of certain other fluids with potential to contaminate ground water. Any such project, or proposed project, shall be primarily governed by the CNMI Underground Injection Control Regulations and supplemented by these Regulations.
- (x) Any other proposed project which by consensus of the CRM Agency Officials, has the potential for causing a direct and significant impact on coastal resources including any project having a peak demand of 500 kilowatts per day and/or 3,500 gallons of water per day as established by CUC demand rates for particular types of projects.

(xi) Proposed projects that modify areas that are particularly susceptible to erosion and sediment loss; areas that provide important water quality benefits and/or are necessary to maintain riparian and aquatic biota and/or necessary to maintain the natural integrity of waterbodies and natural drainage systems.

All major sitings shall be in conformity with the policy enumerated in Section 3 of P.L. 3-47.

B. Specific Criteria for Major Sitings. The CRM Agency Officials and the CRM Administrator shall evaluate a proposed project found to constitute a major siting based on the specific criteria listed below, as well as the general criteria for all CRM Permits listed in Section 9(A) above.

(i) Project Site Development. The proposed project site development shall be planned and managed so as to ensure compatibility with existing and projected uses of the site and surrounding area.

(ii) Minimum Site Preparation. Proposed projects shall, to the extent practicable, be located at sites with pre-existing infrastructure, or which require a minimum of site preparation (e.g. excavation, filling, removal of vegetation, utility connection).

(iii) Adverse Impact on Fish and Wildlife. The proposed project shall not adversely impact fragile fish and wildlife habitats, or other environmentally sensitive areas.

(iv) Cumulative Environmental Impact. The proposed project site shall be selected in order to minimize adverse primary, secondary, or cumulative environmental impacts.

(v) Future Development Options. The proposed project site shall not unreasonably restrict the range of future development options in the adjacent areas.

(vi) Mitigations of Adverse Impact. Wherever practicable, adverse impact of the proposed project on the environment shall be mitigated. **Mitigation shall include the incorporation of management measures for control of nonpoint source pollution.**

(vii) Cultural-historic and Scenic Values. Consider Siting alternatives that promote the Commonwealth's goals with respect to cultural-historic values.

(viii) Watershed Conservation. In regard to site development (including roads, highways, and bridges), avoid development, to the extent practicable, of areas that are particularly susceptible to erosion and sediment loss; preserve areas that provide important water quality benefits and/or are necessary to maintain riparian and aquatic biota and/or protect to the extent

practicable the natural integrity of waterbodies and natural drainage systems.

SECTION 12. CRM PERMIT CONDITIONS.

A. Use of Conditions in CRM Permits. CRM Agency Officials may delineate the scope of an approved activity, or otherwise limit CRM Permits, by issuing conditions to CRM Permits. The conditions shall be set out individually in writing, shall be accompanied by a specific reason for each condition and shall be issued contemporaneously with the CRM Permit. In permitted projects of ongoing nature, the requirement for satisfaction of or compliance with CRM Permit conditions shall continue for the duration of the permitted activity. Violation of a CRM Permit condition at any time shall be cause for the CRM Administrator to take enforcement action pursuant to Sections **14 and 15.**

B. Purpose and Scope. The purpose of issuing CRM Permits subject to specific conditions is to ensure that a permitted project complies with the Standards for CRM Permit Issuance listed in Section 9, and CRM Program policies. Any lawful requirement consistent with the standards and policies referred to above may be the basis of a CRM Permit condition.

C. Mandatory Conditions. All CRM Permits shall contain at least the following conditions:

- (i) **Inspection.** The CRM Administrator or his designee shall have the right to make reasonable inspections of the out-of-doors portions of a permitted project site at any reasonable time in order to assess compliance with the CRM Permit and its conditions
- (ii) **Timing and Duration.** Permitted physical development of the project site subject to a CRM Permit shall begin within the time frame specified for project commencement on the permit. The maximum time limit allowed for project commencement shall be one (1) year. The project shall be completed within the time frame specified on the permit for project completion. The maximum time limit allowed for project completion shall be three (3) years unless it can be demonstrated the scope of the project requires additional time for construction purposes (only). Upon project completion, the permittee shall deliver a Completion Certificate to the CRM Office. If the project is not completed within the time frame specified in the permit, the permit will be reviewed by the CRM Administrator who will do one of the following: 1) extend or amend the permit or 2) terminate the permit. If the CRM Administrator grants an extension of the permit, a fee equaling fifty percent (50%) of the original permit fee shall be assessed. The CRM administrator shall have the discretion to waive this fee

if the project has been substantially completed. Substantial completion means, the project is over seventy-five **percent** (75%) structurally complete as certified by a CNMI registered Architect or Engineer. All conditions attached to the permit shall be of perpetual validity unless action is taken to amend, suspend, revoke, or otherwise modify the CRM Permit.

- (iii) **Duty to Inform.** The CRM Permit holder, whether it be the applicant or a successor in interest shall be required to notify the CRM Administrator in writing if he/she has knowledge that any information in the CRM Permit application was untrue at the time of its submission or if he/she has knowledge of any unforeseen adverse environmental impacts of the permitted project. A CRM Permit holder shall further have the duty to inform any successor in interest of the permit granted and the conditions attached thereto, if any; and the successor in interest shall, within five (5) days thereafter, advise the CRM Office of his/her interest in writing.
- (iv) **Compliance with other Law.** The CRM Permit is valid only if the permitted project is otherwise lawful and in compliance with other necessary governmental permits.
- (v) **The following condition will be included in every permit involving construction of any kind:**

1. The permittee shall be responsible for preventing discharge of construction site chemicals through the proper use of Best Management Practices as described in the document "Construction Site Chemical and Material Control Handbook of August 2002" for the following activities: Material delivery and storage; Material Use, Spill Prevention and Control; Hazardous Waste Management; Concrete Waste Management; Vehicle and Equipment Cleaning, Maintenance and Fueling.

D. Where appropriate, the project shall preserve, enhance, or establish buffers along surface waterbodies and their tributaries .

SECTION 13. CRM PERMIT AMENDMENT.

An amended CRM Permit shall be required of all projects before they are significantly altered or substantially expanded. Such an amendment shall require submittal of a revised CRM Permit application to the CRM Office. Alterations and expansions requiring amended CRM Permits include, but are not limited to, project changes which exceed \$5,000.00 of the monetary value of the permitted project as described in the original CRM

Permit application. Where a substantially new project is proposed, a new and different permit must be obtained.

SECTION 14. ENFORCEMENT OF CRM PERMITS.

A. Purpose. The provisions of this Section are intended to establish procedures whereby the CRM Administrator may enforce the terms and conditions of CRM permits. The actions of the CRM Administrator based upon this section are final agency action reviewable directly by the Commonwealth Superior Court Pursuant to Section 8 (H).

B. Grounds for Action. The CRM Administrator shall take action to enforce compliance with CRM Program policies and CRM Permit conditions in any of the following cases.

(i) Misstatement. The CRM Permit applicant, a party or any participant in a hearing on the CRM Permit application made a material misstatement that directly and significantly affected the CRM Permit decision.

(ii) Permit Violation. The CRM Permit applicant or its successor in interest, has violated a material term or condition of the CRM Permit.

(iii) Supervening Illegality. The permitted project, as constructed or operated, has become unlawful by subsequent case law, statute, regulation, or other illegality.

(iv) New Environmental Impact. The permitted project has a newly discovered adverse environmental impact.

C. Warning. The CRM Administrator, upon a determination that a permitted project violates one or more provisions of Section 14 B, may issue a notice of intent to undertake CRM Permit suspension or revocation proceedings unless the CRM Permit holder accomplishes corrective measures. This warning procedure shall not affect nor limit the CRM Administrator's duties, powers, and responsibilities under Section 14 D.

D. Permit Enforcement Notice. If after thirty (30) days of the date the CRM Administrator issued a notice of intent under Section 14 C, and the CRM Permit holder has failed to take corrective action or continues to be in violation of its CRM permit or in the case of an ongoing violation, the CRM Administrator shall issue a written Permit Enforcement Notice to the CRM permit holder.

(i) Content of Notice. A Permit Enforcement Notice shall include a statement of facts or conduct constituting the violation and shall indicate the intended action to be taken by the CRM Administrator. A Permit Enforcement Notice shall provide for Permit Enforcement hearings, if requested and inform the CRM Permit holder of his responsibilities and rights under this Section. The notice shall inform the permit holder that

unless he requests a permit enforcement hearing within 30 days, the proposed sanction will be imposed.

(ii) Service. A Permit Enforcement Notice shall be delivered by the CRM Office staff in person to the CRM Permit holder, or served by certified U.S mail addressed to the CRM Permit holder, or his designated agent. Proof of service shall be made by affidavit.

(iii) Response to Notice. If CRM Permit holder believes the statement of facts or conduct constituting violation in the Permit Enforcement Notice is inaccurate, and desires a Permit Enforcement Hearing, he/she shall respond in writing to the CRM Administrator within thirty (30) days of service of the Permit Enforcement Notice. This response shall include a written statement indicating the CRM Permit holder's arguments.

E. Emergency Suspension. If the CRM Administrator determines that a CRM Permit holder has willfully violated a provision of Section 14(B) or the public health, safety, or welfare imperatively requires immediate action, the CRM Administrator may order emergency summary suspension of a CRM Permit pending proceedings for revocation or other action, notwithstanding, any notice requirement under D of this Section. If a Permit Enforcement Hearing is requested, the proceeding shall be promptly instituted and determined pursuant to Section 14 F.

F. Permit Enforcement Hearing. Upon receipt of a request for Permit Enforcement Hearing, the CRM Administrator shall schedule a hearing within fifteen (15) days. The CRM Administrator or his designee shall preside at CRM Enforcement Hearing, shall control the taking of testimony and evidence and shall cause to be made an audio recording or stenographic record of CRM Enforcement Hearing. Evidence presented at such hearings need not conform with any prescribed rules of evidence but may be limited by the CRM Administrator in any manner she/he reasonably determines to be just and efficient and promote the ends of justice. Permit Enforcement Hearings shall conform to the provisions of Section 8 D. The CRM Administrator shall issue a decision within ten (10) days of the close of the enforcement hearing and all orders shall be in writing and accompanied by written findings of fact and conclusions of law. The standard of proof for such hearing shall be by the preponderance of the evidence.

G. Remedies. Upon a determination by the CRM Administrator and/or CRM Agency Officials that a violation did occur, the CRM Administrator may order any or all of the following remedies.

(i) Revocation. The CRM Permit may be revoked in its entirety.

(ii) Suspension. The CRM Permit may be temporarily suspended for a given period, or until the occurrence of a given event or satisfaction of a specific condition.

(iii) Corrective Measures. Measures may be ordered of the CRM Permit holder so that the project conforms to the CRM Permit terms and conditions.

SECTION 15. ENFORCEMENT OF CRM STANDARDS AND POLICIES.

A. Purpose. The provisions of this Section are intended to establish procedures whereby the CRM Administrator and/or CRM Agency Officials may enforce penalties against persons conducting activities or participating in projects within the jurisdiction of the CRM Program without a required CRM Permit. The actions of the CRM Administrator and/or CRM Agency Officials based upon this Section are agency action reviewable by the Commonwealth Superior Court.

B. Investigation. The CRM Administrator shall have the authority to investigate suspected violations of CNMI P.L. 3-47 or CRM Rules and Regulations. If practicable, the CRM Administrator shall first request the person or persons having knowledge or custody of the information to voluntarily produce or allow access to it. If voluntary production of or access to the information is not forthcoming, the CRM Administrator may implement the following measures to compel disclosure.

(i) Authority to Search.

(a) Consent from Permit Application. The CRM Administrator or his designee may enter, at any reasonable time, the site of a proposed project for which there exists a signed CRM Permit application on file with the CRM Office.

(b) Permit Authorization. The CRM Administrator or his designee may enter, at any reasonable time, the site of a project for which there has been granted a CRM Permit.

(c) Search Warrant. The CRM Administrator may, if necessary, apply to the Commonwealth Trial Court for a search warrant allowing entry onto a project site on land or water subject to CRM Program jurisdiction, pursuant to applicable law of administrative searches, regardless of the existence of a pending CRM Permit application or a currently valid CRM permit.

C. Conditions Warranting Investigation. The CRM Administrator may act pursuant to this Section upon a reasonable determination that a violation of CNMI P.L. 3-47 or CRM Rules and Regulations or Administrative Orders issued thereunder has occurred. Such violations

include, but are not limited to, projects undertaken without a required CRM Permit and activities that do not conform to CRM Permit terms and conditions under Section ~~14~~ 12.

D. **Warning.** Upon a determination that a violation of law subject to CRM Program jurisdiction has occurred, the CRM Administrator may issue a cease and desist order to the person(s) responsible for the violation and state notice of intent to undertake legal proceedings unless corrective measures are undertaken. The letter shall state the corrective measures necessary and shall provide for a period in which compliance shall be effected.

E. **Enforcement.** Upon a determination that a person other than a CRM Permit holder is in violation of CNMI P.L. 3-47 or applicable rules and regulations, or Administrative Orders issued thereunder the CRM Administrator shall promptly issue an Enforcement Notice to the offending party. The Enforcement Notice shall be delivered personally to the offending party or, if such service is not reasonably possible, it may be sent by certified mail to his residence or place of business.

(i) **Content of Enforcement Notice.**

(a) **Completed Violation.** If acts constituting a violation are complete and the violation is not of an ongoing nature, the Enforcement Notice shall include a statement of the facts and conduct constituting the violation, the amount of an imposed fine, if any, a warning not to repeat the unlawful activity and a statement that a hearing on the findings of violation or of size of the fine is available if the CRM Administrator is so requested, in writing, within seven (7) days of service of the Enforcement Notice.

(b) **Continuing Violation.** If acts constituting a violation are of an ongoing nature or likely to be repeated, the Enforcement Notice shall include a statement of facts and conduct constituting the violation, a statement of an imposed, continuing fine, if any, an order to cease and desist the activity giving rise to a violations, a warning that additional fines may be imposed for failure to cease and desist the prohibited activity and a statement that an Enforcement Hearing on the finding of violation or size of the fine is available if the CRM Administrator is so requested, in writing, within seven (7) days of service of the Enforcement Notice.

(ii) **Response to Notice.** If the party to whom Enforcement Notice is sent objects to the finding of violation, or seeks an Enforcement Hearing on the fine, he shall submit a written response to the Enforcement Hearing Notice within seven (7) days of service of the Enforcement Notice. Failure to provide written response or to demand an Enforcement Hearing within the prescribed period shall be deemed a waiver of defense and the

right to an enforcement hearing and the fine, as set in the Enforcement Notice, shall upon expiration of the seven (7) days period, become immediately due and payable to the CNMI Treasurer. All fines shall be paid by check made payable to the Treasurer of the CNMI. A copy of the payment receipt shall be provided to the CRM Office by the violator.

F. **Determination of Fines and Penalties.** The CRM Administrator shall, in his sound discretion, set fines in an amount calculated to compel compliance with applicable law and Administrative Orders and shall consider the value of the existing and potential value of the damage to the environment proximately caused by the violation described **in the Notice of Violation issued pursuant to** Section 14 and/or Section 15. In no event, however, shall any fine imposed exceed the ceiling imposed by 2 CMC 1543. In addition the CRM Administrator may order the offending party to cease and desist from the activity that is in violation, take mitigation measures to cure the violation or seek any other remedy available at law or in equity.

G. **Enforcement Hearing.** If a written response to an Enforcement Notice is filed with the CRM Office requesting an Enforcement Hearing it shall be conducted by CRM Administrator pursuant to Section 14 F. The decision of the CRM Administrator shall be final as within the CRM Program. Appeal from an enforcement decision shall be to the Commonwealth Superior Court within thirty (30) days following service of the CRM Administrator's written enforcement decision on the offending party.

H. **Enforcement by Commonwealth Superior Court.** Fines and cease and desist orders issued by the CRM Administrator for purposes of enforcement constitute official agency orders and must be complied with by persons determined in violation of CRM Program policies or CRM Permit conditions. In the event fines are imposed or cease and desist order issued, and compliance with either is refused, the CRM Administrator may file in Commonwealth Superior Court seeking court enforcement.

I. **Enforcement by Criminal Prosecutions.** If the CRM Administrator has reason to believe that a person in violation of CRM Program policies or CRM Permit conditions or Administrative Orders issued thereunder has committed criminal offense within the definition provided in 2 CMC § 1543 (b) or (d), he shall promptly submit a report of the violation to the Attorney General.

J. **Administrative Order.** For purposes of Section 14 and 15 administrative Orders shall be any orders issued by the CRM Administrator for enforcement of CRM policies and regulations pursuant to 2 CMC subsection 1453a.

SECTION 16. PUBLIC INFORMATION AND EDUCATION.

The CRM Office shall make information and educational materials available to the public and CRM Agency Officials. The CRM Office, under the direction of the CRM Administrator, shall assist a CRM permit applicant, CRM Agency Officials, the Governor and the CRM Appeals Board, by explaining the policies and procedures of the CRM Permit process.

(i) Vernacular. When requested and reasonably necessary, the CRM Office shall provide translation of official business into the appropriate vernacular.

(ii) Media. The CRM Office shall, to the extent practicable, develop and maintain a continuing program of public information and education. Information regarding coastal resources management and conservation shall be disseminated through newspapers, television, radio, posters, and brochures supplied by the CRM Office.

(iii) Public Hearings. Any hearing or meeting held for purposes of the CRM Permit or Enforcement process, or the Coastal Advisory Council, shall be open to the public.

(iv) APC Maps. The CRM Office shall maintain a current series of island maps clearly showing the Areas of Particular Concern.

SECTION 17. CRM COASTAL-ADVISORY COUNCIL.

Pursuant to CNMI P.L. 3-47, Sec. 6, a CRM Coastal Advisory Council (CAC) shall be established, consisting of those members listed in Section 15(E).

A. Adopt-Internal Procedures. The CAC shall adopt internal procedures which shall govern its meetings.

B. Advise CRM. The CAC shall advise the CRM Office and the CRM Administrator on any proposed change in the CRM Program or the CRM Permit process or any proposed rules and regulations considered useful for implementing the CRM Program.

C. Conduct Meetings. The CAC shall conduct meetings from time to time in public sessions, in order to receive information from the public on the impact or advisability of programs and policies in the CRM Program. Meetings shall be scheduled by the Council or as requested by CRM Administrator, as he deems necessary for purposes of obtaining input and advice, and shall be scheduled at least twice each calendar year.

SECTION 18. CRM PUBLIC RECORDS.

A. Retention. The CRM Office shall retain and preserve the following documents for a minimum of five (5) years following their receipt or acquisition, unless the CRM Office determines that they shall be retained for a longer period of time. After five (5) years, all pertinent materials shall be safely stored.

(i) CRM Permit Application Materials. All applications, permits, variances pleadings, motions, affidavits, charts, petitions, statements, briefs or other documentation submitted in support of or opposition to applications for CRM Permits or Variances, or prepared by the CRM Office in the course of the CRM Permit Process, shall be retained and preserved.

(ii) CRM Hearing Records. Stenographic or tape recordings of all CRM Permit or Enforcement Hearings and written minutes of CAC meetings shall be retained and preserved.

(iii) Coastal Resources Materials. All studies, guides, plans, policy statements, charts, special reports, educational materials, or other information obtained or prepared by the CRM Office in order provide public education shall be retained and preserved.

(iv) Best Management Practices. CRM shall provide access to reference documents including, "Guidance Specifying Management Measures For Sources Of Nonpoint Pollution In Coastal Waters" Published Under the Authority Of Section 6217(G) Of The Coastal Zone Act Reauthorization Amendments Of 1990, United States Environmental Protection Agency Office Of Water, Washington, DC, and relevant BMP documents published by OCRM, EPA, NRCS and other local and Federal agencies

B. Public Access to CRM Records. All CRM Program records shall be available for inspection for a period of five (5) years ~~be~~ **by** any person during established business hours at the CRM Office in Saipan except as otherwise provided by law.

(i) Minutes and Transcripts. Minutes of CAC meetings and transcripts or tapes of CRM Permit or Enforcement Hearings shall be made available upon request to the public within thirty (30) days after the meeting or hearing involved, except where the disclosure would be inconsistent with law, or where the public distribution of minutes of meeting held in executive session would defeat the lawful purpose of the executive meeting. All CRM Permit or Enforcement Hearings must be open to the public, and all transcripts of the hearing shall be made available upon request; provided, however, that those persons requesting transcription shall pay the costs of transcription at the time of the request.

(ii) Copies of Documents. Copies of CRM public records shall be made available to any member of the public requesting them provided that reasonable fees or costs incurred in reproducing the records shall be paid by check into the CNMI Treasury by the requesting party.

(iii) Denial of Inspection. Any person aggrieved by a denial of access to ~~access of~~ CRM Program records, or transcription or copying thereof may apply to the Commonwealth Superior Court for an order directing inspection or copies or extracts of CRM Program public records. The Court shall grant the order after hearing upon finding that the denial was not for just and proper cause.

SECTION 19. CRM ACCESS TO RECORDS.

The Administrator, on behalf of himself, the CRM Office, the CRM Agency Officials, the Governor, the CRM Appeals Board, and the CRM Coastal Advisory Council, shall have access to such records necessary for conducting official CRM business, except as provided by law.

A. CNMI Government Records. The CRM Administrator shall have access to relevant CNMI governmental records for the purpose of obtaining information for official CRM business. This access may include government reports, reviews, policy statements and any other data not protected as confidential by law. The CRM Administrator shall keep his requests reasonable in scope and accompany his requests for information with payment for copying or gathering of specific information.

B. Private Records. The CRM Administrator may request from interested parties only such records and documents deemed necessary for the CRM Permit process.

SECTION 20. COMPUTATION OF TIME.

In computing any period of time under these Rules and Regulations, the time begins with the day following the act, event or default, and includes the last day of the period unless it is a Saturday, Sunday, or legal holiday, in which event, the period runs until the end of the next work day. When the prescribed period of time is ten (10) days or less, Saturdays, Sundays, or holidays within the designated period shall be excluded from the computation.

SECTION 21. FEDERAL CONSISTENCY.

A. General Law.

Federal activities and development projects which directly affect the coastal zone must be conducted or supported in a manner which is, to the maximum extent practicable, consistent with the CRM Program. Federally licensed or permitted activities and the provisions for federal financial assistance for activities affecting land or water uses of the coastal zone must be consistent with the CRM Program. Furthermore, any federal agency proposing to undertake any development project in the coastal zone shall insure that the project is, to the maximum extent practicable, consistent with the CRM Program. The implementation of these federal consistency provisions will be carried out in ~~accordance with these federal consistency provisions will be carried out in~~ accordance with Section 307 of the CZMA and Federal Regulations at 15 CFR, Part 930.

B. Standard For Determining Consistency

The CRMO shall apply the following enforceable standards in making consistency determinations:

- (i) The goals and policies set forth in CNMI Public Law 3-47;
- (ii) The standards and priorities set forth in these Regulations;
- (iii) Federal air and water quality standards and regulations, to the extent applicable to the Commonwealth of the Northern Mariana Islands; and
- (iv) Air and water quality standards and regulations of the CNMI, including, but not limited to, the CNMI Underground Injection Control Regulations and the CNMI Drinking Water Regulations; and
- (v) Any additional policies, regulations, standards priorities and plans that are enforceable and incorporated into any amendment of the CRM Program in the future.

C. Federal Activities And Development Projects.

- (i) A Federal development project includes any Federal activity involving the planning, construction, modification, or removal of public works, facilities, or other structures; and the acquisition, utilization or disposal of land or water resources.
- (ii) "Federal activities" include those Federal agency actions which are either development projects or licenses, permits, or assistance actions as described herein below. Examples include Federal agency activities requiring a Federal permit and assistance to entities other than the local government. Although Federal lands in the CNMI are excluded from the CRM Program jurisdiction pursuant to Section 7 of P.L. 3-47, Federal activities occurring on Federal lands which result in spillover impacts which directly affect the Commonwealth's coastal zone must be consistent, to the maximum extent practicable, with the CRM Program.
- (iii) In the event that a Federal agency plans to undertake a Federal activity, including a development project, which is likely to directly affect the coastal zone, the Federal agency must notify the CRMO of the proposal at least ninety (90) days before any final decision on the Federal action, unless both the Federal agency and CRMO agrees to an alternative notification schedule. Such notification must include a brief statement indicating how the proposed project will be undertaken in a manner consistent, to the maximum extent practicable, with the CRM Program. The Federal agency's consistency determination must be based upon an evaluation of the relevant provisions of the CRM Program. Consistency determinations must include:
 - (a) A detailed description of the proposed project;

- (b) The project's associated facilities;
 - (c) The combined cumulative coastal effect of the project; and
 - (d) Data and information sufficient to support the Federal agency's conclusion.
- (iv) If CRMO does not issue a written response within forty-five (45) days from the receipt of the Federal agency notification, the Federal agency may presume CRMO's agreement that the activity is consistent with the CRM Program. Requests for an extension of time may be made for a period of not more than fifteen (15) days, unless the Federal agency agrees to longer or additional extension requests. CRMO agreement shall not be presumed if CRMO requests an extension of time within the forty-five (45) days review period.
- (v) CRMO's concurrence with or objection to a Federal Agency's consistency determination must be set forth in writing with reasons and information supporting the agreement or disagreement and sent to the Federal Agency. In case of disagreement, CRMO will attempt to resolve its difference with the Federal Agency's consistency determination within the ninety (90) days notification period.
- (vi) In the event that the CRMO and the Federal Agency are unable to come to an agreement on the manner in which a Federal activity or development project may be conducted or supported in a manner consistent, to the maximum extent practicable, with the CRMP, the CRMO or Federal Agency may request mediation of the disagreement pursuant to the procedures set forth in Section 307 of the Federal Coastal Zone Management Act of 1972 (P.L. 92-583, as amended) and 15 CFR 930, Subpart-H.

D. Federal License And Permits.

- (i) Federal licenses and permits include any authorization, certification, approval or other form of permission which any Federal agency is empowered to issue to an applicant.
- (ii) An applicant includes any individual or organization, except a Federal Agency, which, following management program approval, files an application for a Federal license or permit to conduct an activity affecting the coastal zone.
- (iii) An applicant for a Federal license or permit for an activity affecting the coastal zone must file, along with the application, a certification that the activity will be conducted in a manner consistent with the CRM Program. A copy of the application and certification, along with the necessary data and information, should also be sent to the CRMO. The Federal agency shall not issue the license or permit unless CRMO concurs in the consistency certification or its concurrence is presumed because CRMO has failed to respond in six (6) months. The applicant's consistency certification statement, which will then be reviewed along with the application by the CRMO, must be accompanied by sufficient information to support the applicant's consistency determination.

(iv) The Federal Agency licenses and permits that the CRM Office will review for consistency with the CRMP are those listed in the Procedures Guide for Achieving Federal Consistency with the CNMI Coastal Resources Management Program (available from CRMO), incorporated and made a part hereof. If, in the future, it is found that the issuance of other types of Federal permits and licenses cause direct and significant impact on coastal land and water resources, the said listing will be expanded as necessary. CRMO shall be responsible for providing the above list to the relevant Federal agencies who in turn shall make the information available to applicants.

(v) If any project which requires a Federal license or permit also requires a coastal permit, applications for both should be filed simultaneously. A certification of consistency with the CRM Program shall be filed with both applications. The issuance or denial of a CRM Permit will indicate consistency or the lack of consistency with the CRM Program and the CRMO shall notify the Federal agency of the CRM permitting decision for its use in its federal permitting decision.

(vi) A certification of consistency shall include the following clause:

"The proposed activity complies with the CNMI CRM Program and will be conducted in a manner consistent with such program.

Supporting information must be attached to the certification. This information will include a detailed description of the proposal, a brief assessment of the probable coastal zone effects and a brief set of findings indicating that the proposed activity, its associated facilities and their effects, are all consistent with the provisions of the CRM Program, including the application standards listed in Section 19(B) above.

(vii) Interested parties may assist the applicant in providing information to the CRMO. In addition, the CRMO will, upon the request of the applicant, provide assistance to the applicant in developing the assessment and findings required.

(viii) CRMO review begins at the time the Office receives both the applicant's consistency certification and the supporting information and determines that the information is complete. Timely public notice of the proposed activity will be made by CRMO. The public notice will include a summary of the proposal, an announcement that information submitted by the applicant is available for public inspection and a statement that public comments are invited.

(ix) At the earliest practicable time and within six (6) months after the date of receipt, the CRMO will notify the issuing Federal agency of its concurrence or objection. If CRMO has not issued a decision within three (3) months after the date of receipt, it must notify the applicant and the Federal agency of the status of the matter and the basis for further delay, if any.

In the event that CRMO objects to the applicant's consistency determination, the Office must set out its objection, in writing, with reasons and supporting

information and alternative measures if they exist, which, if adopted, would permit the activity to be conducted in a manner consistent with the CRM Program. A CRMO objection will include a statement informing the applicant of right to appeal to the Secretary of Commerce as provided in Section 307 of the Federal Coastal Zone Management Act, as amended.

E. Federal Assistance.

(i) "Federal Assistance" means assistance provided under a Federal grant program to an applicant agency through grant or contractual agreements, loans, subsidies, guarantees, insurance or other forms of financial aid for activities which affect the coastal zone.

(ii) An applicant refers to any unit of the CNMI Government, which, following CRM Program consistency concurrence, submits an application for Federal Assistance.

(iii) The CRMO shall be notified of any application submitted to the Planning and Budget Affairs Office for any federal assistance program listed in the Catalog of Federal Domestic Assistance in addition to applications to the Office of Ocean and Coastal Resource Zone Management for Coastal Energy Impact Program grants.

(iv) Application for federal assistance for activities affecting coastal lands must go through the clearinghouse notification and review process to ensure that the CRMO has an opportunity to review the proposed action for consistency with the CRMP. Such applications must include a certification of consistency which meets the information requirements set out in these Regulations.

(v) If a coastal permit is required for a project utilizing federal assistance, then the coastal permit and the federal assistance application shall be filed simultaneously.

(vi) In the event that CRMO finds that the proposed federal assistance is not consistent with the CRMP, the application shall not be approved unless the CRMO's objection is resolved through information discussions among the Federal Program agencies, the applicant and the CRMO or the objection is set aside on appeal to the Secretary of Commerce pursuant to Section 307 of the Federal Coastal Zone Management Act. CRMO's objection must be set forth in writing with reasons, supporting information and alternative measures. The Planning and Budget Affairs office must then notify the applicant agency and the Federal agency of its right to appeal to the Secretary of Commerce. If CRMO does not object to an application proposal during the clearinghouse process, the Federal agency may grant the federal assistance.

SECTION 22. SEVERABILITY PROVISION.

If any provision of these Rules and Regulations or the application of any provision of these Rules and Regulations to any person or any other instrumentality or circumstances shall be held invalid by a court of competent

jurisdiction the remainder of these Rules and Regulations and the application of the affected provision to other persons, instrumentalities and circumstances, shall not be affected thereby.

SECTION 23. SAVINGS.

The repeal of the CRM Rules and Regulations which notice of adoption was published in Commonwealth Register 7, Number 7 at 3883, does not release or extinguish any penalty, forfeiture or liability incurred or right ~~occurring or occurred~~ **accrued or accruing** under such law. The regulation shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of the right, penalty, or forfeiture.

PUBLIC NOTICE

NOTICE AND CERTIFICATION OF ADOPTION OF BOARD OF EDUCATION REGULATION REGARDING ALTERNATIVE LEARNING PROGRAMS

I, Herman T. Guerrero, the Chairman of the Board of Education for the Commonwealth of the Northern Mariana Islands that is promulgating Regulation 6276 regarding alternative learning settings, as published in the September 27, 2002 Commonwealth Register, pursuant to the authority provided by Article XV of the CNMI Constitution and Public Law 6-10, hereby certify that as published such regulation is an accurate and complete copy of the regulation regarding alternative learning settings, which after the expiration of the appropriate time for public comment, has been adopted without modification or amendment. I further request and direct that this Notice and Certification of Adoption be published in the CNMI Commonwealth Register.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on this 6th day of December 2002, on Saipan, CNMI.

BOARD OF EDUCATION

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

Pursuant to 1 CMC Section 2153, as amended by Public Law 10-50, the proposed Board of Education Regulation 6276 was reviewed and approved as to form and legal sufficiency by the Attorney General's Office.

Peggy Campbell
RAMONA V. MANGLONA
Attorney General

Date: 12/13/02

Filed By: [Signature]
SOLEDAD B. SASAMOTO
Registrar of Corporation

Date: 12/13/02

Received By: [Signature]
THOMAS TEBUTEB
Special Assistant for Administration

Date: 12/17/02

**NOTICE AND CERTIFICATION OF AMENDMENTS
TO THE RULES AND REGULATIONS
GOVERNING CEMETARIES AND MORTUARIES OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

I, James Hofschneider, the Secretary of Public Health which is promulgating the amendment to the Rules and Regulations governing Cemeteries and Mortuaries, as originally published in the Commonwealth Register, Volume 23, No. 9 , September 24, 2001, by signature below hereby certify that as published such Rules and Regulations are a true, complete and correct copy of the Rules and Regulation governing Cemeteries and Mortuaries previously proposed by the Department of Health which, after the expiration of appropriate time for public comment, have been adopted with minor modification as set forth below:

Section 6.4.3 DELETED in its entirety and substituted with the following:

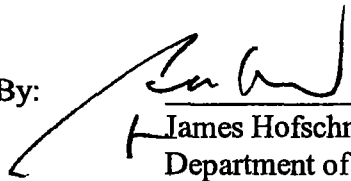
Section 6.4.3 Markers for burial plots shall be uniform in size and placement and shall have the following dimensions: three(3) inches in height, by a maximum of eighteen (18) inches in length by twelve (12) inches wide and shall be countersunk at least two inches into the ground, No headstones or other improvements are permitted on or adjacent to the burial plot to allow for access and maintenance of the burial grounds.

Section 6.4.2.4 DELETED

By signature below, I hereby certify that the Amended Rules and Regulation regarding Cemeteries and Mortuaries are a true, correct, and complete copy of the Amended Rules Regarding Cemeteries and Mortuaries adopted by the Department of Public Health. I further request and direct that this Notice and Certification be published in the Commonwealth Register.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on the 13 day of Dec., 2002 at Saipan, Commonwealth of the Northern Mariana Islands.

Certified By:



James Hofschneider, Secretary
Department of Public Health

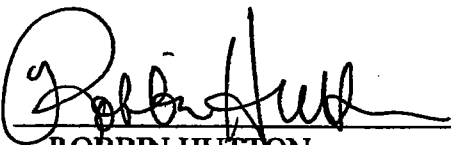
12/13/02
Date

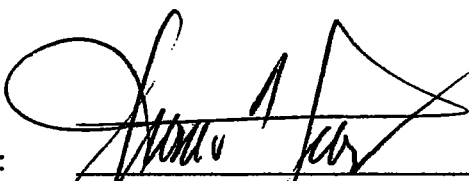
CERTIFICATION BY THE OFFICE OF THE ATTORNEY GENERAL:

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 CNMI Attorney General.

Dated this 13 day of December, 2002.

RAMONA V. MANGLONA
Attorney General

By: 
ROBBIN HUTTON
Assistant Attorney General

RECEIVED BY: 
THOMAS A. TEBUTEB
Special Assistant for Administration
Office of the Governor

12/17/02
Date

FILED BY: 
SOLEDAD B. SASAMOTO
Registrar of Corporations

12/13/02
Date

PUBLIC NOTICE

NOTICE OF CERTIFICATION AND ADOPTION OF AMENDED RULES AND REGULATIONS GOVERNING THE EDUCATIONAL ASSISTANCE PROGRAM

I, Roman C. Benavente, Scholarship Advisory Counsel Board Chairman of the Commonwealth of the Northern Mariana Islands which is promulgating the Rules and Regulations regarding Financial Assistance published in the Commonwealth Register Volume 24 Number 09 on September 27, 2002 pages 19511 to 19518, by signature below hereby certify that as published such Rules and Regulations are a true, complete and correct copy of the Rules and Regulations Governing the Educational Assistance Program previously proposed by the Scholarship Office, which after the expiration of the appropriate time for public comment, have been adopted with modifications or amendment as set forth below:

Section II Parts:

II. DEFINITION

- c. **MERIT INCENTIVE AWARD:** An additional grant awarded to qualifying fulltime and continuing undergraduate students on the basis on attainment starting with a 3.00 cumulative grade point average from a college or university. ~~of professional and hard to fill positions within the CNMI and maintenance of a minimum grade point average.~~ (Such grants awards are contingent upon the availability of funds.)
- d. ~~PRIORITY MAJOR: An area of studies determined to be essential to the Commonwealth of the Northern Mariana Islands, based on the needs of the Commonwealth and as approved by the SAB.~~
- e. **d. REMEDIAL PREPARATORY DEVELOPMENTAL COURSES:** Courses that are below college level courses. (Recipients who are taking ~~Remedial preparatory developmental~~ developmental courses towards fulfillment of a fulltime status are not eligible for merit incentive awards.) ~~Commencing with fall term 2003, remedial preparatory courses or non-degree units will no longer be funded through the EAP.~~
- f. **e. FULL-TIME STATUS:** Fulltime status for undergraduate enrollment is a semester/quarter term earning 12 or more credits, for graduates, enrollment in a semester/quarter term earning 9 or more credits or determined by the Institutions definition of semester/term. Courses that are repeated as defined on section II(i) are not counted towards fulfillment of a full-time status. This Section II(i) may be waived for applicants who are Certified Disabled ~~(II: k)~~ (II:j).
- g. **f. PART-TIME STATUS:** Part-time status for undergraduate enrollment is a semester/quarter earning 1-11 credits. Courses that are repeated as defined on section II(i) are not counted towards fulfillment of a part-time status. Commencing with Fall 2003 funding for part-time applicants will be determined upon availability of funds.

- ~~h.~~ **g. CORRESPONDENCE SCHOOL:** An educational institution offering courses (instructions, lessons, exercises, grades) through the mail.
- ~~i.~~ **h. ON-LINE COURSES:** Courses available electronically or through telecommunication systems.
- ~~j.~~ **EQUIVALENT:** ~~Equivalent of a High School Graduation is limited to a General Education Development (GED), Graduation from the Advance Development Institute, An Adult High School Diploma, or an approved National or Federal Standardized Test which provides evidence of successful completion of education at a 12th grade level.~~
- i. REPEAT COURSE:** Course/s/ students repeat due to failing grades or retaking to earn a higher grade which originally paid by the CNMI Scholarship Program.
- ~~k.~~ **j. CERTIFIED DISABILITY:** A person who is certified disabled by a licensed physician.
- k. SATISFACTORY ACADEMIC PROGRAM (SAP):** Coursework progress measured qualitatively (cumulative grade point average) and quantitatively (credits **successfully** completed).

~~m.~~ **I. LEVEL OF EDUCATION:**

- i. Certificate/Diploma: An undergraduate program less than two years.
- ii. Associate Degree: An undergraduate degree program less than a baccalaureate level.
- iii. Baccalaureate Degree: A four (4) or more year undergraduate degree program.
- iv. Masters Degree: A degree program beyond a baccalaureate level.
- v. Professional Degree: Juris Doctorate or Medical Doctor who directly provide health care.

~~**NOTE: COMMENCING WITH FALL 2003 TERM FINANCIAL ASSISTANCE FOR ALL LEVELS OF GRADUATE PROGRAMS WILL COMPLETELY CEASE.**~~

Section IV Parts:

IV.

~~**NOTE:**~~ EAP and Merit Incentive awards will not be granted to fund religious studies leading to ministry correspondence school or advance non-health care degree programs. On-line programs will be determined on a cases-by-case basis. However, on-line programs must be taken within the CNMI.

Section V Parts:

V.

a.

- iii. Provide a letter of acceptance from a recognized U.S. accredited college, university or institution as proof of admission for new students. Non-US Accredited college, university or institution must be approved by the SAB; and,

NOTE: ~~NON-US ACCREDITED COLLEGE, UNIVERSITY OR INSTITUTION MUST BE APPROVED BY THE SAB.~~

- iv. Be a permanent resident of the Commonwealth with documentation of such, (an original passport or original birth certificate and CNMI Annual tax return, drivers license, CNMI affidavit card or other documents as appropriate); and,
- v. Have graduated from High School, Advance Development Institute, General Education Development (GED) or higher.

Section VI Parts:

- VI. ELIGIBILITY REQUIREMENT FOR MERIT INCENTIVE PROGRAM-AWARD: The merit incentive award is addition to the EAP grant. To be considered for ~~an a merit~~ incentive award ~~in addition to EAP~~, a recipient of the EAP grant must satisfy the full-time undergraduate student must meet all the following criteria requirements:**
- a. ~~EAP requirements for new applicants, continuing students, or returning students; and,~~
Must be a full-time and continuing undergraduate student.
 - b. ~~Declare a priority major and submit a certified copy of acceptance into the priority major program form the Respective Department no later than two (2) weeks after the first day of instruction; and,~~
On a 4.0 scale, a student must maintain a cumulative grade point average of 3.00 to 3.49 to receive merit incentive award up to \$1,000.00 per academic year.
 - c. ~~Achieve and maintain a term GPA of 3.0 on a 4.0 scale.~~
On a 4.0 scale, a student must maintain a cumulative grade point average of 3.50 or higher to receive merit incentive award up to \$2,000.00 per academic year.

NOTE: MERIT INCENTIVE PROGRAM AWARDS ARE CONTINGENT UPON AVAILABILITY OF FUNDS. ~~LESSE~~ AMOUNTS MAY BE GRANTED. ALL INDIVIDUALS IN THE SAME CATEGORY WILL RECEIVE THE SAME AMOUNT. RECIPIENTS STUDENTS WHO ARE TAKING REMEDIAL PREPARATORY DEVELOPMENTAL COURSES IN FULLFILLING FULFILLMENT OF A FULL-TIME STATUS-ARE NOT ELIGIBLE FOR THE MERIT INCENTIVE AWARD PROGRAM.

Section VII Parts:

VII.

- c. Be accepted and enrolled for one (1) to eleven (11) credits in an accredited college or institution. ~~This precludes remedial or non-degree unit courses.~~ Proof of enrollment must be provided.

Note: PART-TIME EAP, GRADUATE PROGRAM AND MERIT INCENTIVE AWARDS ARE IS CONTINGENT UPON AVAILABILITY OF FUNDS. ELIGIBILITY AWARDS WILL BE DETERMINED AFTER SEPTEMBER 15TH FOR FALL TERM AND FEBRUARY 15TH FOR WINTER AND SPRING TERM.

Section XI Parts:

IX.

- a. Quantitative measure is ~~successfully~~ completing ~~with a passing grade~~ the following number of non-repeat credits:

b.

ii. Merit Incentive Awards:

**3.0 Term GPA (Full-time)
as defined on section VI(a, b & c)**

Section X Parts:

X.

- a. EAP Recipients who either drop or withdraw from classes and **earned failed to complete less than** the minimum required number of credits will be suspended from the program and disqualified from further participation until he/she fulfills the requirement of the award given. **~~(Courses that are repeated are not counted towards fulfillment of full-time status).~~** A student on suspension may be reinstated upon completion of hours lacking from the last term awarded.

Section XI Parts:

XI.

a.

- iv. Eight (8) academic years for **below** part-time undergraduate programs leading toward a bachelor's degree. A maximum of ten (10) years is allowed for completion of specialized majors, as required by the Institution.

NOTE: FULL-TIME FIRST YEAR STUDENTS ENROLLED IN ~~REMEDIAL-PREPARATORY COURSES OR NON-CREDITS DEVELOPMENTAL COURSES AS REQUIRED BY THE INSTITUTION~~ MAY BE ELIGIBLE FOR FINANCIAL ASSISTANCE FOR A TOTAL OF 12 PAID CREDITS. HOWEVER THIS DOES NOT EXEMPT THE RECIPIENT IN COMPLETING THE PROGRAM WITHIN THE ESTABLISHED DURATION PERIOD. DURATION OF AWARDS WILL NOT APPLY TO STUDENTS WITH CERTIFIED DISABILITY.

b.

NOTE: COMMENCING WITH ACADEMIC YEAR 2003-04 FINANCIAL ASSISTANCE FOR ALL LEVELS OF GRADUATE PROGRAMS WILL ~~COMPLETELY CEASE~~ ONLY BE MADE UPON AVAILABILITY OF FUNDS.

Section XII Parts:

XII.

- a. In recognition of the scarcity of trained manpower in the Commonwealth all recipients of grants and/or incentives are required to return to the CNMI within three (3) months after completion of his/her degree plan or non-enrollment from school and work in the CNMI Public or Private Sector for a period of ~~two years~~ **one year** for each year of financial assistance received, **unless otherwise specified by law.**
- d. Legal proceedings will be taken to recover the total amount of EAP and/or incentive awarded should a recipient fail to return to the CNMI within three (3) months **or request an extension pursuant to section XX11 b.** after receipt of his/her degree or the conclusion of his/her educational pursuit. The recipient shall pay all fees and interest charged by the collection agency, including legal expenses incurred by the government in an effort to recover EAP and/or **merit** incentive awards.

Section XIII Parts:

XIII. ~~TIME TO RETURN: A recipient must return to the CNMI within three (3) months~~

~~after his/her completion or within three (3) months after having ceased his/her educational pursuit.~~

Section XIV FRAUDULENT INFORMATION is renumbered to XIII


Section XV APPEALS is renumbered to XIV

Section XVI EFFECTIVE DATE is renumbered to XV

By signature below, I hereby certify that the proposed Rules and Regulations Governing the Educational Assistance Program as herein amended are true, correct and complete Amended Rules and Regulations Governing the Educational Assistance Program.

I further request that this Notice and Certification of Adoption be published in the Commonwealth Register.

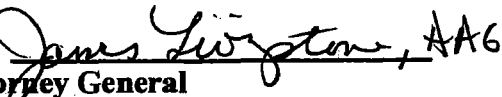
I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed in Saipan, Commonwealth of the Northern Marianas Islands.

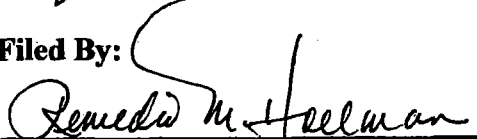
Certified By: 
ROMAN BENAVENTE
Scholarship Advisory Counsel Board, Chairperson

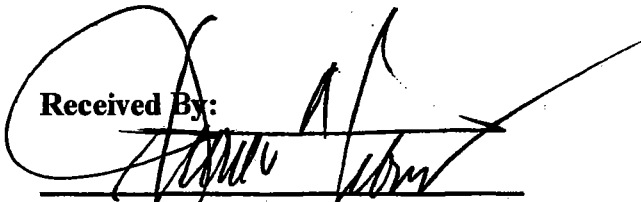
Pursuant to 1 CMC § 2153, as amended by P.L. 10-50, the rules and regulations attached hereto have been reviewed and approved as to form and legal sufficiency by the Office of the Attorney General.

Dated this 10th day of December 2002.

RAMONA V. MANGLONA
Attorney General

By: , AAG
Attorney General

Filed By: 
REMEDI0 M. HOLLMAN
Temporary Registrar of Corporation

Received By: 
THOMAS TEBUTEB
Special Assistant for Administration

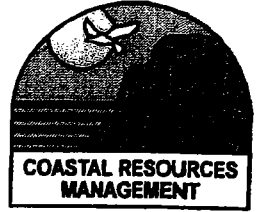
Date: 12/20/02

Date: 12.19.02



Commonwealth of the Northern Mariana Islands Coastal Resources Management

P.O. Box 10007, 2nd Floor Morgen Building
San Jose, Saipan, MP 96950



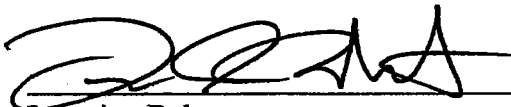
Tels: (670) 664-8300/14
Fax: (670) 664-8315

NOTICE and CERTIFICATION OF ADOPTION OF AMENDMENTS TO THE COASTAL RESOURCES MANAGEMENT (CRM) REGULATIONS

We, the undersigned CRM Agency Officials, which are promulgating the Amendments to the Coastal Resources Management Rules and Regulations published in the Commonwealth Register Volume 24 Number 09 on 27 September 2002 at pages 19519 through 19532, by signature below hereby certify that as published, such rules are true, complete and a correct copy of the Amendments to the CRM Rules and Regulations, previously proposed by the Coastal Resources Management Agency Officials, which after the expiration of appropriate time for public comment, have been adopted without modification or amendment. We further request and direct that this Notice of Certification of Adoption be published in the CNMI Commonwealth Register.

We declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Saipan, Commonwealth of the Northern Mariana Islands, on the dates indicated below.

Certified By CRM Agency Officials:



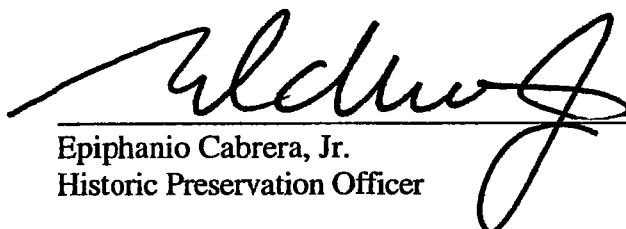
Lorraine Babauta
Executive Director LG
Commonwealth Utilities Corporation

Date: 6/19/02



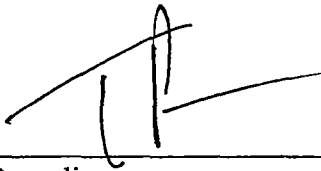
Fermin M. Atalig
Secretary
Department of Commerce

Date: 12/16/02



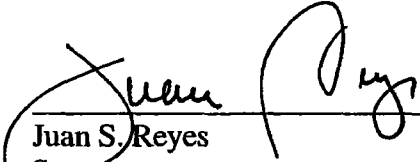
Epiphonio Cabrera, Jr.
Historic Preservation Officer

Date: 12/5/02



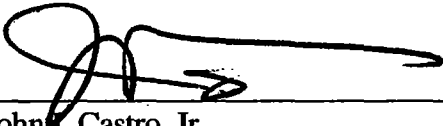
9 Thomas B. Pangelinan
Secretary
Department of Lands & Natural Resources

Date: 11/27/02



Juan S. Reyes
Secretary
Department of Public Works

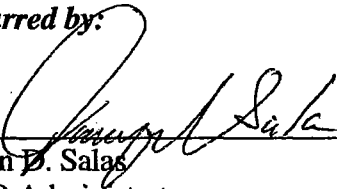
Date: 11/19/02



John I. Castro, Jr.
Director
Division of Environmental Quality

Date: 12-05-02

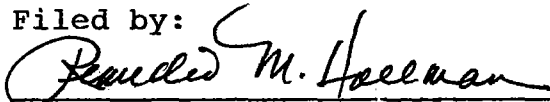
Concurred by:



Joaquin B. Salas
CRMO Administrator

Date: 12-17-02

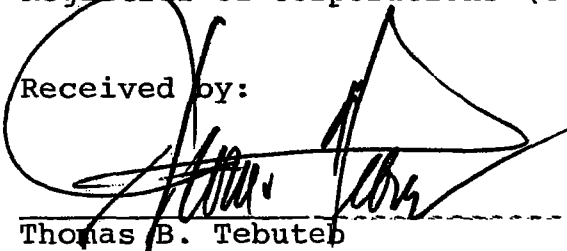
Filed by:



Remedio M. Hollman,
Registrar of Corporations (Temp)

Date: 12/23/02

Received by:



Thomas B. Tebuteb
Office of the Governor
Special Asst. for Administration

Date: 12/23/02

The following amendments are intended to add a definition to define adjacent landowners and make corrections to ensure consistency between Public Law 3-47 and the Regulations. Modifications of the regulations are consistent with the coastal resources management policies in 2 CMC § 1511.

Add to Section 5 Definitions:

- ZZ. “Adjacent Property” means real property that has at least one boundary point in common with the lot or site on which a proposed project will be located, or is separated from such lot or site only by a physical barrier such as a road or a stream.
- AAA. “Adjacent Property Owner” means a person, business, corporation, or entity who currently hold valid ownership/lease of said adjacent property.

Amend Section 8A(v)(e) Fees:

FEE AMOUNT	COST OF PROJECT
\$100	less than or equal to \$50,000
\$200	\$50,001 to 100,000
\$750	\$100,001 to 500,000
\$1,500	\$500,001 to 1,000,000

If the cost of the project exceeds one million dollars, the fee shall be \$ 1,500 plus an additional amount equal to the fee for the cost increment exceeding \$1,000,000. For example, a project that costs \$1,350,000 would be assessed a fee of \$2250 (a \$1500 fee for the first \$1,000,000 and a \$750 fee for the \$350,000 cost increment exceeding \$1,000,000). A project that costs \$2,000,001 would be assessed a fee of \$3,100 (\$1,500 for the first \$1,000,000, \$1,500 for the second \$1,000,000 and \$100 for the \$1.00 increment over \$2 million). The maximum total fee for any project shall be \$300,000.

Amend Section 8A(vii)(l) Information:

- (l) Names of adjacent property owners and copies of letters sent to them notifying them of the proposed project.
- (1) An applicant may request an exemption of this requirement where notification of every adjacent property owner would not be practical or would create an undue burden. This exemption is intended to be limited to projects such as infrastructure corridors, where the path of the corridor or project may be adjacent to a large number of properties. If the exemption is granted by CRM Agency Officials, the applicant must complete an alternative notification. The applicant would be required to publish public notice of the proposed project in a newspaper of general circulation in the CNMI at least four (4) times prior to the public hearing on the proposed project. The public notice shall include the permit number, name of project, name of applicant, map of the proposed project area as approved by CRMO, date, time and place of the public hearing, CRMO’s contact numbers, and description of the proposed project. The applicant shall obtain approval of the public notice from

CRMO prior to publishing. The applicant is responsible for all public notice fees and printing;

- (2) For purposes of this subsection, and subsection (m), adjacent property is defined in Section 5(ZZ).

Amend Section 8H Commonwealth Trial Court:

Any person aggrieved by a final decision of the CRM Appeals Board may seek judicial review in accordance with 2 CMC § 1541(b). In the event that the CRM Appeals Board does not have a quorum within sixty (60) days, the decision of the CRM Agency officials, CNMI Governor, or the CRM Administrator shall be considered summarily affirmed and the aggrieved party may seek judicial review from the Commonwealth Superior Court in accordance with 2 CMC 1541(b).

Amend Section 14 Enforcement of CRM Permits:

- A. Purpose. The provisions of this Section are intended to establish procedures whereby the CRM Administrator may enforce the terms and conditions of CRM permits. Final actions of the CRM Administrator based upon this section are final agency action reviewable directly by the Commonwealth Superior Court pursuant to the Administrative Procedure Act, 1 CMC § 9101, et seq.
- B. Grounds for Action. The CRM Administrator shall take action to enforce compliance with CRM Program policies and CRM Permit conditions in any of the following cases.
- (i) Misstatement. The CRM Permit applicant, a party or any participant in a hearing on the CRM Permit application made a material misstatement that directly and significantly affected the CRM Permit decision.
 - (ii) Permit Violation. The CRM Permit applicant or its successor in interest, has violated a material term or condition of the CRM Permit.
 - (iii) Supervening Illegality. The permitted project, as constructed or operated, has become unlawful by subsequent case law, statute, regulation, or other illegality.
 - (iv) New Environmental Impact. The permitted project has a newly discovered adverse environmental impact.
- C. Warning. The CRM Administrator, upon a determination that a permitted project violates one or more provisions of section 14 B, may issue a notice of intent to undertake CRM Permit enforcement proceedings unless the CRM Permit holder accomplishes corrective measures. This warning procedure shall not affect nor limit the CRM Administrator's duties, powers, and responsibilities under Section 14 D.
- D. Permit Enforcement Notice. If after thirty (30) days of the date the CRM Administrator issued a notice of intent under Section 14 C, the CRM Permit holder has failed to take corrective action or continues to be in violation of its CRM permit, the CRM Administrator shall issue a written permit Enforcement Notice to the CRM permit holder.
- (i) Content of Notice. A Permit Enforcement Notice shall include a statement of facts or conduct constituting the violation and shall indicate the intended action to be taken by the CRM Administrator. If the CRM Administrator intends to impose a fine for the violation(s), the Permit Enforcement Notice shall state the proposed amount of the fine. A Permit Enforcement Notice

shall provide for Permit Enforcement hearings, if requested, and inform the CRM Permit holder of his or her responsibilities and rights under this Section. The notice shall inform the permit holder that unless he requests a permit enforcement hearing within 30 days, the proposed sanction will be imposed.

(ii) Service. NO CHANGE

(iii) Response to Notice. NO CHANGE

E. Emergency Suspension. NO CHANGE.

F. Permit Enforcement Hearing. Upon receipt of a request for Permit Enforcement Hearing, the CRM Administrator shall schedule a hearing within fifteen (15) days. The CRM Administrator or his designee shall preside at CRM Enforcement Hearing, shall control the taking of testimony and evidence and shall cause to be made an audio recording or stenographic record of CRM Enforcement Hearing. Evidence presented at such hearings need not conform with any prescribed rules of evidence but may be limited by the CRM Administrator in any manner she/he reasonably determines to be just and efficient and promote the ends of justice. Permit Enforcement Hearings shall conform to the provisions of the Administrative Procedure Act, 1 CMC § 9108 et seq. The CRM Administrator shall issue a decision within ten (10) days of the close of the enforcement hearing and all orders shall be in writing and accompanied by written findings of fact and conclusions of law. The standard of proof for such hearing shall be by the preponderance of the evidence.

G. Remedies. Upon a determination by the CRM Administrator and/or CRM Agency officials that a violation did occur, the CRM Administrator may order any or all of the following remedies.

(i) Revocation. The CRM Permit may be revoked in its entirety.

(ii) Suspension. The CRM Permit may be temporarily suspended for a given period, or until the occurrence of a given event or satisfaction of a specific condition.

(iii) Corrective Measures. Measures may be ordered of the CRM Permit holder so that the project conforms to the CRM Permit terms and conditions.

(iv) Civil Fines. The CRM Administrator may impose a civil fine in an amount not to exceed \$ 10,000 per day for each day the violation of the CRM permit occurred pursuant to 2 CMC § 1543(a). For purposes of computing a fine, any day that the CRM Administrator finds that a violation of the CRM permit occurred may be counted. The CRM Administrator shall, in his discretion, set fines in an amount calculated to compel compliance with CRM Permit Conditions, applicable law, and any order issued by the Administrator, taking into consideration the value of the existing and potential damage to the environment caused by the violation, efforts at compliance, and/or any other factors that the Administrator finds relevant to the calculation.