COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
SAIPAN, TINIAN, ROTA, & NORTHERN ISLANDS

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AUGUST 22, 2003

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NOTICE AND CERTIFICATION ON ADOPTION OF REGULATIONS:

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

AUG 0 8 2003

DECLARATION OF EMERGENCY

Volcanic Eruption on Anatahan

I, JUAN N. BABAUTA, by the authority vested in me as governor, and pursuant to Article III, Section 10 of the Commonwealth Constitution and 3 CMC §5121, and in accordance with the Joint Information Release from the Emergency Management Office, Commonwealth of the Northern Mariana Islands and the Hawaiian Volcano Observatory, US Geological Survey (attached hereto and incorporated herein by this reference) hereby declare a further 30-day extension of the May 13, 2003 Declaration of Emergency for the island of Anatahan and the declaration that the island of Anatahan as unsafe for human habitation and further do hereby restrict all travel to said island with the exception of scientific expeditions. Therefore, the provisions of the May 13, 2003 Declaration of Emergency remain in effect.

This Declaration shall become effective upon signature by the Governor and shall remain effect for thirty (30) days unless the Governor shall, prior to the end of the 30-day period, notify the Presiding Officers of the Legislature that the state of emergency has been extended for a like term. The Governor shall give reason for extending the emergency.

JUAN N. BABAUTA
Governor

Cc: Lt. Governor
Senate President
House Speaker
Mayor of Northern Islands
Director of Emergency Management
Commissioner of Public Safety
Attorney General
Secretary of Finance
Special Assistant for Management and Budget
Acting Special Assistant for Programs and Legislative Review

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
Emergency Management Office
Office of the Director

Juan N. Babauta, Governor
Diego T. Benavente, Lt. Governor

Rudolfo M. Pua, Director
Mark S. Pangelinan, Dep. Director

MEMORANDUM

To: Juan N. Babauta
Governor, CNMI

AUG 11 2003

From: Acting Director

Subject: Declaration of Emergency

The state of the volcano at Anatahan is still erupting. The EMO seismic staff, in close consultation with the USGS, has once again informed me that Anatahan volcano occasionally spews ashes and releases gaseous vapors. In addition, tremors caused by the volcanic activity are frequently recorded by the seismograph at EMO from August 01 to 06.

Therefore, we are once again respectfully soliciting your assistance in extending the **Declaration of Emergency** for the island of Anatahan for another thirty (30) days. Under these conditions, restriction of entry to the said island should continue except for scientific expedition until a thorough scientific study is done and that the findings suggest otherwise. The current Declaration of Emergency will expire on August 13, 2003.

Should you have any question or concern, please call our office at 322-9528/29.

Sincerely,

Mark S. Pangelinan

Xc: Lt. Governor
SAA
Mayor, NI

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
RECEIVED
AUG 11 2003
Office of the Lt. Governor
By:

P.O. Box 10007, Capitol Hill, Saipan, MP 96950 Telephone: (670) 322-9528/9529/8001-3 Facsimile: (670) 322-7743/9500
Web page: www.cnmiemo.org

PUBLIC NOTICE OF EMERGENCY REGULATIONS AND NOTICE OF INTENT TO ADOPT AMENDMENTS TO THE IMMIGRATION RULES AND REGULATIONS SECTION 706 H

EMERGENCY: The Commonwealth of the Northern Mariana Islands, Office of the Attorney General finds that under 1 CMC § 9104(b), the public interest requires the repeal and re-enactment of Section 706H of the Immigration Rules and Regulations, published in the Commonwealth Register, Vol. 3, No. 1, February 23, 1981, Adopted Commonwealth Register, Vol. 3, No. 7, July 22, 1985. These regulations establish the definition and procedure for the classification of Foreign Student Entry Permits, pursuant to 3 CMC § 4303(q)(6). The Office of the Attorney General 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 Register 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 Office of the Attorney General finds that the adoption of these regulations upon fewer than thirty (30) days notice is necessary because the thirty-day notice period would prevent the regulations from taking effect in time for the coming school year. Accordingly, the Office of the Attorney General finds that in the interest of the public, it is necessary that these regulations are approved and adopted immediately in order to facilitate the administration of the Foreign Student Entry Permit process for incoming students of approved educational institutions.

INTENT TO ADOPT: It is the intent of the Office of Attorney General to adopt these emergency amendments to the ***Immigration Rules and Regulations, Section 706H*** as permanent, pursuant to 1CMC § 9104(a)(1) and (2). Accordingly, interested persons may submit written comments on these emergency recommendations to Clyde Lemons, Jr., Acting Attorney General, Office of the Attorney General, Second Floor, Juan A. Sablan Memorial Bldg, Capitol Hill, Saipan MP 96950 or by fax to (670) 664-2349.

Submitted by: Clyde Lemons Jr. 8/8/03
CLYDE LEMONS, JR. Date
Acting Attorney General

Concurred by: 8/10/03
JUAN N. BABAUTA Date
Governor

Received by: 8/18/03
THOMAS A. TEBUTEB Date
Special Assistant for Administration

Filed and Recorded by: Bdela Cruz 08/18/03
BERNADITA B. DE LA CRUZ Date
Corporate Register

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

Dated this 5th day of August, 2003.

Clyde Lemons Jr.

Clyde Lemons, Jr.
Acting Attorney General

PUBLIC NOTICE
EMERGENCY AMENDMENTS TO THE IMMIGRATION RULES AND REGULATIONS
SECTION 706H

This amendment is promulgated in accordance with the Administrative Procedure Act, 1 CMC § 9101, *et seq.* The Office of the Attorney General is amending the Immigration Rules and Regulations that were published in the Commonwealth Register, Vol. 3, No. 1, February 23, 1981, and adopted in the Commonwealth Register, Vol. 3, No. 7, July 22, 1985.

Citation of Statutory Authority: The Office of Attorney General is authorized to promulgate regulations for entry and deportation of aliens in the Commonwealth of the Northern Marianas pursuant to Executive Order 03-01 and 3 CMC § 4312(d).

Short Statement of Goals and Objectives: The emergency amendments to the ***Immigration Rules and Regulations*** will provide procedures for application for, and issuance of Foreign Student Entry Permits.

Brief Summary of the Proposed New Section: These emergency amendments to the ***Immigration Rules and Regulations*** are promulgated to:

(1) Establish procedures for application for, and issuance of, Foreign Student Entry Permits to full-time students who are enrolled in educational institutions or training programs that have been approved by the Office of the Attorney General as qualifying institutions; and

(2) Provide that under certain circumstances, holders of Foreign Student Entry Permits may obtain a permit to allow their dependant children and spouse to remain with them in the Commonwealth during their course of study.

For Further Information Contact: Justin J. Wolosz, Assistant Attorney General for Immigration, Office of the Attorney General, telephone (670) 664-2367 or facsimile (670) 234-7016.

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

The emergency amendments affect the ***Immigration Rules and Regulations, Section 706H***, and 3 CMC § 4303(q)(6), (9) and (8)(A).

Dated this 6th day of August, 2003.

Submitted by:

Clyde Lemons, Jr.
Acting Attorney General

EMERGENCY AMENDMENTS TO SECTIONS 706H OF IMMIGRATION RULES AND REGULATIONS

Immigration Regulation 706H is hereby repealed and re-enacted to read as follows:

H. Foreign Student Entry Permits -

1. Post-Secondary Student Entry Permit –

   a. In order to qualify for entry into the CNMI under this subsection, an applicant must be admitted to matriculate "full time" in a post secondary educational institution, which is licensed and permitted in the Commonwealth, and which the Office of the Attorney General has determined in writing is a bona-fide post-secondary institution eligible to accept foreign students under this provision. "Full time" under this subsection is defined as 12 credit hours per semester.

   b. Applicants may apply for this type of entry permit prior to formal enrollment with an approved CNMI institution, but the permit will not be issued until proof of enrollment is received and verified by the Office of the Attorney General, Division of Immigration (DOI). Upon receipt and preliminary approval by the DOI of a Foreign Student Entry Permit application and supporting materials (see Section 3 and 4, below), the DOI will issue a "Student Authorization to Board" or similar document that will allow the individual to travel to and enter the CNMI temporarily, in order to enroll in their approved institution and obtain a permit.

   c. Permission to remain in the CNMI, as granted by this subsection, shall expire upon completion of a degree or upon notification by the institution to the DOI that the student is no longer a full-time active student. It is the responsibility of the institution to notify the DOI of a student's failure to maintain "full-time" status. Failure of an institution to notify the DOI immediately when a student falls below full-time status, or has more than three consecutive days of unexcused absence from required classes, may result in revocation of that institution's approved status and denial of future of Foreign Student Entry Permits under this subsection issued for that institution.

   d. A permit issued pursuant to this subsection shall be valid for no more than one year and is renewable on an annual basis if the applicant continues to meet all conditions of the original issuance. All applicants must comply with paragraphs 3 and 4 of this section.

e. Dependents of students -

Dependants (which includes only children, under the age of eighteen, and spouses) of a holder of a Foreign Student Entry Permit issued pursuant to this subsection may be granted "Immediate Relative of Alien" entry permits pursuant to Immigration Regulation 706E; provided, however, that in addition to the requirements of that Regulation, the applicant must also submit proof that sufficient funds are or will be available from an identified and reliable source to defray all living expenses during the period of the applicant's Foreign Student Entry Permit. Provided, further, that in addition to the repatriation bond required by Immigration Regulation 706E, the applicant also must secure a $3,000 bond for each dependent for health care services or provide proof of valid medical insurance coverage. An Immediate Relative of an Alien entry permit issued pursuant to this subsection shall be valid for no more than one year and renewable on a yearly basis provided that all conditions of the original issuance are met.

2. Limited Term Student Entry Permit -

a. In order to qualify for entry into the CNMI under this subsection, an applicant must be admitted "full time" to a school or training program licensed in the Commonwealth that the Office of the Attorney General has determined in writing is a bona-fide school or training program eligible to accept foreign students under this provision. "Full time" under this subsection is defined as a program of study or training that requires at least twelve (12) hours of active participation in course work or training per week. Such bona-fide school or training program shall include but not be limited to management training programs, pre-college course work such as NCLEX or CPA training. Such bona-fide school or training program is not intended to include traditional primary or secondary school.

b. Applicants may apply for this type of entry permit prior to formal enrollment with an approved CNMI institution, but the permit will not be issued until proof of enrollment is received and verified by the Office of the Attorney General, Division of Immigration (DOI). Upon receipt and preliminary approval by the DOI of a Foreign Student Entry Permit application and supporting materials (see Section 3 and 4, below), the DOI will issue a "Student Authorization to Board" or similar document that will allow the individual to travel to and enter the CNMI temporarily, in order to enroll in their approved institution and obtain a permit.

c. Permission to remain in the CNMI, as granted by this subsection, shall expire upon completion of the coursework or program or upon notification by the institution to the DOI that student is no longer a full-time active student. It is the responsibility of the institution to notify the DOI of a student's failure to maintain "full-time" status. Failure of an institution to notify the DOI immediately when a student falls below full-time status, or has more than three consecutive days of unexcused absence from required

classes, may result in revocation of that institution's approved status and denial in the future of Foreign Student Entry Permits under this subsection issued for that institution.

d. A permit issued pursuant to this subsection shall be valid for no more than the approved course of study, and in no event for more than six (6) months, but may be renewed if the applicant continues to meet all conditions of the original issuance. All applicants must comply with paragraphs 3 and 4 of this subsection.

3. Proof of economic condition –

Applicants must prove that sufficient funds are or will be available from an identified and reliable financial source to defray all living and school expenses during the period of anticipated study. Specifically, applicants must prove that they have enough readily available funds to meet all expenses for the period of study including proof of adequate financial capability to defray all health care costs.

4. Application Requirements –

Each applicant for a Foreign Student Entry Permit shall pay a non-refundable application fee of $100 and submit:

a. A permit application, signed under penalty of perjury;

b. a completed biographical form;

c. certified copy of an applicant's passport;

d. certified copy of a police clearance reflecting an applicants criminal record over at least a ten-year period; and

e. proof of economic condition.

NOTISIAN PUPBLIKU PUT INSIGIDAS NA REGULASIÓN SIHA YAN NOTISIAN INTENSIÓN PUT PARA U MA ADOPTA I AMENDASIÓN SIHA PARA I AREKLAMENTO YAN REGULASIÓN IMIGRASIÓN SEK. 706 (H)

Insigidas: I Commonwealth I Sankattan Siha Na Islas Mariånas, Ofisinan i Abugådo Heneråt ma sodda' na papa i Lai 1 CMC Sek. 9104 (b), i enteres pupbliku ma nisisita na u ma diroga yan talun otdena i Sek. 706 (H) ginen i Areklamento yan Regulasión Imigrasión, ni ma pupblisa gi Rehistran i Commonwealth, Baluma 3, Num. 1, gi Febreru 23, 1981, ni ma adopta gi Rehistran i Commonwealth, Baluma 3, Num. 7, gi Julio 22, 1985. Este na regulasión siha ha establisi i sustansia yan minaneha para i klasifikasión i Petmisun Entråda Para I Estudiånten Estrangheru, sigun i Lai 3 CMC Sek. 4303 (q) (6). I Ofisinan i Abugådo Heneråt mås ma sodda' na i enteres pupbliku a manda i inadoptasión este na regulasión siha gi menus di trenta (30) dihas na notisia, ya put este na regulasión siha debi di u efektibu imidiåmente despues anai ma polu gi Rehistran i Koporasión, suhetu para i inaprueban i Abugådo Heneråt yan i Kinonfotmen i Gobietno, ya u efektitibu para siento bente (120) dihas.

Rason Siha Put Kinalamten Insigidas: I Ofisinan i Abugådo Heneråt ma sodda' na i inadoptasión este na regulasión menos di trenta (30) dihas na notisia nisisåriu sa i trenta (30) na tiempon notisia u probeni i regulasión siha ni para u efektibu i momento para i mamaila na sakkan eskuela, sigun, i Ofisinan i Abugådo Heneråt ma sodda' na i enteres pupbliku, na nisisåriu este na regulasión siha man ma aprueba yan adopta imidiamente put para u alibia i atministrasión i Petmisun Entråda Para Estudiånten Estrangheru para i mamaila na estudiånte siha ni man ma aprueba na institusión edukasión siha.

Intension Para U Ma Adopta: I entensión i Ofisinan i Abugådo Heneråt Na U Adopta Este Na Kinalamten Insigidas Na Amendasión Siha Para I Areklamento Yan Regulasión Imigrasión, Sek. 706 H petmanente, sigun i Lai 1 CMC Sek. 9104 (a) (1) yan (2). Este na pupblikasión este man ma proponi na Amendasión siha gi Rehistran i Commonwealth ha probeniyi notisia yan opotunidåt para sinangan. An nisisåriu, u ma na guaha inekungok pupbliku. Todu man enteresao na petsona siha siña ma entrega tinige' opinion siha put i ma propone na amendasión siha para si Clyde Lemons, Jr. Segundon i Abugådo Heneråt, Ofisinan i Abugådo Heneråt, gi segundo na bibienda , gi Juan A. Sablan Memorial Bldg., giya Capitol Hil, Saipan MP 96950 pat fax gi (670) 664-2349, durånten i trenta (30) dihas na tiempo imidiamente tinatitiyi i pupblikasión i man ma propone na amendasion siha.

Ninahalom: _____ _____

Clyde Lemons, Jr. Fecha

Acting Para I Abugådo Heneråt

Kinonfotmen: _____ 8/25/03

DIEGO T. BENAVENTE
ACTING GOVERNOR

Fecha

Rinisiben: _____ 8/26/03

Thomas A. Tebuteb
Espisiåt Na Ayudånte Para Atministrasión

Fecha

Pine'lo yan Rinikot as: _____ 8·22·03

Bernadita B. Dela Cruz
Rehistran i Koporasion

Fecha

Sigun i Lai 1 CMC Sek. 2153, ni inamenda ginen i Lai Pupbliku 10-50, i areklamento yan regulasión ni checheton esta man ma ribisa yan aprueba ni put para u fotma yan ligåt sufisiente ginen i Ofisinan Abugådo Henerål gi Commonwealth I Sankattan Siha Na Islas Mariånas.

Ma fecha este mina _____ na diha gi Agosto, 2003.

_____

Clyde Lemons, Jr.
Acting Para I Abugådo Henerål

Notisian Pupbliku

Insigidas Na Amendasion Siha Para I Areklamento Yan Regulasión Siha Para Imigrasión Sek. 706 H

Este na amendasión ma establisi put para u konsiste yan i Akton Administrative Procedures, Lai 1 CMC Sek. 9101, et. seq. I Ofisinan i Abugådo Henerål a amemenda i Areklamento yan Regulasión Imigrasión ni ma pupblisa gi Rehistran i Commonwealth, Baluma 3, Numiru 1, gi Febreru 23, 1981, ya ma adopta gi Rehistran i Commonwealth, Baluma 3, Numiru 7, gi Julio 22, 1985.

Sitasion i Aturidåt i Lai: I Ofisinan i Abugådo Henerål ma aturisa para u establisi regulasión siha para i Entråda yan dipotasión i estrangheru siha gi Commonwealth I Sankattan Na Islas Mariånas sigun i Otden Eksekatibu 03-01 yan Lai 3 CMC Sek. 4312 (b).

Kada'da' Na Mensåhe i Goals yan Objectives: Insigidas Na Amendasión Siha Para I Areklamento Yan Regulasión Imigrasión debi di u probeniyi minaneha para i aplikasión para, yan i ninå'en i Petmisun Entråda Para Estudiånten Estrangheru.

Kada'da' Na Mensåhe Put i Ma Propone I Nuebu Na Seksiona Siha: Este Insigidås Na Amendasión Siha Para I Areklamento yan Regulasión Imigrasión ma establisi para:

(1) U establisi minaneha para aplikasión para, yan i ninå'en i, Petmisun Entrada Para Estudiånten Estrangheru para i estudiånten "full time" ni ma enlista siha gi institusión edukasión siha pat programan training siha ni man ma aprueba ginen i Ofisinan I Abugådo Henerål ni institusión siha ni man kualifikao;

(2) Probeniyi na papa kondisión, i gumugu'ot i Petmisun Entråda Para Estudiånten Estrangheru u enggånsa gi chochu part-time gi Commonwealth.

(3) Probeniyi papa kondisión, i gumugu'ot i Petmisun i Petmisun Entråda Para Estudiånten

Estrangheru siña u chule' i petmisu put para u sedde i famagu'on dipendente yan asagua para u fañåga ya u fan siha gi Commonwealth durånten i estudiån-niha gi eskuela.

Para Mås Infotmasión Ågang: Justin J. Wolosz, Ayudanten I Abugådo Henerål Para Imigrasión, Ofisinan i Abugådo Henerål, tilifon (670) 664-2367 pat fax (670) 234-7016.

Sitasión i Man Achule' yan/put Man Inafekta Na Lai Siha, Areklamento yan Regulasión Siha, yan Otden: Insigidas Amendasión Siha inafekta i Areklamento yan Regulasión Imigrasión, Sek. 706 H yan Lai 3 CMC Sek. 4303 (q) (6),(9) yan (8) (A).

Ma fecha este mina _____ na diha gi Agosto, 2003.

Ninahålom: _____
Clyde Lemons, Jr.
Acting Para I Abugådo Henerål

Insigidas Na Amendasión Siha Para Sek. 706 (H) Gi Areklamento Yan Regulasión Imigrasión Siha

Regulasión Imigrasión 706 (H) ma diroga yan talun otdena put para u taitai gi:

H. Petmisun Entråda Para Estudiånten Estrangheru

1. Petmisun Entråda Para Estudiånten Post-Secondary-

A) An para u kualifikao para i entrådan CNMI gi papa este na subsection, i aplikånte debi di u enlista para "full-time" gi institusión edukasión post secondary, ni ma lisensia ya ma petmisu gi Commonwealth , ya i Ofisinan i Abugådo Henerål ma ditetmina gi tinige' na magåhet i institusión post secondary ni ma ilihe para u fan aksepta estudiånten estrangheru papa este na probensión. I "full-time" papa este na subsection ma difina na dosse (12) oras na kreditu kada semester.

B) Siña i aplikånte u fan aplika para este na klåsen petmisun entråda tinatitiyi ni rikohida yan i ma aprueba na institusión CNMI, lao i petmisu ti u ma laknos esta ma aprueba i rikohida ni ma risibi ya ma aprueba ginen i Ofisinan i Abugådo Henerål, Dibisión i Imigrasión (DOI). An ma risibi primet na apruebasión ginen i Dibisión i Imigrasión put i aplikasión Petmisun Entråda Para Estudiånten Estrangheru yan matiriåt siha ni u sinapotta (atan Seksiona 3 yan 4, gi san papa), i Dibisión i Imigrasión u laknos i "aturisasión Estudiånte Para u Hålom" pat dokumento ni man a'achule ni para u sedde' i indibiduåt para u karera guatto ya u hålom gi CNMI tempulårio, an para u enlista gi ma aprueba na institusión ya u hentan i petmisu.

C) Petmisión debi di u såga gi CNMI, ni ma aturisa ginen este na subsection, debi di u måtai tiempon-ña an ma funåyan i eskuela pat an ma notifika i Dibisión i Imigrasión put i diskuidun i estudiånte ni ti ma susteni i pusision "full-time" gi eskuela. An ma diskuida siha i institusión para u notifika i Dibisión i Imigrasión imidiåmente an paddong pusisión-ña i estudiånte, pat guaha mås di tres dihas ni man a'a'tatiyi na finåtta ya ti resonåble na finåtta ginen i leksión ni ma nisisita, i risuttan i pusisión ma aprueba yan ti ma aprueba i institusión siña ma diroga gi mamaila na tiempo para i Petmisun Entråda Para Estudiånten Estrangheru papa este na subsection ni malaknos para ayu na institusión.

D) I petmisu ni ma laknos sigun este na subsection debi di u båli menos di mås un anu ya u ma rinueba kada sakkan yanggen i aplikånte a kuntinua muna afakcha i kondision siha ginen i originåt na linaknos. Todu i aplikånte siha debi di ma tatiyi i paragrafun tres yan kuattro gi este

na seksiona.

E) Estudiånte siha ni man gai dipendente siha I Dipendente siha (ni man ma inklusu famagu'on, papa i idåt dies si ochu, yan i asagua siha) ni ma gugu'ot i Petmisun Entråda Para Estudiånten Estrangheru ni man ma entrega sigun para este na subsection siña man ma nå'i' ni "hihot na familian i estrangheru" Petmisun Entråda sigun para i Regulasión Imigrasión 306 (E); probeniyi, na anai ma omenta i nisisidåt i regulasión siha, i aplikånte debi di u entrega ebidensia na sufisiente na fondo pat debi di u muteru ginen i ma identifika yan angokkuyon na fengkas put para u apåsi todu i ginastun lina'la' durånten i tiempon i Petmisun Entråda Para I Estudiånten Estrangheru. Probeniyi, mås, na anai ma omenta i inapåsen i repatriation ni ma nisisita ginen i Regulasión Imigrasión 706 E, i aplikånte lokkue debi di u sensura tres mit pesos ($3,000.) ni para u ma apåsi kada dipendente ni setbisiun inadahen hinemlo' pat u probeniyi ebidensian kobietton siguridåt medikåt (medical ins. coverage). I hihot na familian i Estrangheru ni ma gugu'ot i petmisun entråda ni mana entrega sigun este na subsection debi di båli para menos di un åño ya u ma rinuenueba gi såkkan na manera probeniyi na i kondision siha gi inentregan oriyinåt u afakcha.

2. Gai tiempo na Petmisun Entråda Para Estudiånten Estrangheru

A) An para u kualifikao para i entråda gi CNMI papa este na subsection, i aplikånte debi di u enlista "full-time" gi eskuela pat programan training ni ma lisensia gi Commonwealth ya ma ditetmina gi tinige' ni Ofisinan Abugådo Henerål na magåhet na eskuela pat programan training na kualifikao para u aksepta estudiånten estrangheru siha papa este na probensión. I "full-time" papa este na subsection ma defina na programan estudiu pat training ni ma nisisita menos di dosse (12) oras gi sumaonao karetatibu gi dinirihen cho'cho' pat training gi simåna. Gi magåhet na eskuela pat programan training debi di u enklusu lao tai tiempo para profesionåt , programan training inenkatga, cho'chu dinihiren pre-college tat kumo NCLEX pat CPA na training. I eskuela pat programan training ni magåhet tat kumo ti ma intensióna para u enklusu uniku na tradisionåt pat segundo na eskuela.

B) I aplikånte siha siña ma aplika este na klåsen petmisun entråda antes di enlistan fotmåt yan i man ma aprueba na institusión gi CNMI, lao i petmisu ti u ma laknos esta guaha ma risibi yan aprueba i ebidensian enlista ginen i Ofisinan i Abugådo Henerål, Dibisión i Imigrasión (DOI). An ma risibi ya tinatitiyi ni

aprueban i DOI put i aplikasión Petmisun Entråda Para Estudiånten Estrangheru yan matiriåt siha ni sinapopotta (atan i Sek. 3 yan 4, gi sanpapa), i DOI debi di u entrega i "aturisasión Estudiånte para i kuetpo" pat man achule' na dokumento ni para u sedde i indibiduåt para u hanao para yan u hålom gi CNMI tempurårìu, an para u enlista gi inaprueban institusión ya u chule' i petmisu.

C) Petmisión put para u såga gi CNMI, ni ma sedde' ni este na subsection, debi di u fakpo tiempon-ña an komplidu i dinihiren i che'cho-ña pat programa pat an ma notifika i institusión i DOI na i estudiånte esta ti "estudiånten karetatibu (active) gi full time. Responsiblidåt i institusión para u notifika i DOI put i deskuidun i estudiånte ni ta ma susteni i pusision "full-time" gi eskuela. An ma deskuida siha i institusión para u notifika i DOI imidiåmente an poddong pusisión-ña i estudiånte papa i full-time na pusisión, pat guaha mås di tres (3) dihas ni man atatiyi na finåtta ya ti resonåble na finåtta gi leksión ni ma nisisita, i risuttan i pusisión ni ma aprueba yan ti ma aprueba i institusión siña ma diroga gi mamaila na tiempo para i Petmisun Entråda Para I Estudiånten Estrangheru papa este na subsection ni ma malaknos para åyu na institusión.

D) I petmisu ni ma laknos sigun este na subsection debi di u båli menos di i ma aprueban i dinihiren i estudiu, ya sin kasu mås ki sais (6) mesis, lao siña ma rinueba yanggen i aplikånte a kontinua muna afakcha i kondisión siha ginen i oriyinåt na linaknos. Todu i aplikånte siha debi di ma tatiyi i parafun tres (3) yan kuattro (4) gi este na seksióna.

3. I aplikånte debi di u entrega ebidensia na guaha sufisiente na fondo pat debi di u muteru ginen i ma identifika yan angokkuyon na fengkas put para u apåsi todu i ginastan lina'la' durånten i tiempon i estudiu ni ma antisipa. Spesifikåtmente, i aplikånte siha debi di u prueba na guaha fondo ni nahung yan muteru para u na afakcha todu i ginasta siha para i tiempon estudiu ni inenklusu ebidensian sufisiente na fengkas para u apåsi todu i ginastan i inadahen hinemlo'.

4. Nisisidåt siha para i aplikasión-

Kada aplikånte para i Petmisun Entråda Para I Estudiånten Estrangheru debi di u ma apåsi i aplikasión ni presu-ña ni ti mana nanalu tatte' (non-refundable) siento pesos ($100.00) ya u ma na hålom.

* I aplikasión petmisu, ni ma fitma papa i pena yan chatmanhula

* I komplidu na fotman biographical

* Kopian i paspotten i aplikånte ya ma settifika

* Kopia ni ma settifika put i klinarun pulusia (police clearance) ni ha rifleflekta i rikot kriminåt gi mapus dies (10) åños na tiempo, ya

* Ebidensian kondisión ekonomia

ARONGORONGOL TOULAP REEL GHITIPWOTCHUL ALLÉGH ME ARONGOL IGHA E MENGI EBWE FFILLÓÓY LLIWEL KKAAL NGÁLI ALLÉGHUL IMMIGRATION TÁLIL 706H

GHITIPWOTCH: **Commonwealth** matawal wóól falúwasch Marianas, Bwulasiyool Sów Bwungúl Allégh e schuungi bwe faal 1CMC tálil 9104 (b), bwe llól tipeer toulap reel rebwe yáayá ngáli akkayuuló me allégh-sefál reel tálil 706H ngáli alléghúl Immigration, iye e arongowow mellól Commonwealth Register, Vol. 3, No. 1, Maaischigh 23, 1981, fillóól Commonwealth Register, Vol. 3, No. 7 Wuun 22, 1985. Allégh kkaal iye e arongaawow reel aweewel me mwóghútúghútúl ammwel reel lisensial atel meleitey kka schóól lúghúl, sángi allégh 3 CMC tálil 4303 (q) (6). Bwulasiyool Sów Bwungúl Allégh ebwal schuungi bwe llól aghiyaghiir toulap reel fillóól allégh kkaal llól eliigh (30) rál yaal arongowow, bwelle igha allégh kkaal ebwe fisch mwirilóól yaal ammwelló mellól Register of Corporations, sángi alúghúlúghúl Sów Bwungul Allégh me Alléghúyal Sów Lemelem, iye ebwe lo bwe ebwe fis llól ebwughuw ruweigh (120) rál.

BWULÚL GHITIPWOTCH: Bwulasiyool Sów Bwungúl Allégh e schuungi bwe fillóól reel allégh kkaal llól eliigh (30) ráálil yaal arongowow ye e welepakk bwelle reel eliigh raalil yaal arongorong igha ebwe afálli allégh kkaal sángi yaal ebwe fis ótol imwal raghefisch llól ráágh kka e tooto. Bwelle, Bwulasiyool Sów Bwungúl Allégh e schuungi bwe llól tipeer toulap, e ghi welepakk allégh kkaal reel ebwe alúghúlúghúló me fillóól bwelle ebwe mescherágh mwóghútúghútúl lemelemil lisensial atel meleitey kka schóól lughul ngáli atel meleitey kka re tooto sángi alúghúlúghúl educational institutions.

AGHIYAGHIL FILLÓ: Mángemangil Bwulasiyool Sów Bwungúl Allégh igha ebwe fillóóy mwóghútúghútúl ghitipwotchul lliwel kkaal ngáli alléghúl Immigration, Tálil 706H iye aa bwung, sángi 1CMC tálil 9104 (a) (1) me(2). akkateél pomwol lliwel kkaal mellól Commonwealth Register ye ebwe ayoora ammataf reel aghiyágh.Ngáre e welepakk, arongorong iye rebwe ayoora. Schóókka eyoor mángemángiir nge rebwe ischilong reel Clyde Lemons, Jr., Deputy Sów Allégh sángi pomwol lliwel. Bwulasiyool Sów Bwungúl Allégh, second floor, Juan A. Sablan memorial Bldg, Capitol Hill, Seipél MP 96950 me ngáre fax ngáli (670) 664-2349, ótol eliigh ráálil sángi yaal arongowow pomwol lliwel kkaal.

Isáliiyallong: _____ _____
CLYDE LEMONS, JR. Rál
Acting ngáli Sów Bwungúl Allégh

Alúghúlúgh sángi: _____ _____
JUAN N. BABAUTA Rál
SÓW LEMELEM

Mwir sángi: _____ 8/26/03
THOMAS A. TEBUTEB Rál
Sów alillisil Sów Lemelem

Aisis sángi: _____ _____
BERNADITA B. DELA CRUZ Rál
Corporate Register

Sángi 1CMC tálil 2153, iye aa lliwel mereel Alléghul Toulap 10-50, ghitipwotchul allégh kkaal nge raa takkal amweri me alúghúlúghúló mereel CNMI Bwulasiyool Sów Bwungúl Allégh.

Ráálil ye _____llól Elúwel, 2003.

_____
Clyde Lemons, Jr.
Acting ngáli Sów Bwungúl Allégh

ARONGORONGOL TOULAP
GHITIPWOTCHUL LLIWEL KKAAL NGALI ALLÉGHÚL IMMIGRATION TALIL 706H

Lliwel yeel ye re atééw bwelle reel Administrative Procedure Act, 1CMC tálil 9101, et seq. Bwulasiyool Sów Bwungúl Allégh ebwe liweli alléghúl Immigration kka aa arongowow mellól Commonwealth Register, Vol. 3, No. 1, Mááischigh 23, 1981, me fillóól llól Commonwealth Register, Vol. 3, No. 7, Wuun 22, 1985.

Akkatéél Bwángil: Bwulasiyool Sów Bwungúl Allégh e mweiti ngáli akkatéél allégh kkaal reel atootolong me assáfálil aramasal lúghúl (aliens) mellól Commonwealth matawal wóól falúwasch Marianas sángi akkaleéyal Sów Lemelem 03-01 me 3CMC tálil 4312 (d).

Aweewel Bwángil: Ghitipwotchul lliwel kkaal ngáli alléghúl Immigration iye ebwe ayoora mwóghútúghútúl application reel, me isisiwowul lisensia reel atel meleitey kka schóól lúghúl.

Aweewe reel pomwol tálil ye ffé: ghitipwotchul lliwel kkaal ngáli alléghúl Immigration ikka e akkatééwow reel:

(1) Ffééř mwóghútúghútúl application reel, me isisiwowul, lisensial atel meleitey kka schóól lúghúl ngáli full-time students kka raa toolong llól educational institutions me ngáre progroomal akkabwung ye aa alúghúlúghúló mereel Bwulasiyool Sów Bwungúl Allégh ngáre fillongol institutions; me

(2) sángi akkááw mwóghútúghút, schóól akkamwuschul lisensial atel meleitey kka schóól lúghúl nge emmwel rebwe ló bweibwogh lisensia reel ebwe mmwelil olighat me ilisam rebwe loo ngáli llól Commonwealth ótol yaar meleitey.

Reel ammataf faingi: Justin J. Wolosz, Alillisil Sów Bwungúl Allégh reel Immigration, Bwulasiyool Sów Bwungúl Allégh, tilifoon (670) 664-2367 me ngáre facsimile (670) 234-7016.

Akkatéél akkááw Allégh: ghitipwotchul lliwel kkaal ye e aweiresi Alléghúl Immigration kkaal, Talil 706H, me 3CMC tálil 4303 (q) (6), (9) me (8) (A).

Ráálil ye _____ llól Eluwel, 2003.

Isáliiyalong:

Clyde Lemons, Jr.
Acting ngáli Sów Bwungúl Allégh

GHITIPWOTCHUL LLIWEL KKAAL NGÁLI TÁLIL KKA 706H REEL ALLÉGHÚL IMMIGRATION

Allégh̀úl Immigration 706H ekke akkayúúló me allégh-sefál bwe ebwe yeel táttálil:

H. Lisensial atootolong reel atel meleitey kka schóól lúghúl -

1. Post-Secondary Student Entry Permit -

a. Reel ubwe fillong llól CNMI faal tálil yeel, applicant ebwe toolong llól college " full-time " llól post secondary educational institution, iye aa lisensia me fillo̧ mellól Commonwealth, me igha Bwulasiyool Sów Bwungúl Allégh e alúghúlúghúw kapasal post-secondary institution ye ebwe fil yaal ebwe atiwa atel lúghúl faal aghiyagh yeel. " Full time " faal tálil yeel iye ekke aweewey bwe 12 credit hours ótol semester.

b. Applicant nge emmwel ebwe tingór lisensial atootolong mmwal igha ebwe fillong, fengal me alúghúlúghúl CNMI institution, essóbw isisiwow lisensia mille yaar bwughil alúghúlúgh mereel Bwulasiyool Sów Bwungúl Allégh, division-ul Immigration (DOI). Sángi receipt me alúghúlúgh mereer DOI reel lisensial atootolongol atel meleitey kka schóól lúghúl me lamal tingór (amweri talil 3 me 4, faal), DOI ebwe isisiwow " student Authorization to Board " me lamal tilighi ye ebwe mmwel bwe schóól fáraġh (travel) me ebwe temporório yaal toolong llól CNMI, bwelle ubwe enroll reel institution ye e alughulugh me bweibwoghol lisensia.

c. Permission reel ubwe lootiw CNMI, ye e toowow faal tálil yeel, ebwe akkayúúló ngáre raa takkal amweri me mwir sángi institution ngáli DOI iye atel meleitey rese schiwel full-time lo. Elo bwe bwángil institution reel ebwe aronga DOI reel atel meleitey ye ese féérú kapasal full-time. Ngare institution ese aronga DOI reel ólighat ye ese bwung yaal full-time , me aa yoor eleral ngáre lapeló yaal unexcused absence sángi yaal titingór class, nge emmwel ebwe akkayuulo yaal institution alughulugh me lisensial atootolongol atel meleitey kka schóól lúghúl faal tálil ye e isisiwow ngáli institution we mwete ló mmwal.

d. Linsensia ye e isisiwow sángi talil yeel nge ebwe fisch llól eew ráágh (one year) me ebwe lliwel sefál llól ráágh ngáre applicant e sóbweey yaal féérú alongal kapasal mesammwal lisensia. Alongéér applicants nge rebwe tabweey paragraphs 3 me 4 llol talil yeel.

e. Dependents of students

Dependents (iye bwal toolong olighat, sangi seigh me tiwoow rághil me ilisam) ye schóól akkamwúschúl linsensial atel meleitey kka schóól lúghúl ye e isisiwow mereel tálil yeel nge emmwel rebwe ngálleey linsensial atootolong " Immidiate Relative of Alien " sángi alléghúl Immigration 706; Iwe, bwelle reel sóbwóllóól yááyál ngáli allégh, applicant ebwe isisilong alúghúlúghúl fundo igha e fis iye reel ebwe óbwóssuw yaal lóllo ótol yaal applicant titingór lisensial atootolong reel atel meleitey kka schóól lúghúl. Bwal eew, reel ássáfalil ye e yááyá ngáli alléghúl Immigration 706E, applicant ebwal alúghúlúghúw elengaras (3,000) reel escháy olighát reel health care services me ayoora affat reel medical insurance coverage ye fisch. Reel lisensial Immediate Relative of an Alien ye e toowow mereel tálil yeel nge ebwe fisch llól eew ráágh me ebwe ffeer -sefál ngáre e tabweey alongal kapasal mmwal aweewe.

2. Aighúghúl linsensial atel meleitey -

a. Reel ubwe fillong llól CNMI faal tálil yeel, applicant ebwe toolong llól " full-time ngáli imwal rághefisch me ngáre leliyal akkabwung ye e linsensia mellól Commonwealth igha Bwulasiyool Sów Bwungúl Allégh e alúghúlúghúw imwal rághefisch me leliyal akkabwung ye e fis reel ebwe mmwelil atel meleitey kka schóól lúghúl faal aweewe yeel. " full-time " faal tálil yeel nge re aweweey bwe leliyal akkabwung ye e yááyá ngáli seigh me eew (12) ótol igha ebwe ghatch mwóghútúghútúl angaang me ngáre akkabwuung ótol sumwoola. Reel imwal rághefisch me leliyal akkabwung ebwal toolong nge essóbw aighugh ngáli management training program, angaangal pre-college course sibwe ira NCLEX me akkabwungúl CPA. Sángi imwal rághefisch ye e fisch me progroomal leliyal akkabwúng ese aghiyaghiy bwe ebwal toolong traditional primary me secondary school.

b. Applicants nge emmwel ebwe apply reel tappal linsensial atootolong mmwal igha ebwe enroll reel CNMI institution ye e alúghúlúgh, iwe,, lisensia essóbw isisiwow ngáre schagh eyoor alúghúlúghúl enrollment ye re bwughi me affat mereel Bwulasiyool Sów Bwungúl Allégh, division-un Immigration (DOI). Sángi reciept me alúghúlúgh mereel DOI reel alongal aghilighilil application sángi linsesial atootolongol atel meleitey kka schóól lúghúl (amweri tali 3 me 4, faal), DOI ebwe isisiwow " student Authorization ngali Board " me tilighi ye e ghil iye ebwe mmwel eschay ebwe fárágh (travel) ló me temporório yaal toolong llól CNMI, reel ubwe enroll llól alúghúlúghúl institution me bweibwoghol linsensia.

c. Titingór igha ebwe lootiw llól CNMI, ye e toowow mereel tálil yeel, ye ebwe akkayúúló ngáre schagh aa takkaló angaangal me ngáre progroomal me alúghúlúgh mereel institution ngáli DOI igha atel meleitey ese full-time reel yaar meleitey. Bwángil institution bwe ebwe aghuley ngáli DOI igha atel meleitey ebwe full-time. Ngare institution ese aghuley ngáli DOI reel atel meleitey ye ese full-time, me ngáre aa yóór eluuw rállil kka e unexcused absence sángi imwal raghefisch, emmwel ebwe akkayúúló alúghúlúghúl institution's mwete ló mmwal reel linsensial atootolongol atel meleitey kka schóól lúghúl faal tálil yeel ye e isis ngáli institution.

d. Linsensia ye toowow mereel talil yeel ebwe fisch llól alúghúlúghúl abwungubwung, me essóbw aighúgh llól oloow (6) maram, nge emmwel rebwe amweri ngáre applicant e sóbweey féérúl alongal kapasal mmwal aweewe. Alongéér applicant rebwe tabweey paragraphs 3 me 4 reel tálil yeel.

3. Alúghúlúghúl kapasal economia -

Applicant ebwe alúghúlúghúw bwe fundo nge ebwe toowow mereel reliable finance source igha ebwe óbwóssuw yaal lollo me yaal meleitey ótol abwungubwung, ye schééschéél, applicants ebwe alúghúlúghúw bwe eyoor fundo ye ebwe ghil ngáli alongal meel ótol meleitey me bwal alúghúlúghúl salaapi ye ebwe óbwóssuw alongal health care.

4. Yááyáál ngáli application -

Schóól apply reel lisensial atel meleitey kka schóól lúghúl nge ebwe óbwossuw non-refundable application méél ebwughúw ($100) nge aa isisilong -

a. tingórol linsensia, makkey faal féffféér nngów

b. schééschéél kapasal

c. copial alúghúlúgh reel pasapotiil applicant;

d. alúghúlúgh me affatal copia sángi polisia ye e aghilighil ngáli kapasal schóól tingor llól seigh ráagh: me

e. alúghúlúghúl kapasal economia

NOTICE OF A PROMULGATION OF THE EXCEPTED SERVICE PERSONNEL REGULATIONS FOR EMERGENCY ADOPTION AND PUBLISHING FOR PUBLIC COMMENT

CONTENTS: PROPOSED NEW EXCEPTED SERVICE PERSONNEL REGULATIONS, to replace:

the existing EXCEPTED SERVICE PERSONNEL REGULATIONS that were published in the Commonwealth Register, Vol. 17, No. 5, at 13414, May 15, 1995,

EMERGENCY: The Office of Personnel Management finds that it is in the best interests of the Commonwealth Government to promulgate a new Excepted Service Personnel Regulations. This need is due to questions over the validity of the existing Excepted Service Personnel Regulations due to their initial promulgation by the Civil Service Commission and the necessity to remove any uncertainty regarding the terms of employment for existing and future Excepted Service contracts and appointments. The new regulations include a total review and updating of the existing regulations and also revise the benefit program for Excepted Service employees in order to adapt the program to the Commonwealth's current recruitment needs and to implement the limitations to the newly executed Excepted Service contracts effected by the Governor's Directive No. 223. Additionally, due to the economic situation of the Commonwealth Government and pursuant to 1CMC § 9104(b), the public interest requires the adoption of the proposed amendments to the Excepted Service Personnel Regulations in that the new provisions provide a significant savings to the Commonwealth through this amended benefit package for Excepted Service Contract Employees.

PUBLIC COMMENTS: It is the intent of the Office of Personnel Management to adopt the newly promulgated Excepted Service Personnel Regulations as permanent, pursuant to 1CMC § 9104(a)(1) and (2). Therefore, this publication of the new regulation in the Commonwealth Register provides notice and opportunity for comment. If necessary, a public hearing will be provided. All interested persons may submit written comments about the proposed new sections to the Director of Personnel, Office of Personnel Management, Office of the Governor, P.O. Box 5153 CH, Saipan, MP 96950, during the thirty-day period immediately following publication of the proposed regulations.

AUTHORITY: The Governor of the Commonwealth of the Northern Mariana Islands, as the Chief Executive and ultimate Appointing and Contracting Authority for the Executive Branch of the Commonwealth Government, has delegated the authority to develop and promulgate regulations for the Excepted Service Personnel System to the Office of Personnel Management.

Submitted by: _____ 25 JUL 2003
JUAN I. TENORIO — Date
Director of Personnel

Received by: _____ 7/30/03
THOMAS A. TEBUTEB — Date
Special Assistant for Administration

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

Dated this 31st day of July, 2003.

Acting Attorney General
Clyde Lemons, Jr.

By: _____
Acting ~~Assistant~~ Attorney General

Filed and recorded by: _____ 7/31/03
BERNADITA B. DELA CRUZ — Date
~~REMEDIO M. HOLLMAN~~
COMMONWEALTH REGISTER

NOTISIAN DEKLARASIÓN POT REGULASIÓN SIHA NI MAN MA DISKÅTA GI KONTRÅTAN I SETBISIUN EMPLIAON GOBIETNO

SINAGUAN: Ma Propone Nuebu Na Regulasión Siha Ni Man Ma Diskåta Gi Kontråtan I Setbisiun Empliaon Gobietno para u kuentåye: i man presente na Regulasión Siha Ni Man Ma Diskåta Gi Kontråtan I Setbisiun Empliaon Gobietno ni ma pupblisa gi Rehistran Commonwealth, Baluma 17, Numiru 5, gi 13414, gi Måyu 15, 1995.

INSIGIDAS: I Ofisinan i Enkatgao pot Manehånten Empliaon Gobietno ma sodda' na i enteres i Gobietnamenton Commonwealth para u Deklåra nuebu Na Regulasión Siha Ni Man Ma Diskåta Gi Kontråtan I Setbisiun Empliaon Gobietno. Este na nisisidåt para u kuestiona siha i balidåt i man presente na Regulasión Siha Ni Man Ma Diskåta Gi Kontråtan I Setbisiun Empliaon Gobietno pot rason i finenina na Deklarasión ginen i Kumisión Setbisiun Sibet yan i nisisidåt pot para u mana suha maseha håfa ti man siguru pot i tiempon empliao para i man presente yan i man mamaila na kontråta yan inapunta siha. I nuebu na regulasión siha ha enklusu i tutåt ribisan yan renueban i man presente ne regulasión siha, yan lokkue u ma ribisa i programa gi prisente na Nisisidåt Enlistan Commonwealth yan u implimenta i suheta siha para i nuebu na linaknos Regulasión Siha Ni Man Ma Diskåta Gi Kontråtan I Setbisiu ni inifekta ginen i Otden Gobietno Numiru 223. Entonses lokkue, pot i situasión ekonomia gi Gobietnamenton Commonwealth yan sigun i Lai 1 CMC Sek. 9104 (b), i enteres pupbliku ma nisisita i inadoptasión i man ma propone na amendasión siha para i Regulasión Siha Ni Man Ma Diskåta Gi Kontråtan I Setbisiun Empliaon Gobietno enao na i nuebu na probesión ha probeniyi signifikånte na pinelo siha para i Commonwealth ginen este ma amenda na paketin binifisiu para i Regulasión SIha Ni Man Ma Diskåta Gi Kontråtan I Setbisiun Empliaon Gobietno Siha.

SINANGAN PUPBLIKU SIHA: I intensión i Ofisinan i Enkatgao pot Manehånten Empliaon Gobietno para u ma adopta i nuebu ne Deklarasión Pot Regulasion Siha Ni Man Ma Diskata Gi Kontratan I Setbisiun Empliaon Gobietno petmanente, sigun i Lai 1 CMC Sek. 9104 (a) (1) yan (2). Enao na, este na pupblikasión i nuebu na regulasión gi Rehistran i Commonwealth ha probeniyi notisia yan opottunidåt para sinangan. An nisisariu, i inekungok pupbliku u ma probeniyi. Todu i man enteresao u fan submiti tinige' opinion siha pot i man ma propone na seksion siha ni nuebu para i Direktot Empliaon Gobietno Siha, Ofisinan Enkatgao pot Manehånten Empliaon Gobietno Siha, Ofisinan Gobietno, P.O. Box 5153 CH, Saipan, M.P. 96950, durånten i trenta dihas insigidas tinatitiyi i pupblikasión i man ma propone na regulasión siha.

ATURIDÅT: I Gobietnon i Commonwealth I Sankattan Siha Na Islas Mariånas, Mågas i Eksekatibu yan alusuttimo na inapunta yan Aturidåt Kontråtråta para i Dipåttamenton Eksekatibun i Gobietnamenton Commonwealth, ni ha disigna i aturidåt ni para u establesi yan deklåra i Regulasión Siha Ni Man Ma Diskåta Gi Sisteman Setbisiu Empliao Gobietno para i Ofisinan i Enkatgao pot Manehånten Empliaon Gobietno Siha.

NINAHALOM: _____ 8/18/03

Juan I. Tenorio **Fecha**
Direktot i Enkatgao pot
Manehånten Empliaon Gobietno

RINISIBEN: _____ 8/19/03

Thomas A. Tebuteb **Fecha**
Espisiåt Na Ayudånte Para Atministrasión

Sigun i Lai 1 CMC Sek. 2153, ni inimenda ginen i Lai Pupbliku 10-50, i areklamento yan regulasión ni checheton guine esta man ma ribisa yan apreba pot para u fotma yan ligåt sufisiente ginen i Ofisinan Abugådo Henerål gi Commonwealth I Sankattan Siha Na Islas Mariånas.

Ma fecha este mina _____ na diha gi _____, 2003.

Acting Para I Abugådo Henerål
Clyde Lemons, Jr.

Ginen: _____
Ayudånten Abugådo Henerål

Rinikot yan Pinelon: _____ 8-19-03
Remedio M. Hollman
Acting Para I Rehistran Koporasión
Fecha

Arong reel akkatéél alléghúl Excepted Service Personnel reel ghitipwótchul filló *me arongorong reel mángemángiir toulap*

Ótol: Pomwol alléghúl Excepted Service Personnel ye e ffé, igha ebwe alusu:

alléghúl Excepted Service Personnel ye eyoor ikka e arongowow mellól Commonwealth Register, vol. 17, no. 5, ngáli 13414, Moozo 15, 1995,

Mwóghutúl ghitipwotch: Bwulasiyool Personnel Management e schuungi bwe llól bwángil Commonwealth Government igha ebwe atééw alléghúl Excepted Service Personnel kka e ffé, Aghiyaghil alléghúl Excepted Service Personnel ikka eyoor ighila me bwelle igha yaar akkatéé sangi Civil Service Commission me igha ebwe atootowow meeta kka ese aghiliwel reel ótol yaal angaang reel alléghúl Excepted Service Personnel kka ighila me mwete ló mmwal. Allégh kka e ffé nge ebwal toolong yaar rebwe amweri fischiiy me mwóghutáágháli allégh kka eyoor ighila me liweli progrómaal benefit ngali Excepted Service employees bwelle igha ebwe fil progroma ngáli Commonwealth iye ighila reel mwóghutul umumw me ebwe ayoora aighúghúl ngáli Excepted Service contract ye e ffé iye e allégh sángi Sów Lemelem No. 223, bwal eew, bwelle igha mwóghútúghútúl economia sángi Commonwealth Government me sángi allégh 1CMC tálil 9104 (b) , llól tipeer toulap igha rebwe yááyá ngáli filló yeel reel pomwol lliwel kkaal ngáli alléghúl Excepted Service Personnel igha allegh ye e ffe ebwe ayoora scheescheel aisis ngáli Commonwealth sángi lliwelil benefit package reel Excepted Service Contract Employee, (ngaliir schóól angaangal contract).

Aghiyaghiir toulap: Mángemángil Bwulasiyool Personnel Management reel fillóól alléghúl akkatéél Excepted Service Personnel ye ffé, sángi 1CMC tálil 9104 (a) (1) me (2). Iwe, arong yeel reel allégh ye e ffé mellól Commonwealth Register ebwe ayoora arong reel aghiyagh kkaal. Ngáre e welepakk, arong yeel iye rebwe ayoora. Schóókka eyoor yaar mángemáng nge rebwe ischilong reel pomwol tálil kka e ffé ngali Samwoolul Personnel, Bwulasiyool Personnel Management, Bwulasiyoo Sow Lemelem, P.O. Box 5153 CH, Seipél, MP 96950, ótol eliigh ráál mwiril arongowowul reel pomwol allégh kkaal.

Bwángil: Sów Lemelem mellól Commonwealth matawal wóól falúwasch Marianas, me ngáre Samwoolul Executive me Sów ffil me iye eyoor Bwangil reel Contract mellól ráárál Executive mellól Gobennool Commonwealth iye re sáleti ngáli bwángil, bwe ebwe ffééř me akkatéé allégh kkaal ngáli Excepted Service reel Lemelemil Personnel, mwete ngáli Bwulasiyool Lemelemil Personnel.

Isáliiyalong: _____ 8/18/03
Juan I. Tenorio — Rál
Samwoolul Personnel

Mwir sángi: _____ 8/19/03
Thomas A. Tebuteb — Rál
Sów alillisil Sów Lemelem

Sángi allegh ye 1CMC tálil 2153, iye aa lliwel mereel Alléghúl Toulap 10-50, allégh kkaal ikka e appasch nge raa takkal amweri alléghéló mereel CNMI Bwulasiyool Sów bwúngúl allégh

Ráálil ye _____ llól _____,2003

Acting ngáli Sów Bwúngúl Allégh
Clyde Lemons, jr.

Sángi:_____
Sów Bwúngúl Allégh

Aisis sángi:_____ _____
~~Remedio M. Hollman~~ Ral
Acting ngali Registrar of Corporations

EXCEPTED SERVICE PERSONNEL REGULATIONS

PART I
GENERAL PROVISIONS

I.A AUTHORITY

The Excepted Service Personnel System is limited to employees filling those positions that have been specifically exempted by law from the Civil Service System, as authorized by Article XX of the CNMI Constitution. The CNMI Constitution and 1 CMC §8131 designate specific positions as exempted from the Civil Service system. The Commonwealth Supreme Court held that exemption from the Civil Service system means an exemption from the authority of the Civil Service Commission and thus, constitutes an exemption from the *Personnel Service System Rules and Regulations* or any other rules promulgated pursuant to the Commission's Authority, per *Manglona v. Excepted Service Commission,* 3 NMI 248 (1992). Jurisdiction for the administration and regulation of the Excepted Service Personnel System rests with the Office of the Governor for all Executive Branch activities.

Governor's Directive 206, issued September 15, 1998, delegated authority for the administration and regulation of the Excepted Service Personnel System to the Office of Personnel Management (OPM) within the Office of the Governor. The Directive specifically assigned to the Office of Personnel Management the responsibility for promulgating rules and regulations for the Excepted Service Personnel System.

Nothing in the Excepted Service Personnel Regulations will be construed as amending the provisions of the Nonresident Workers Act, as amended. Any conflict that may arise in applying these regulations in conformity with the Nonresident Workers Act shall be resolved in accordance with the provision of the Nonresident Workers Act and applicable regulations there under.

I.B APPLICABILITY

These regulations shall apply to employment of personnel in all excepted service positions within the Commonwealth government. However, nothing in these regulations shall be construed to apply to the payment of compensation and benefits, termination or service of elected officials, executive branch department heads, resident department heads, members of boards, commissions and councils, or other gubernatorial appointments. These regulations do not apply to the administrative staff of the Judicial and Legislative Branches of the Government. The Excepted Service Personnel Regulations promulgated by the Office of Personnel Management apply only to positions within the departments, offices, boards, commissions, councils and agencies of the Executive Branch, as defined in *Marianas Visitors Bureau v. Commonwealth of the Northern Mariana Island,* Civil Action 94-0516 (June 1994). Agencies within the Executive Branch can be exempted from these regulations if the agency is specifically authorized by law to administer and regulate its personnel system. The Executive Branch includes resident departments, offices, and agencies in the First and Second

Senatorial Districts, including the Offices of the Mayors and Municipal Councils. These Regulations are not applicable to any agency or activity specifically authorized by law to establish its own personnel rules and regulations.

It is not the intention of these regulations to create any legally protected property interests in excepted service employment or any employment right or benefit not explicitly stated in these regulations or the employment contract. All excepted service employment in the Executive Branch, as defined in *Marianas Visitors Bureau v. Commonwealth*, of the Commonwealth government, may be terminated at the will of the employee and/or employer pursuant to the terms of the contract and these regulations.

Publicly elected officials, department heads, including resident department heads, other constitutional or statutory gubernatorial or mayoral appointments, and individuals on independent service contracts or other contracts processed through the procurement system are not excepted service employees. Appointed members of boards and commissions are not members of the excepted service unless the position is established as a budgeted full time employee of the government.

I.C PURPOSE

These Regulations establish regulatory direction for employing, compensating, providing employee benefits and effecting other personnel actions for excepted service employees. These regulations shall be construed and applied to promote the following underlying purposes and policies:

1. Simplify, clarify, and modernize the excepted service employment policies and practices of the Executive Branch, as defined in *Marianas Visitors Bureau v. Commonwealth*, of the Commonwealth Government.

2. Establish consistent excepted service employment policies and practices among various departments, offices, agencies and activities of the Executive Branch, as defined in *Marianas Visitors Bureau v. Commonwealth*, of the Commonwealth Government.

3. Create increased public confidence in the procedures followed in excepted service employment.

4. Ensure the fair and equitable treatment of employees within the Excepted Service Personnel System of the Executive Branch of the Commonwealth Government.

5. Provide safeguards for the maintenance of an excepted service personnel system of quality and integrity.

I.D DEFINITIONS

For purposes of these regulations, the following terms shall be defined as follows:

1. **Dependent(s)**: Spouse, minor children, unmarried and under 21 years of age, physically or mentally handicapped children incapable of supporting themselves, regardless of age, wholly dependent parents of Employee or spouse, or minor children by previous marriage, unmarried and under 21 years of age, for whom the Employee or spouse have legal custody. Children by a previous marriage who are primarily domiciled by court order in other than the Employee's household are not considered dependents.
2. **Employee**: As used in this regulation, an Excepted Service Employee.
3. **Employer**: Any executive branch official with hiring authority; a hiring official.
4. **Excepted Service Contract**: Employment contract entered into by the Employee and Employer for a term of not less than one year, subject to the availability of funds, budgeted FTEs and any statutory limitations.
5. **Excepted Service Employee**: A contracted employee holding a position that is exempted from the Civil Service system, pursuant to the laws of the Commonwealth.
6. **Excepted Service Employment**: Employment contracted within the executive branch, as defined in *Marianas Visitors Bureau v. Commonwealth,* in a position that is exempted from the Civil Service system, pursuant to the laws of the Commonwealth.
7. **FTE**: Full-time employee.
8. **Willful Abandonment**: When an Excepted Service employee is absent without authorized leave for a combined total of ten (10) days without valid reason during a twelve (12)-month period.
9. **Termination for Cause**: Termination for cause before the end of the contract term may be for any of the following reasons:

    a. failure or inability to perform competently
    b. willful misconduct
    c. willful abandonment of job
    d. substantial or repeated violation of law, or of these regulations, or of department or agency rules or policies
    e. willful failure or inability to plan, manage or evaluate employee or unit performance in a timely or effective manner
    f. conviction of a felony or other crime involving moral turpitude
    g. other good cause that adversely affects the Employee's ability to perform the job or that may have an adverse effect on the department or agency if employment is continued.

PART II
STAFFING AND ADMINISTRATION

II.A RECRUITMENT AND SELECTION PROCEDURES

1. An Employer who seeks to fill a vacant position will initiate a Request for Personnel Action (RFPA) for recruitment. Upon certification of the availability of funds by the Department of Finance and the availability of a FTE by the Office of Management and Budget, the Director of Personnel will authorize a vacancy announcement to initiate a search for a qualified and suitable person. The terms for the position shall be in accordance with the position description. The recruitment and selection process will follow procedures established by the Director of Personnel.

2. An existing position is deemed to be vacant upon expiration of the present employment contract. The position can be announced sixty (60) days before the end-date of the current employment contract if the intent is not to renew the incumbent.

3. There is no requirement for the Employer to renew an excepted service employment. If the Employer elects to renew the employment contract of an Excepted Service Employee, the Employer may request the Director of Personnel to waive the announcement of the position, unless the incumbent is a non-resident employee and the announcement is required by the Nonresident Workers Act, as amended.

4. Newly established or otherwise unfilled positions will be announced. Provided, however, when necessary for the provision of essential services, as justified by the Employer with concurrence of the Governor, the Director of Personnel may waive the requirement of a vacancy announcement for selection of a candidate for any position within the Excepted Service. However, prior to waiving the vacancy announcement, the Director of Personnel shall require certification of the availability of funds by the Secretary of Finance and availability of a FTE by the Office of Management and Budget for the position to be filled. Such waivers cannot be granted for non-resident workers, as per the Nonresident Workers Act, as amended.

5. Deputy secretaries, division directors, special assistants and executive secretaries to the heads of the principle executive branch departments, ungraded directors of offices or agencies, and the special assistants and executive secretaries to the heads of commissions, boards, councils, government corporations and autonomous agencies may be appointed without announcement. These unannounced appointments must meet reasonable minimum qualification requirements recommended by the hiring authority and approved by the Director of Personnel, if requirements have not already been established by statute or regulation.

6. Upon selection of an applicant the Employer will submit a Request for Personnel Action.

The selected candidate will not be authorized to begin work until the action and contract have been fully routed and approved, a negative report has been received for the pre-employment drug test, all other requirements have been met and the Director of Personnel has made payroll certification that the employee has been employed in accordance with relevant statutes and regulations.

7. The Director of Personnel may authorize a properly selected candidate to begin work while the hiring documents are still undergoing processing, if the Employer has approved the hire and has justified the essential nature of the services requiring the immediate need for the employee. Such authorizations to work for the provision of essential services shall be limited to a ninety (90)-day period and no services may be performed thereafter until completion of the processing of the hiring documents. A negative report for the pre-employment drug test must have been received for the Employee before work authorization can be granted.

II.B EFFECTIVE DATES

1. **Employment Start Date.** Employment for all Excepted Service Employees, whether residing inside or outside the Commonwealth at the time of hire, shall be effective on the first day the Employee reports to work. Expatriation travel time is outside the employment period and will not be compensated.

2. **Separation.** Separation upon completion of the term of employment shall be effective on the last day of the term of the employment contract.

3. **Early Termination.** Early termination of employment, with or without cause, shall be effective on the date of termination stated in the termination letter. Repatriation travel time is outside the employment period and will not be compensated.

II.C DUTY STATION AND WORK ASSIGNMENT

1. Duty stations are defined as Saipan, Rota, Tinian and the Northern Islands.

2. The employee is employed for the specific position and assigned to a specific duty station as identified in the employment contract. However, with the Employee's consent, the Employee may be assigned to another related employment position and to another duty station, based upon the needs of the government.

3. If the transfer of employment and duty station involves a permanent move for a period in excess of six (6) months to another island, the employee shall be entitled to transportation for self and dependents, if any, and shipment of household effects, not to exceed 1,500 pounds for a single status employee or 3,000 pounds for an employee with dependents. This benefit is available only in cases where the transfer is initiated by the

government.

4. Temporary assignments to another duty station for periods of not more than ten (10) consecutive work days do not require the Employee's approval, if the assignment is required by the needs of the government.

II.D COMPENSATION AND WORK SCHEDULES

1. The salary will be subject to budget appropriations and will be expressed in terms of the gross amount to be paid during a twelve (12)-month annual period, and for each of the twenty-six (26) bi-weekly pay periods.

2. Periods of compensable time shall include time worked during the assigned work schedule, overtime for overtime-eligible employees, legal holidays, and approved annual, sick, administrative and other leaves, as defined herein. Periods of Absence Without Leave (AWOL) and Leave Without Pay (LWOP) will not be compensated and will be subject to appropriate timekeeping and administrative action.

3. The standard government workweek is Monday through Friday with the standard workday from 07:30 a.m. to 4:30 p.m. The Employee's specific workday and workweek may differ from the standard workweek on a permanent basis, or vary from time to time, according to the needs of the government. Every effort shall be made to maintain a reasonable five (5)-day, forty (40)-hour work schedule, but the schedule is subject to variation, to include required overtime for overtime-eligible employees, extra hours for overtime-exempt employees, shifts of differing duration and broken periods of duty, according to the needs of the government.

4. All employees are covered by the Federal Fair Labor Standards Act (FLSA). Under the FLSA, the Commonwealth is considered to be a single employer. Employees cannot waive their rights under FLSA. An Employee will be designated by the Director of Personnel as overtime-eligible or overtime-exempt based upon the duties performed and in accordance with the federal FLSA. Such designated executive, administrative and professional employees are exempt from, and shall not be paid, overtime payment. These terms have the meanings given them in the federal Fair Labor Standards Act. The Employee's overtime eligibility status is stated in the Excepted Service Contract.

5. Overtime for overtime-eligible employees shall be approved in accordance with a procedure established by the department or activity. The Employer shall also establish a policy to address administrative actions for unauthorized overtime work. However, prohibition of unauthorized overtime does not relieve the Employer of the requirement to pay for time actually worked. Overtime is that time a non-exempt employee is directed or permitted to work in excess of the 40 hours during a standard work week (168 consecutive hours in seven consecutive days. Employers may apply different work

periods for health care employees, or different work periods and overtime thresholds for law enforcement and fire employees, as permitted by federal law. Such overtime hours are paid at 1 ½ times the regular rate of pay, as defined in the Fair Labor Standards Act.

6. Compensatory time-off can be used to replace monetary payment for overtime-eligible employees, at the discretion of the Employer. In such cases replacement will be at the rate of one and one-half (1 ½) hours of compensatory time-off for each one (1) hour of overtime worked. The Employee's acceptance of Excepted Service Employment serves as an agreement to receive compensatory time-off in lieu of paid overtime. The Employer can require the Employee to use the compensatory time-off that they have earned, rather than allowing it to excessively accumulate or paying it as overtime. Restated, this means that the Employer can schedule compensatory time-off periods and require the Employee to take that time-off. This does not prevent an Employee from also scheduling time off at a time of his or her choosing, as long as approving the request does not unduly disrupt government operations.

7. The Director of Personnel may approve compensatory time or extra payment to an overtime-exempt employee, at the recommendation of the Employer, in exceptional situations. Such situations will be considered the exception, not the rule, and will be limited to declared emergencies and extraordinary work requirements. In such cases compensatory time-off or extra payment will be on a one-to-one regular base pay basis.

II.E SPECIAL EXCEPTED SERVICE EMPLOYMENT

Employees hired to fill excepted service positions of a special nature that are needed in the public pursuant to 1 CMC § 8131(a)(3), (5), (9), (10) or (11), or under other statutory authorities, shall be hired in accordance with the provision of the authorizing statute, the terms of these regulations and the employment contract signed by the Employer and Employee. Benefits shall be provided pursuant to the terms of the employment contract.

PART III
EMPLOYEE BENEFITS

III.A EXPATRIATION AND REPATRIATION

Expatriation and Repatriation benefits are only provided to Excepted Service employees hired from outside the Commonwealth or those Excepted Service employees hired within the Commonwealth and transferred to a post outside the Commonwealth. Benefits will not be duplicated in situations where both spouses are employed by the government, regardless of employing entity. The Government does not provide any insurance coverage for periods of expatriation or repatriation travel and assumes no liability for injury or loss or damage of property

1. **Expatriation.** Travel and transportation expenses shall be paid by the Employer as follows:

   a. Coach or tourist class air transportation costs by the shortest direct route for the Employee and the dependents from the point of recruitment to the CNMI.

   b. No salary will be paid during the period of travel.

   c. The Employer shall pay a stipend to the Employee within sixty (60) days of the employment start date to cover, at the discretion of the Employee, shipment and/or acquisition of personal effects. The stipend shall not exceed $3,000 for an employee without accompanying dependents or not exceed $6,000 for an employee with accompanying dependents. At the discretion of the Employer, with the concurrence of the Director of Personnel, the stipend may be paid, prior to the employment start date in the form of a vendor payment for shipment only.

2. **Repatriation**

   a. Upon completion of the agreed upon period of service under this contract or any subsequent excepted service contract entered into upon the expiration of this contract, the Government shall pay the benefits set out above in I.I.a with the following conditions:

      (1) **Travel.** Provide a one-way coach-class ticket to the point of recruitment for employee and dependents. Tickets cannot be exchanged for cash. The Employer will be discharged of the responsibility for repatriation benefits if they are not utilized within three (3) months of the termination date, or if the Employee accepts employment within the Commonwealth government during this three (3)-month period.

If a minor child of an Employee reaches the age of 21 years, such dependent, at government expense, will be eligible for repatriation to point of recruitment upon his or her consent. However, the Employer will be discharged of this responsibility if repatriation benefits are not utilized within one (1) year of the dependent attaining the age of 21 years.

(2) **Stipend**

(a) If the employee is on a one-year contract:

i. Upon completion of one year of service, 50% of the stipend provided in III.A1.c.a above shall be paid.

ii. Upon completion of two years of service, 75% of the stipend provided in III.A1.c.a above shall be paid.

iii. Upon completion of three years of service, 100% of the stipend provided in III.A1.c.a above shall be paid

(b) If the employee is on a two-year contract:

i. Upon completion of one year of service, no benefit will be provided

ii. Upon completion of two years of service, 75% of the stipend provided in III.A1.c.a above shall be paid

iii. Upon completion of three years of service, 100% of the stipend provided in III.A1.c.a above shall be paid.

b. No salary will be paid during the period of travel.

3. **Check-out:** Before repatriation benefits are afforded and the final paycheck is issued, the Employee must complete check-out procedures as established by the Office of Personnel Management.

4. **Carry Over of Benefits:** An Employee who has earned the contractual repatriation benefits may carry over these benefits to any subsequent employment within the Executive Branch or to any other Employer within the Commonwealth government and will be eligible to receive them at the end of employment with the Commonwealth Government. No benefit will be duplicated, regardless of the number of contract periods.

5. **Early Termination of Contract:** "Early termination" occurs where the Employee resigns or willfully abandons his/her position or is terminated for cause prior to the end of the contract term.

a. If an Employee terminates the contract within the first year:

(1) The Employer will not be liable for any repatriation expenses.

(2) The Employee must repay the cost to the Employer of the Expatriation benefits enumerated in this regulation, and other costs paid by Employer related to recruitment.

(3) The Director of Personnel, with the recommendation of the Employer, may waive (1) or (2) and provide repatriation benefits including shipping and airfare to point of recruitment on a compassionate basis

b. If an Employee on a two-year contract terminates the contract after completing one year of service, the Employer will not be liable for any repatriation expenses.

6. **Reemployment:** An Employee who has separated from government service and has utilized contractual repatriation benefits will not be eligible for expatriation or repatriation benefits in a new contract if rehired by the Commonwealth government within six (6) months from the date of separation.

7. **Transition:** Those employees on contract on the effective date of these regulations shall retain their contractual personal effects and household goods shipping benefits until their utilization at the end of employment. The household goods storage benefit will be continued as it is on the current contract and will be renewed for not more than two years.

III.B HOUSING

Housing benefits shall apply only to Excepted Service Employees whose point of recruitment is outside the Commonwealth of the Northern Mariana Islands and those Excepted Service Employees hired within the Commonwealth and transferred to a post outside the Commonwealth. An Excepted Service Employee recruited outside the Commonwealth shall receive either housing or housing allowance at the election of the Employee, but not the two simultaneously. If the Employee elects housing, it is provided pursuant to a revocable license and not as a tenancy or leasehold. The housing allowance shall not exceed $600 per month for an employee without dependents and $800 per month for an employee with dependents.

1. If government housing is unavailable and private housing has not been arranged for the Employee, the Employer shall pay a temporary lodging allowance to the Employee equal to the government's established per diem rate for travel at the duty station, for a period not to exceed thirty (30) days. When the Director of Personnel has determined that this period is insufficient to move into permanent housing, a longer period may be authorized.

2. Government housing is intended for the use of the Employee and his or her dependents.

No person who is not a dependent may reside in government housing for more than thirty days, unless it is approved in writing by the Director of Personnel.

3. No Employee whose contract has been terminated or has expired shall remain in the provided quarters longer than fourteen (14) days after that termination or expiration, unless continued residence is approved by the Director of Personnel upon request of the Employer.

4. The Employee is responsible for utility and trash collection costs.

5. The Employee is responsible for returning government furniture/appliances to the Employer at the termination of his contract of employment, in a similar condition as that at the beginning of his occupancy of the government housing, ordinary wear and tear excepted. At the termination of the contract, subsequent to the departure from the premises, the Employer or his designee shall inspect the premises. If cleanup or repairs, due to the Employees actions or neglect are required, the Employee will be assessed the cost of the corrective action.

6. The Employee is responsible for taking reasonable action to protect government housing entrusted to the Employee from damage caused by a storm. Election of housing creates an assumption of risk by the employee and creates no warranty of habitability or quiet enjoyment.

7. Any housing benefit, regardless if it is in the form of housing or housing allowance, shall not exceed five (5) consecutive years from the date of initial employment. For all current employees the five (5) year term of this benefit will start at the effective date of these regulations.

8. The housing benefit will not be duplicated in situations where both spouses are employed by the government, regardless of the employing entity.

9. The Employee shall comply with all housing regulations promulgated by the Office of Personnel Management.

III.C ANNUAL LEAVE

1. Annual leave, or vacation, shall be granted for the purpose of rest and relaxation. Except as provided in this section, Employees who have less than three (3) years of creditable service shall earn annual leave at the rate of four (4) hours per pay period. Employees with three (3) but less than six (6) years of creditable service shall earn annual leave at the rate of **six (6) hours per pay period**. Employees with six (6) or more years of creditable service shall earn annual leave at the rate of eight (8) hours per pay period.

2. Activity heads, division directors, deputy secretaries, executive secretaries, special assistants of the Governor, Lieutenant Governor and department heads, medical doctors, practicing attorneys and executive directors of principal boards and commissions shall earn annual leave at the rate of eight (8) hours per pay period.

3. Annual Leave accrual rate per pay period for health care professionals, engineers and other professionally qualified Excepted Service Employees with advanced degrees and/or exceptional skills or experience shall be at a rate not to exceed eight (8) hours, and:

   a. Based, specific to each employee, upon:

      (1) the critical need to fill the position;
      (2) the availability of qualified applicants; and
      (3) the amount and quality of related education, training and experience possessed by the Employee.

   b. An Employee employed in the first year of the initial contract shall not be entitled to use Annual Leave during the first ninety days of employment. Annual leave earned during this period will be credited to the Employee upon completion of this initial period. This restriction does not apply to Employees employed on an immediately subsequent contract.

4. Excepted Service Employees shall accrue annual leave at the rate set forth in their employment contract. If the Employee takes Leave Without Pay (LWOP) or is in an Absence Without Leave (AWOL) status there will be no leave accrual for that pay period.

5. Annual Leave may be used only upon prior written approval of the Employer and will be scheduled based upon the needs of the Employer. Annual Leave requests must be made in advance, except in cases of bona fide emergencies, on a leave request form provided by the Office of Personnel Management. All annual leave requests must be approved by the immediate supervisor and division director. In smaller organizations where divisions may not exist, the heads of such organizations shall approve annual leave. The Employer will approve all properly submitted leave requests unless the needs of the government prevent the absence of the Employee.

6. Employees serving on government boards and commissions who elect to take leave without pay during their performance of duties on a board or commission shall accrue annual leave for that service time.

7. Annual leave must be utilized during the contract period. Except as provided in subsections (8), (10) and (11) below, any annual leave not utilized will be converted to sick leave at the end of the employment term. No cash payment will be made for unused annual leave, except as provided for in subsections (10) and (11) below.

8. If an offer and acceptance for a new employment contract is agreed upon, or if an excepted service employee accepts conversion to civil service status, accrued and unused Annual Leave credits from the prior period of employment, not to exceed 160 hours, shall be carried over to the new employment contract, or status in cases of conversion to civil service status. Notwithstanding this limit on leave, in order to comply with the 160-hour limit, due to the critical nature and need for the services by the Commonwealth government, the Employer may allows, with the approval of the Director of Personnel, the employee to accumulate up to 240 hours of annual leave and carry this amount over into a subsequent employment period. Unused annual leave in excess of the limits cited above will be converted to sick leave.

9. Employees converting from the civil service to excepted service status will be authorized to carry over not more than 160 hours of annual leave. Hours in excess of this amount will be converted to sick leave if not used prior to conversion.

10. The Director of Personnel may, upon the recommendation of the Employer and with the concurrence of the Governor, approve a lump-sum cash payment of up to 160 hours of unused annual leave in cases of involuntary separation due to reasons of bona fide personal emergency beyond the control of the employee.

11. **Transition Provision:** Excepted Service employees employed at the time that these regulations become effective will not lose accumulated annual leave at the end of the current contract. The provision of the existing contract that allows lump-sum cash payment or carry-over will be honored. Employees are encouraged to carry-over any leave balance rather than requesting a lump-sum cash payment. If an Employee elects to carry-over the annual leave balance, a transition period of two years, without loss of annual leave, will be allowed to reduce the balance to 160 hours. At the end of this two-year grace period the provisions of Subsection (7) above will apply. The Employee's decision to carry-over the current leave balance must be made prior to entering into a subsequent period of employment. This election is irrevocable and cannot be subsequently changed to request a cash payment.

III.E Sick Leave

Sick leave shall accrue to the Employee at the rate of four (4) hours per pay period, provided the Employee has been in pay status as required by the Excepted Service employment contract. If the Employee takes Leave Without Pay (LWOP) or is in an Absence Without Leave (AWOL) status there will be no leave accrual for that pay period. Government employees serving on government boards and commissions who elect to take leave without pay (LWOP) during such performance shall accrue leave for that service time.

1. The Employee is entitled to use accrued sick leave from the time sick leave is first earned.

2. Any absence on sick leave where the Employee misses more than three (3) continuous days of work must have the illness verified by a note from a medical doctor in order to claim sick leave.

3. The Employee is not entitled to any payment for accrued and unused sick leave upon completion of an employment contract or termination of employment.

4. If an offer and acceptance for a new period of employment is agreed upon under a new employment contract/appointment, all accrued and unused sick leave credits from the prior contract/appointment will be carried over, provided that if the Employee is separated from government service for a period longer than three (3) years, the employee shall be divested of accumulated sick leave.

5. If the Employer has reasonable grounds to believe that the Employee is misusing sick leave, or requesting sick leave for purposes other than illness, the Employer may request proof of illness from a health care professional for any period of illness. If the certification is not provided, or is unpersuasive, the supervisor may deny the sick leave request.

6. Sick Leave may be accumulated without limit.

7. Excepted Service Employees are eligible for sick leave bank program pursuant to applicable regulations adopted on October 16, 1997 and published in the Commonwealth Register, Vol. 19, No. 11, on November 15, 1997, at pages 15748-15757.

III.F LEAVE WITHOUT PAY

Leave without pay for 90 days or less may be taken only after obtaining the written approval of the department director. Leave without pay in excess of 90 days must be approved by the Director of Personnel upon recommendation by the Department Head.

III.G ADMINISTRATIVE LEAVE WITH PAY

Administrative leave with pay may be granted by the Governor for a public purpose. Administrative leave with pay may be granted by the Employer to an Employee serving on government boards, councils, and commissions, provided the Employee does not receive compensation from the board, council, or commission, and, if deemed for an employment related purpose, for a period of not to exceed ten (10) days per annum.

III.H HOLIDAYS

The Employee shall be released from work on all legal holidays, except during emergencies,

without loss of pay or charge to leave account.

III.I ADVANCE LEAVE

Where, for good reason, the Employee requires an advance of annual or sick leave, the Director of Personnel may grant leave in advance up to a maximum of one-half (½) of the total earnable leave credits for one (1) year from the date the request is approved or for the remainder of the employment contract/appointment, whichever is shorter. Subsequent leave earnings shall serve to replace the amount of advance leave taken. In the event an Employee resigns from his or her employment, any annual or sick leave overdraft must be paid as part of the final clearance.

III.J COURT LEAVE

The government encourages its employees to fulfill their obligations as citizens and residents of the Commonwealth. Thus, employees who are called upon to serve as jurors and witnesses may, at their option, be granted Court Leave for such period as required by the Court. Employees who are called to jury duty or as witnesses shall present their Summons to their immediate supervisor together with a completed Request for Leave for his signature and processing. Employees using Court Leave to cover the period of absence shall turn over to the Commonwealth Treasurer such jury or witness fees (as distinct from expense allowances) as they receive from the Court or summoning party. Expense allowances paid the Employee for whatever purpose may be retained by the Employee to defray the expenses for which granted.

III.K COMPASSIONATE LEAVE

Full-time excepted service Employees may be granted compassionate leave of no more than five (5) workdays, not necessarily consecutive, in cases of death in the immediate family of the Employee. For the purpose of this sub-part, the term "immediate family" shall include a mother, father, brother, sister, spouse, immediate offspring (natural and culturally or legally adopted), stillborn child, grandfather, grandmother, grandchild, mother-in-law, or father-in-law. Compassionate leave must be taken within eighteen (18) days after the death of the immediate family member.

III.L PREGNANCY DISABILITY LEAVE

Pregnancy Disability Leave shall be granted to an Excepted Service Employee who is absent from work because of childbirth or the subsequent convalescence. Such Pregnancy Disability Leave shall not exceed thirteen (13) work days, shall be in addition to any Maternity Leave or accumulated sick leave, and shall be any Thirteen (13) work days encompassing the date of childbirth. Any additional leave taken for such childbirth purposes shall be charged against accumulated sick leave.

III.M MATERNITY AND PATERNITY LEAVE

Maternity or Paternity Leave shall be granted to an Excepted Service employee who is absent from work because of the Employee (Maternity Leave) or the Employee's wife (Paternity Leave) giving birth. Such Maternity or Paternity Leave shall not exceed two (2) work-days encompassing the date of childbirth. Paternity Leave will only be granted in cases of legal marriage.

III.N MILITARY LEAVE

Military leave with pay may be granted to Excepted Service employees for a period not to exceed fifteen working days in any calendar year, regardless of the number of training periods in the year.

III.O EXTENDED MILITARY LEAVE

Extended Military Leave shall be granted to Excepted Service employees pursuant to the federal Uniformed Services Employment and Reemployment Act (USERRA).

III.P FMLA LEAVE

Leave under the federal Family and Medical Leave Act of 1993 (FMLA) shall be granted to Excepted Service employees as provided in FMLA.

III.Q PART-TIME ACCRUAL

Part-time or intermittent employees with regular scheduled tours of duty of forty (40) to less than seventy-two (72) hours during a biweekly period will accrue annual leave and sick leave at one-half the rate of full-time employees and will be eligible for other paid leaves, provided in this Part, at this rate. Part-time or intermittent employees with regular scheduled tours of duty of less than forty (40) hours during a biweekly pay period will not accrue annual or sick leave or be eligible for the other paid leave benefits. If a part-time or intermittent employees takes Leave Without Pay (LWOP) or is in an Absence Without Leave (AWOL) status for a scheduled duty period there will be no leave accrual for that pay period.

III.R TRANSFER WITHIN THE EXECUTIVE BRANCH

If an Excepted Service Employee transfers to another Excepted Service position within the Executive Branch, the new Employer will assume any liability for the payment or transfer of all earned contractual benefits. Transfers to similar positions within the Executive Branch with no change in salary may be effected by the Employer with or without the Employee's permission.

III.S TRANSFER TO OTHER GOVERNMENT ENTITY

If an Excepted Service Employee transfers to another government entity, the receiving entity will assume any liability for the payment or transfer of all earned contractual benefits. Similarly, the Executive Branch will assume a similar liability for the payment or transfer of all earned contractual benefits if it accepts the transfer of an employee contractually entitled to such benefits from another government entity.

PART IV
EMPLOYEE CONDUCT AND OBLIGATIONS

IV.A MEDIATION PROCEDURE

Excepted Services employees may seek dispute resolution to resolve conflicts and disputes by means of a mediation procedure as provided by the Office of Personnel Management and pursuant to available resources.

IV.B TERMINATION OF SERVICES TO THE GOVERNMENT

1. The government may terminate the Employee without cause upon written notice sixty (60) days in advance of the date of termination of employment. This time may be shortened only by specifying in the employment contract a lesser period of advance notice. Such notice shall specify the date of termination and be delivered in person to the Employee.

2. The government may terminate the Employee with cause upon written notice seven (7) days in advance of termination of employment.

3. When resigning, the Employee must give sixty (60)-days advance written notice in terminating employment. When considered to be in the best interests of the government, this time may be shortened or lengthened by the Employer stating in the space provided in the employment contract the specific period of advance written notice that will be required. At the time of resignation, the Employer may waive the advance written-notice requirement.

IV.C NON-DISCRIMINATION POLICY

1. It is the policy of the Commonwealth Government that discrimination, for or against any Employee, because of race, creed, color, gender (including sexual harassment), sexual orientation, national origin, age, religion, political affiliation, organizational membership, veteran's status or disability is prohibited and will not be tolerated.

2. All agencies shall maintain every workplace free from unlawful harassment, including sexual harassment. Any Employee or official who engages in any act of discrimination or harassment on the basis of any of the above factors violates government policy, and such misconduct will subject the Employee to corrective action ranging from counseling to disciplinary action up to and including termination. Such harassment by a non-Employee (for example, a client or contractor) is also prohibited. Employers shall not

tolerate any such outside harassment and shall take necessary action to prevent its continuation or recurrence.

3. Any Employee who feels that he or she has been discriminated against on the basis of any of the above factors, or sexually harassed, should immediately report such incidents to a supervisor at any level without fear of reprisal. In cases of sexual harassment, procedures should be followed in accordance with Part IV.D of this regulation. Confidentiality will be maintained to the extent permitted by the circumstances.

4. An Employer who receives a claim of discrimination or harassment in violation of this policy shall take such complaint seriously and immediately advise the Director of Personnel or the Commonwealth Equal Employment Opportunity (EEO) Coordinator of the situation. The Employer, with the assistance of the EEO Coordinator, will ensure that it is investigated promptly, privately, and with as much confidentiality as possible, consistent with the need to determine the facts. The investigation will be documented by an investigative report that will be retained in a confidential file by the EEO Coordinator. Any person accused of a violation shall be allowed the opportunity to rebut the charges.

5. After determining the facts through the investigation, the Employer shall take corrective action as required by the circumstances. This may include counseling any Employee, whether or not a violation has occurred; imposing an appropriate sanction, including disciplinary action; making sure that this policy is reiterated to all employees or any group. An Employer, or any supervisory staff, who does not take appropriate action also violates this policy and exposes the Commonwealth government to liability.

IV.D NON-TOLERANCE OF SEXUAL HARASSMENT

1. Applicability

This policy and procedure applies to all employees of the Executive Branch of the Commonwealth Government and other activities that obtain personnel servicing from the Office of Personnel Management.

2. Purpose

This policy and procedure will establish the Commonwealth Government's policy of non-tolerance of sexual harassment of any form, by its employees, toward its employees, or by non-governmental agents against the Government's clients or employees. It will also provide guidance for the education and training of employees to recognize, avoid and prevent sexual harassment in the workplace. This policy and procedure will provide

steps for reporting, investigating and taking administrative action in situations involving sexual harassment.

3. **Definitions**

a. Sexual harassment is an unwelcome sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature. Sexual harassment occurs when:

(1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or

(2) submission or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual, or

(3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.

b. Sexual harassment can be divided into two basic types of misconduct:

(1) When an employee suffers or is threatened with a "quid pro quo (this for that)" situation. This form of sexual harassment occurs when a supervisor or someone else with authority over the victim makes a "put out or get out" demand, such as "submit to my sexual requests or you will be fired, demoted, passed over for promotion, or in some other way made miserable on the job." This type of sexual harassment can be committed only by someone in the organization structure who has the power to control the victim's job destiny.

(2) When behavior in the workplace creates a hostile environment. This form of sexual harassment occurs when a supervisor, co-worker, or someone else with whom the victim comes into contact on the job creates an abusive work environment or interferes with the employee's work performance through words or deeds ***because of the victim's gender***. The following kinds of behavior have been recognized by the courts as contributing to a sexually hostile environment:

- discussing sexual activities;
- telling off-color jokes;
- unnecessary touching
- commenting on physical attributes;

- displaying sexually suggestive pictures;
- using demeaning or inappropriate terms, such as "babe," "honey," etc.;
- using indecent gestures;
- sabotaging the victim's work;
- engaging in hostile physical conduct;
- granting job favors to those who participate in consensual sexual activity; or
- using crude and offensive language.
- wearing provocative, sensual attire, i.e. tight, skimpy, short-length, etc.

The above listed behaviors can create a liability for the Government and any such conduct must be addressed and corrected at its earliest stage before it becomes severe or pervasive.

c. A workplace environment is considered sexually hostile when conduct occurs that meets the following two conditions:

(1) it must be subjectively perceived as abusive by the person(s) affected, and

(2) it must be objectively severe or pervasive enough to create a work environment that a reasonable person would find hostile or abusive.

(3) A determination of whether or not a situation would be construed as sexual harassment should also take into consideration the following factors:

- The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex;
- The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker or a non-employee;
- The victim does not have to be the person harassed, but could be anyone affected by the offensive conduct;
- Unlawful sexual harassment may occur without economic injury to the victim;
- The harasser's conduct must be unwelcome.

d. Sexual discrimination is distinguished from sexual harassment in that it reflects biases in employment actions based upon gender, but does not involve the abusive behavior described in Section 4.2 above.

4. **Policy**

a. It is the policy of the Commonwealth Government that all employees shall enjoy a work environment free from sexual harassment and all forms of discrimination. Sexual harassment is illegal, under Title VII of the Civil Rights Act of 1964, as amended and as implemented by 29 CFR 1604.11, and is prohibited under this regulation and Article I, Section 6, of the Commonwealth Constitution.

b. Sexual harassment is specifically prohibited and will not be tolerated in any form, regardless of whether the offensive conduct is committed by supervisors, managers, non-supervisors (co-workers) or non-employees (consultants, contractors, general public).

c. All employees are encouraged to report any violation of this policy. If Management is not aware of specific incidents of sexual harassment in the workplace it cannot properly address them. If an Employee observes or is subjected to sexually discriminatory or harassing behavior in the workplace, it should be reported immediately to the departmental EEO counselor or coordinator so it can be resolved at the earliest possible time. Employees will not be retaliated against for making truthful statements about perceived harassment.

d. No employee will be denied or will receive employment opportunities and/or benefits because of a sexual relationship with a co-worker or supervisor. No employee or non-employee shall imply to an employee, an applicant for employment, or a client of a government activity, that conduct of a sexual nature will have an effect on that person's employment, assignment, advancement, other condition of employment, or any other relationship with the Government. Any incidents of this type, upon verification by investigation, will be subject to disciplinary and corrective action.

e. The Employer, at all supervisory levels, is responsible for the occurrence of acts of sexual harassment in the work place when they know or should have known of the prohibited conduct. As an official of the Commonwealth government, a supervisor's improper action or failure to act creates a liability on the part of the Government. All incidents of sexual harassment will be immediately reported to the Equal Employment Opportunity Coordinator, Division Director or Department Head for guidance. Supervisors and managers who knowingly allow harassing behavior to occur, or participate in such behavior, will be subject to disciplinary action.

f. The Director of Personnel, as the Deputy Commonwealth Equal Employment Officer, will be immediately informed by all Department and Activity Heads of any incident of sexual harassment reported within their organization, or of any charges received from the Equal Employment Opportunity Commission (EEOC).

g. The Director of Personnel will ensure that all sexual harassment complaints receive swift and thorough investigations. Appropriate action will be taken in situations where the complaint is validated to correct the situation and appropriately discipline the harasser. Complaints determined to be deliberate false accusations will also be treated as potential disciplinary situations. Situations where the victim requests that no investigation be conducted or action taken must also be investigated and acted upon to avoid future liability and to effect consistent enforcement of the Commonwealth's policy of non-tolerance for sexual harassment.

h. Complaints of sexual harassment should be filed immediately upon occurrence to facilitate a timely response and to minimize the time that an Employee would be subjected to such treatment. However, per EEOC statutes complaints may be filed anytime within one-hundred and eighty days of an incident's occurrence.

i. Incidents of harassment due to an employee's sexual orientation, while not covered by law as an Equal Employment Opportunity violation, are a violation of the Commonwealth's policy of ensuring that every employee is provided with a work environment that is safe, non-threatening and non-discriminatory. Incidents of this nature comprise misconduct and will be subject to disciplinary action.

j. The hiring of an employee with a known history of sexual harassment or misconduct could result in Government liability for negligent hiring. No applicant for employment with such a history will be employed without a complete background investigation and the specific approval of the Director of Personnel.

k. Each Appointing Authority is required to distribute this policy to **every employee** under his or her authority and to ensure that this policy is posted in an accessible location at all times.

l. All supervisors will be provided training on identifying and preventing sexual harassment in the workplace. They will also receive training on how to conduct a limited administrative investigation and the reporting procedures for allegations of harassment.

5. Procedures

a. Any government official who is aware of an incident or situation involving sexual harassment must report it immediately to his or her Equal Employment Opportunity Coordinator, Division Director, Department Head or Appointing Authority. The Commonwealth government has legal liability for any action where a government

official subjects an employee to sexual harassment, or is aware that an employee subjects another employee to sexual harassment and fails to take corrective action.

b. Any employee who is personally subjected to sexual harassment, or is aware that other employees are being subjected to sexual harassment, should report the incident or situation **immediately** to his or her departmental Equal Employment Opportunity Coordinator, Division Director or Department Head/Appointing Authority. If the employee does not feel comfortable bringing it to the attention of any of these parties, or the Division Director or Department Head are somehow involved in the harassment, he or she should **immediately** contact the Commonwealth Equal Employment Coordinator at the Office of Personnel Management, or the Director of Personnel directly. The initial contact does not have to be in writing.

c. If the sexual harassment incident involves a physical assault, such as rape, attempted rape, assault or other actions involving physical contact, either the employee or the official who becomes aware of the incident should report it **immediately** to the Department of Public Safety for **immediate** processing and investigation. Any physical evidence should not be disturbed until the arrival of the Department of Public Safety.

d. **All incidents of alleged sexual harassment must be immediately reported to the Commonwealth Equal Employment Opportunity Coordinator at the Office of Personnel Management or directly to the Director of Personnel as soon as the Department Head/Appointing Authority, or other senior official in case of the Department Head's/Appointing Authority's unavailability, becomes aware of it.** The complaining employee should be interviewed by the departmental Equal Employment Coordinator, Legal Counsel, Division Director, or the Department Head/Appointing Authority to determine the basic facts of the allegation. The Director of Personnel or the Commonwealth Equal Employment Opportunity Coordinator will then be consulted to determine if the investigation will be conducted at the departmental level or if an outside investigator will be appointed.

e. Due to the potential legal liabilities resulting from sexual harassment situations, the Director of Personnel will assume responsibility for the investigation and assign the investigating official (selected EEO official, manager or legal counsel) or unit (Office of the Attorney General or Department of Public Safety).

f. All allegations of sexual harassment from employees or perceptions of sexual harassment from third parties or management staff will be reported to the Director of Personnel and will be investigated. Those situations where the victim requests that no investigation be conducted or action taken must also be investigated and acted

upon to avoid future liability and to effect consistent enforcement of the Commonwealth's policy of non-tolerance for sexual harassment.

g. The department(s) involved in the complaint and the official or unit appointed to conduct the investigation will cooperate fully with the Office of Personnel Management in the process of investigating, reporting and resolving the complaint.

h. The department(s) involved in the complaint and the Office of Personnel Management will ensure that no retaliation is taken against the complainant or any witnesses by the alleged harasser or by any other employees.

i. In the process of investigating the complaint, the following guidance will be followed at all times:

(1) All complaints will be taken seriously.

(2) Guilt should not be presumed on either party. The rights of both parties must be protected.

(3) Both parties should be afforded the opportunity to state their side.

(4) Confidentiality must be maintained at all times.

j. An administrative investigation will be completed as expeditiously as possible. The final report will be delivered to the Director of Personnel in the following format:

Summary of Incident
Findings of Fact
Discussion
Conclusions
Recommendations

k. The Director of Personnel will review the investigative report to ensure that the facts support the conclusions and that the recommendations are reasonable and consistent with the Commonwealth's disciplinary policy. The Office of the Attorney General will be consulted to ensure that the resolution is legally appropriate.

l. The Director of Personnel will forward the final report to the Department Head or Appointing Authority with the Office of Personnel Management's recommendations for the resolution of the complaint.

m. Depending upon the severity of the incident of sexual harassment, the resolution of the situation could involve the following administrative actions:

Conference/Counseling
Oral or Written Warning
Letter of Reprimand
Suspension
Demotion
Termination

Any administrative actions are separate from and not contingent upon any civil or criminal court actions.

n. The Department Head or Appointing Authority will resolve the complaint/grievance based upon the investigation and the recommendation of the Office of Personnel Management. If the Department Head or Appointing Authority disagrees with the recommended resolution, he or she must immediately meet with the Director of Personnel to resolve their differences. If both parties cannot reach agreement, the case will immediately be brought before the Governor for a final decision.

o. Either the complainant or the respondent may appeal the final resolution to the Director of Personnel, not later than fifteen (15) days after receiving notice of the final resolution. If the complainant or the respondent are Excepted Service employees and are not gubernatorial or Mayoral appointees, they may appeal the final resolution to the Director of Personnel, not later than fifteen (15) days after receiving notice of the final resolution. Complainants or the respondents who are gubernatorial or Mayoral appointees may formally request in writing for the Appointing Authority to review the decision in their case, but final resolutions approved by the Governor or Mayors on cases involving their respective appointees are not subject to appeal.

p. The Director of Personnel will conduct a hearing on the appeal and make a final decision on the matter.

q. Incidents or situations of sexual discrimination that do not involve acts of harassment will be processed through the normal grievance procedure utilized for other Equal Employment Opportunity complaints.

6. Records and Reports

a. The Office of Personnel Management will maintain records of all allegations of sexual

harassment to include copies of investigative reports.

b. Records of on-going investigations will be kept in a confidential file separate from Official Personnel Folder. Upon resolution of the complaint, appropriate records of the resolution or disciplinary action will be placed in the appropriate Official Personnel Folder.

c. The Office of Personnel Management will report to the Governor annually in its Annual Personnel Report on the number of sexual harassment cases and their resolution.

7. **Responsibilities**

a. **All Employees** will be familiar with the Commonwealth's Equal Employment Opportunity and Non-Tolerance of Sexual Harassment Policies and will comply with these policies to create a safe, non-threatening and non-discriminatory workplace.

b. **All Supervisors, Managers and Directors** will develop and maintain a work environment that is safe, non-threatening and non-discriminatory. They will ensure that all employees know that sexual harassment will not be tolerated and will ensure that any incident of sexual harassment is reported as directed by this policy.

c. **All Equal Employment Program Counselors** must be knowledgeable concerning Equal Employment Opportunity laws, regulations and policies, both federal and Commonwealth and will strive to remain up-to-date on current EEO trends and activities. They will make themselves readily available to listen to EEO-related complaints in their department or activity and provide counseling and assistance to affected employees. They will coordinate with the department/activity EEO Coordinator.

d. **All Department/Activity Equal Employment Coordinators** must be knowledgeable concerning Equal Employment Opportunity laws, regulations and policies, both federal and Commonwealth and will strive to remain up-to-date on current EEO trends and activities. The Coordinators will provide EEO expertise and assistance to the department/activity EEO Counselors and management staff. They will coordinate with the Commonwealth EEO Coordinator.

e. **All Department or Activity Heads,** as activity Equal Employment Officers, will issue an Equal Employment Opportunity policy statement and establish a departmental Equal Employment Opportunity Program that includes a policy of non-tolerance of sexual harassment. They will hold their supervisors, managers and directors

accountable for developing and maintaining a work environment that is safe, non-threatening and non-discriminatory. They will enforce the Commonwealth's policy of non-tolerance of sexual harassment and take reasonable and consistent action in resolution of any sexual harassment situation.

f. **The Director of Personnel,** as the Deputy Equal Employment Officer for the Commonwealth, will ensure the development and maintenance of a viable Commonwealth-wide Equal Employment Opportunity Program that includes training at all levels in prevention and resolution of sexual harassment situations. The Director of Personnel will initiate administrative investigations for all allegations of sexual harassment and will ensure their appropriate resolution in accordance with this policy and procedure.

g. **The Governor,** as the Equal Employment Officer for the Commonwealth, will establish and promote a policy of non-tolerance of sexual harassment in any form. The Governor will hold all Department and Activity Heads accountable for their active support of the Commonwealth's Equal Employment Opportunity and non-tolerance of sexual harassment policies, and for their fulfillment of the responsibilities assigned in this policy and procedure.

8. Equal Employment Opportunity Commission

If an employee's sexual harassment complaint is not acted upon to his or her satisfaction, the employee has the option of filing a compliant with the Equal Employment Opportunity Commission (EEOC). Complainants also have the option of filing their complaint directly with the EEOC. It should be noted that there is a statutory limitation of 180 days from the harassing/discriminatory incident during which the complaint may be filed. The EEOC in Hawaii is located at:

300 Ala Moana Blvd.
Room 7123A
Box 50082
Honolulu, Hawaii, 96850
(808) 541-3120

The EEOC in San Francisco, California, is located at:

901 Market Street
Suite 500
San Francisco, California, 94103
(415) 356-5100

Although the Commonwealth government would like to resolve all complaints through its administrative processes, employees will not be subjected to any retaliatory actions for filing a complaint with the Equal Employment Opportunity Commission.

IV.E ALCOHOL AND DRUG FREE WORKPLACE POLICY

1. POLICY

As an employer, the government recognizes it has a responsibility to its employees and the public it serves to take reasonable steps to assure safety in the workplace and in the community. Furthermore, the government is concerned about the adverse effect alcohol and drug abuses have on safe and productive job performance. It also recognizes that any employee, whose ability to perform safely and productively is affected by the use of alcohol and other drugs, jeopardizes the integrity of the workplace and the achievement of the government's mission. The government realizes that alcoholism, problem drinking and drug addiction are treatable illnesses. The government, therefore, encourages employees who have problems with drugs or alcohol to utilize all available resources to resolve their problems before those problems affect their job performance.

2. DEFINITIONS

For the purposes of this sub-part, the following definitions apply:

a. Accident. An event which causes (1) a fatality, (2) an injury to a person requiring professional medical treatment beyond simple at-scene first aid, or (3) an economic loss, including property damage, greater than $2,500.00.

b. Assessment. A determination of the severity of an individual's alcohol or drug use problem and an analysis of the possible courses of treatment, made by an expert in the field of substance abuse.

c. Breath Alcohol Concentration (B.A.C.). The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an Evidential Breath Testing Device (E.B.T.).

d. Breath Alcohol Technician (B.A.T.). An individual authorized to collect breath specimens under Part IV.E7b and who operates an E.B.T.

e. Consulting Physician. A licensed physician retained or employed by the government to advise on drug testing.

f. Drug. A substance (1) recognized in the official United States Pharmacopoeia, the official Homeopathic Pharmacopoeia of the United States, or the official National Formulary, or any supplement to any of them; or (2) intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or other animals; or (3) other than food, minerals, or vitamins, intended to affect the structure or any function of the body of a human or other animal; or (4) intended for use as a component of any article specified in clause (1), (2), or (3) above. Devices or their components, parts, or accessories are not considered drugs under this definition.

g. Evidential Breath Testing Device (E.B.T.). A device which is (1) approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath; and (2) is on the NHTSA's Conforming Products List of E.B.T.s; and (3) conforms with the model specifications available from the NHTSA, Office of Alcohol and State Programs.

h. Illegal Drug. A drug that (1) is not obtained legally; or (2) is knowingly used for other than the prescribed purpose or in other than the prescribed manner; or (3) is a "designer drug" or drug substance not approved for medical or other use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration.

i. Invalid Test. A breath or urine test that has been declared invalid by a Medical Review Officer (M.R.O.), including a specimen that is rejected for testing by a laboratory for any reason. An invalid test shall not be considered either a positive or a negative test result.

j. Medical File. The file containing an employee's medical examination form, mental health referrals, alcohol and drug test results and other health related documents, maintained by the Office of Personnel Management separate from an employee's Official Personnel Folder.

k. Medical Review Officer (M.R.O.). A licensed physician, appointed by the government, with specialized training in substance abuse disorders and in the use and evaluation of drug test results. The M.R.O. shall be the only person authorized to receive laboratory drug test results and shall be the primary contact for technical inquiries to the drug testing laboratory.

l. Reasonable Suspicion. A perception based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of an individual or on specific facts, circumstances, physical evidence, physical signs and symptoms, or on a pattern of performance or behavior that would cause a trained supervisor to reasonably conclude that the individual may be under the influence of alcohol or illegal drugs while on duty.

m. Safety-Sensitive. A word describing activities which directly affect the safety of one or more persons, including the operation of motor vehicles or heavy machinery or the carrying of firearms. Each department, entity, or organization head, in conjunction with the Director of Personnel Management, shall identify all positions to be considered safety-sensitive positions due to the amount of time the employee spends performing safety sensitive functions.

n. Statement of Fitness for Duty. A written statement from a Substance Abuse Professional (S.A.P.), certifying that the named employee is not dependent on alcohol or any drug to the extent such dependence will affect safe and productive work.

o. Substance Abuse Professional (S.A.P.). A physician, psychologist, psychiatrist, or social worker with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders; or a counselor certified by the National Association of Alcoholism and Drug Abuse Counselors.

p. Under the Influence. A condition where a person's behavior, attention, or ability to perform work in the usual careful fashion has been adversely affected by the use of alcohol or drugs; intoxicated.

q. Vehicle. A device in, upon or by which any person or property is or may be propelled or moved on a highway, on a waterway, or through the air.

3. PROHIBITED CONDUCT

a. Sale, Purchase, Possession with Intent to Deliver, or Transfer of Illegal Drugs. No employee shall (1) sell, purchase, or transfer; (2) attempt to sell, purchase, or transfer; or (3) possess with the intent to deliver, any illegal drug while on government property, in any government vehicle or on any government business. It is a defense to this provision that the employee is employed by a law enforcement agency and the conduct occurs as part of the employee's assigned duties for the purpose of investigating illegal drug trafficking.

b. Possession of Illegal Drugs. No employee shall possess any illegal drug on government property, in any government vehicle, or while on government business. It is a defense to this provision that the employee is employed by a law enforcement agency and the conduct occurs as part of the employee's assigned duties for the purpose of investigating illegal drug trafficking.

c. Possession of Open Containers of Alcohol. No employee shall possess an open container of alcohol in any vehicle while on duty or in any government vehicle at any time. No employee shall possess an open container of alcohol while at his or her workplace.

d. Under the Influence of Alcohol or Illegal Drugs. No employee shall be under the influence of alcohol or any illegal drug when at work, or reporting to work with the intention of working. As used in this subsection, alcohol includes any alcohol found in any prescription or non-prescription drug such as cough syrup. An employee is presumed to be under the influence of alcohol or an illegal drug if:

(1) The employee has a B.A.C. of 0.02 or more;

(2) The employee has a detectable amount of any illegal drug in his or her urine;

(3) The employee uses alcohol or any illegal drug while on call when the employee knows he or she may be called upon to perform safety-sensitive functions;

(4) The employee uses alcohol or any illegal drug within four (4) hours prior to reporting to work and expects to perform a safety-sensitive duty.

e. Refusal to be Tested. No employee required to be tested for drugs or alcohol under any provision of this sub-part shall refuse to be tested. The following conduct shall be considered a refusal to be tested:

(1) Refusing in writing to submit to testing after receiving clear and specific written notice of the requirement to be tested;

(2) Refusing verbally, in front of at least two witnesses, to submit to testing after receiving clear and specific written notice of the requirement to be tested;

(3) Failing to timely provide an adequate specimen for testing, without a valid medical explanation, after receiving clear and specific written notice of the requirement to be tested. An M.R.O. or consulting physician shall determine

if there is any medical reason for failure to provide an adequate urine sample (shy bladder) or an adequate breath sample (shy lung);

(4) Engaging in conduct that clearly obstructs the specimen collection process;

(5) Failing to remain available for post-accident testing, or leaving the scene of an accident before a testing decision is made. An employee may leave the scene of an accident only to obtain necessary medical care or assistance in responding to the accident. If the employee leaves the scene, the employee must notify his or her supervisor as soon as possible of his or her location and reason for leaving the scene;

(6) Consuming alcohol or illegal drugs after an accident and before a testing decision is made;

(7) Failing to report, during the work shift in which an accident occurred, an accident which could have resulted in a testing decision; and

(8) Failing to report to the specimen collection site timely after being informed of the requirement to be tested.

f. Giving False Information. No employee shall give false information about a urine specimen or attempt to contaminate or alter the specimen.

g. Refusal to Comply with Treatment Recommendations. No employee shall fail to comply with recommendations for treatment or after-care made by an M.R.O. or S.A.P. as a consequence of a prior positive drug or alcohol test result.

h. Failure to Notify Government of Conviction. No employee shall fail to notify the Director of Personnel Management of any criminal drug statute conviction, within five (5) days of such conviction, if the violation of the criminal drug statute occurred while the employee was conducting Commonwealth business, or while on or using Commonwealth property.

i. Supervisor's Responsibility for Confidentiality. No manager or appointing authority shall knowingly disregard an employee's right to confidentiality in matters relating to alcohol or drug testing or otherwise neglect his or her responsibilities under this sub-part.

4. PENALTIES AND CONSEQUENCES

a. Disciplinary Action. An employee committing any act prohibited by Part IV.E3 shall be subject to an appropriate form of discipline, depending on the circumstances.

(1) *Generally.* Where an employee commits any act prohibited by Part IV.E3, without valid reason, the employee shall be disciplined up to and including removal. At a minimum, the employee shall receive a formal reprimand. If the prohibited act committed by the employee relates to the use or possession of alcohol or illegal drugs, the employee shall be referred to an S.A.P. for assessment and treatment.

(2) *First offense, under the influence.* An employee found to be under the influence of alcohol or illegal drugs in violation of Part IV.E3d, for a first offense, shall not be subject to removal solely for being under the influence of alcohol or illegal drugs. However, if the person is also involved in an accident, depending on the circumstances, the appointing authority may decide to initiate a disciplinary action for removal, even on a first offense.

(3) *Serious offenses.* The following acts, even for a first offense, will result in an immediate disciplinary action for removal:

(a) The sale, purchase, possession with intent to deliver, or transfer of illegal drugs, or the attempt to sell, purchase or transfer illegal drugs in violation of Part IV.E3a;

(b) Being involved in an accident resulting in a fatality while under the influence of alcohol or illegal drugs, in violation of Part IV.E3d;

(c) While performing and about to perform duties in a safety sensitive position, being under the influence of alcohol or illegal drugs, in violation of Part IV.E3d;

(d) An unexcused refusal to be tested, in violation of Part IV.E3e;

(e) Giving false information, contaminating or attempting to contaminate a urine sample, in violation of Part IV.E3f;

(f) Failing to notify the proper authority of conviction for a drug offense in violation of Part IV.E3h;

(g) Testing positive for alcohol or illegal drugs within five years of a prior positive test; and

(h) Breaching any term of a Return to Duty Contract executed under the provisions of Part IV.E5b.

b. Information Concerning Treatment Options. Those employees not removed from government service after committing any act prohibited by Part IV.E3 shall be informed of resources available for evaluating and resolving problems associated with the use of alcohol and illegal drugs. At a minimum, the Office of Personnel Management's Alcohol and Drug Free Workplace Coordinator shall give the names, addresses, and telephone numbers of local S.A.P.s and substance abuse counseling or treatment programs. The employees will then be required to fulfill all the specified steps of treatment before being considered ready for return to duty.

c. Report to Department of Public Safety. An employee committing any act prohibited by Part IV.E3a or Part IV.E3b shall be reported, by the appointing authority, to the Department of Public Safety for the purpose of possible criminal prosecution.

d. Duty/Pay Status Pending Disciplinary Action. Unless the employee was involved in an accident resulting in a fatality, an employee subject to a disciplinary action for committing any act prohibited by Part IV.E3, except for Part IV.E3g, shall be allowed to remain on the job pending resolution of any proposed disciplinary action but shall not be allowed to perform a safety-sensitive function, even if that means assigning to the employee duties the employee would not otherwise be performing. An employee subject to a disciplinary action for committing any act prohibited by Part IV.E3 who was involved in a fatal accident shall be placed on leave without pay pending resolution of the disciplinary action for removal.

5. RETURN TO WORK PROCEDURES

a. Prerequisites to Returning to Duty. No employee who has tested positive for the presence of alcohol or illegal drugs shall be allowed to return to work until the employee has:

(1) Complied with treatment recommendations of an M.R.O. or S.A.P. and been released for work by an S.A.P. in consultation, when appropriate, with the M.R.O. or a consulting physician;

(2) Tested negative in a subsequent test paid for by the employee for the presence of alcohol, if the removal from duty was due to alcohol use; or cocaine,

marijuana, opiates, amphetamines, and phencyclidine, if the removal from duty was due to drug use; and

(3) Agreed to execute a Return to Duty Contract.

b. Return to Duty Contract. The Return to Duty Contract shall include the following provisions:

(1) *Aftercare.* An agreement to comply with aftercare and follow-up treatment recommendations for one to five (1-5) years, as determined appropriate by the employee's S.A.P.;

(2) *Follow-up testing.* An agreement to unannounced alcohol or drug testing, depending on the substance which resulted in the removal from duty, paid for by the employee, for one (1) to five (5) years, as determined appropriate by the employee's S.A.P., but there shall be no fewer than six (6) tests in the first year after the employee returns to work;

(3) *Compliance with rules.* An agreement to comply with government rules, policies, and procedures relating to employment;

(4) *Term.* An agreement that the terms of the contract are effective for five years after the employee's return to duty; and

(5) *Breach of contract.* An agreement that violation of the Return to Duty Contract is grounds for termination.

6. TESTING OCCASIONS

a. Pre-Employment Testing. At the time of application, persons applying for any position within the Excepted Service will be notified that any offer of employment is contingent upon a negative urine test. After receiving an offer of employment, the candidate shall be tested for the presence of cocaine, marijuana, opiates, amphetamines, and phencyclidine in the urine. The test shall be paid for by the candidate. Testing shall be in compliance with Part IV.E8, below. Applicants who were previously employed by the government and applicants who have had an offer for government employment withdrawn due to a previous positive urine test result, must also provide a written release of drug testing history for the two (2) years immediately preceding the application date.

(1) No new Excepted Service candidate may be assigned to work in any position

until he or she presents the results of a urine test, taken after the offer for employment has been made, that shows negative for the presence of cocaine, marijuana, opiates, amphetamines, and phencyclidine.

(2) If the candidate's test result is positive for the presence of a tested drug, without a legitimate explanation, the offer of employment will be withdrawn.

(3) If the candidate presents a drug testing history showing a positive drug test within two (2) years prior to the application date, the offer of employment will be withdrawn unless the candidate submits a Statement of Fitness for Duty and agrees to execute an agreement similar to a Return to Duty Contract described in Part IV.E5b.

b. Reasonable Suspicion Testing. Where there is a reasonable suspicion that an employee is under the influence of alcohol or drugs while at work or about to begin work, he or she shall submit to a breath or urine test for the presence of alcohol, cocaine, marijuana, opiates, amphetamines, and phencyclidine, upon written notice from the employee's supervisor. Except as otherwise provided, the government shall pay for the testing.

(1) *Properly trained supervisor.* Only a supervisor with government-approved training in the physical, behavioral, and performance indicators of probable drug and alcohol use is permitted to make reasonable suspicion testing decisions.

(2) *Objective inquiry.* The properly trained supervisor will observe the employee suspected of being under the influence of alcohol or illegal drugs. A decision to request testing shall be based on eye witness reports, facts of the event, and observed physical and behavioral characteristics of the employee. Prior to making the decision to require testing, the supervisor will question the employee in a private area to ascertain whether there are any reasons other than alcohol or drug use for any behavior observed.

(3) *Verification.* No employee shall be required to submit to a drug or alcohol test based on reasonable suspicion unless the need for the test is verified by a second properly trained government employee. The required verification shall be done in person.

(4) *Transportation assistance.* The employee shall be accompanied to the collection site by a supervisor or manager, and shall be provided transportation home from the collection site. If the individual refuses and

demands to drive his/her vehicle, the supervisor or manager shall notify the Department of Public Safety.

(5) *Duty pending test results.* Until the results of the drug and alcohol test are complete and verified, no employee tested based upon reasonable suspicion shall be allowed to perform or continue to perform a safety-sensitive duty.

(6) *Report.* The supervisor ordering reasonable suspicion testing shall put in writing, in detail, the facts leading to the decision. This report shall be considered confidential and will be maintained in the employee's medical file, which is confidential, until needed for a disciplinary action. Only at that time will the report be filed in the employee's Official Personnel Folder.

c. Post-Accident Testing. As soon as practical after an accident any employee whose action or inaction may have contributed to the accident must submit to breath and urine tests for the presence of alcohol, cocaine, marijuana, opiates, amphetamines, phencyclidine, upon written notice from the employee's supervisor. Except as otherwise provided, the government shall pay for the testing.

(1) *Supervisor training.* Only a supervisor with government-approved training in the physical, behavioral, and performance indicators of probable drug and alcohol use is permitted to make post-accident testing decisions.

(2) *Objective inquiry.* A supervisor's decision to request testing shall be based on eye witness reports, facts of the event, and observed physical and behavioral characteristics of the employee. Specifically, the properly trained supervisor shall require the driver of any government vehicle or the operator of any government equipment involved in the accident to be tested.

(3) *Transportation assistance.* The employee shall be accompanied to the collection site by a supervisor or manager, and shall be provided transportation home from the collection site. If the individual refuses and demands to drive his/her vehicle, the supervisor or manager shall notify the Department of Public Safety.

(4) *Duty pending test results.* Until the results of the drug and alcohol test are complete and verified, no employee reasonably suspected of having been under the influence of alcohol or drugs at the time of the accident shall be allowed to perform or continue to perform a safety-sensitive duty.

(5) *Report.* The supervisor ordering post-accident testing shall put in writing, in

detail, the facts leading to the decision. This report shall be considered confidential and will be maintained in the employee's medical file, which is confidential, until needed for a disciplinary action. Only at that time will the report be filed in the employee's Official Personnel Folder.

d. Random Testing. During each calendar year randomly selected employees performing safety-sensitive functions will be required to submit to breath tests for alcohol and urine tests for cocaine, marijuana, opiates, amphetamines, and phencyclidine. The testing will be done during on-duty time. Except as otherwise provided, the government shall pay for the testing.

(1) *Method of selection.* Employees will be selected by a statistically valid method such as a random number table or computer-based random number generator that is matched with employee Social Security numbers, payroll identification numbers, or other comparable identifying numbers.

(2) *Number to be tested.* No more than twenty-five percent (25%) of all employees performing safety-sensitive functions in each department or agency each year shall be required to submit to breath alcohol testing and no more than fifty percent (50%) shall be required to submit to urine testing. The actual percentage will be determined at the beginning of each fiscal year for each department or agency by the Office of Personnel Management's Alcohol and Drug Free Workplace Coordinator, in consultation with the appointing authority and the M.R.O. after reviewing the department's or agency's prior positive testing rates, reasonable suspicion and post accident events, and referrals for service.

7. COLLECTING AND TESTING BREATH SPECIMENS

a. Collection Site. Breath specimens shall be collected only at a site approved by the Director of Personnel Management or at the scene of an accident if proper equipment and personnel can be made immediately available.

b. Collection Protocol. Breath specimens shall be collected only by a B.A.T. trained in the collection of breath specimens at a course approved by the United States Department of Transportation in accordance with standard collection protocols as specified in 49 CFR, Part 40(C) "Procedures for Transportation Workplace Drug Testing Programs - Alcohol Testing," except as otherwise provided in this section. However, the M.R.O. or a consulting physician, when requested, may assist in facilitating the collection for post-accident testing.

c. Confirming Test. Breath specimens shall first be subjected to a screening test for alcohol. If that test indicates a probable breath alcohol concentration of 0.02 or greater, a second test, confirming the first and providing quantitative data of alcohol concentration, shall be performed. No alcohol test shall be considered positive unless both the screening test and the confirming test show a B.A.C. of 0.02 or greater.

d. Results. The breath test results shall be transmitted by the B.A.T., in a manner to assure confidentiality, to the employee, to the employee's appointing authority, and to the Director of Personnel Management.

e. Confidentiality. Other than as specified above, no person involved in the testing process shall release the results of breath tests to any other individual without a written release from the tested employee.

f. Invalid Test. If the Director of Personnel Management determines the test is invalid, using the factors found at 49 CFR, Part 40.79, the test result shall be reported as negative.

g. Statistical Reporting. The B.A.T. shall compile statistical data, that is not name-specific, related to testing results. The B.A.T. shall release the statistical data to the Director of Personnel Management upon request.

8. COLLECTING AND TESTING URINE SPECIMENS

a. Collection Site. Urine specimens shall be collected only at a site approved by an appropriate government agency, and identified by the Director of Personnel Management.

b. Collection Protocol. Urine specimens shall be collected by persons trained in the collection process developed by the Substance Abuse and Mental Health Service Administration, United States Department of Health and Human Services, in accordance with standard collection protocols as specified in 49 CFR, Part 40(B), "Procedures for Transportation Workplace Drug Testing Programs - Drug Testing," except as otherwise provided in this section. However, the M.R.O. or a consulting physician, when requested, may assist in facilitating the collection for post-accident testing.

c. Splitting Sample.

(1) After collecting a sample of the employee's urine, the sample will be split into two specimens. Both specimens will be shipped to the laboratory selected for

performing tests for the government.

(2) One specimen, called the primary specimen, shall be tested for the government. The other specimen, called the secondary specimen, shall be the property of the employee, to be tested only upon request of the employee.

d. Confirming Test. Primary urine specimens shall first be subjected to a screening test. Only if the screening test shows positive for the presence of a prohibited drug, will a second test be conducted on the same urine specimen to identify the presence of a specific drug or metabolite, using a gas chromatography/mass spectrometry (GC/MS) test. No drug test shall be considered positive unless both the screening test and the confirming test show the presence of one or more of the drugs tested for.

e. Results. The laboratory conducting the urine test shall give the results only to the M.R.O. The M.R.O. shall discuss the test result with the tested individual.

f. Invalid test. If the M.R.O. decides that the test is invalid, the candidate shall immediately submit another urine specimen for testing.

g. Employee Test. If the government's test shows positive for the presence of a specific drug or drugs, the employee may request that the M.R.O. have the secondary specimen tested at another laboratory certified by the United States Department of Health and Human Services, for the presence of the drug or drugs found in the primary specimen.

(1) The employee must make the request in writing, within 72 hours of receiving notice of the result of the government's test.

(2) The results of the second test shall be given to the M.R.O. who shall discuss the result with the employee.

(3) The employee shall pay for the cost of the second test.

h. Alternative Explanations for Positive Test Results.

(1) Upon receiving a report of a positive test result, the M.R.O. shall determine if there is any alternative medical explanation for the result, including the use of prescribed medication by the employee. Such a determination shall be based on information received from the employee such as the tested individual's medical history and records. If the M.R.O. determines it to be necessary he or she may request pertinent analytical records from the

laboratory or require a re-analysis of the specimen.

(2) The M.R.O. shall report the urine test result as negative and shall take no further action if he or she determines:

(a) There is a legitimate medical explanation for a positive test result, other than the use of the specific drug; or

(b) Based on a review of laboratory inspection reports, quality assurance and quality control data, and other drug test results, the positive drug test result is scientifically insufficient for further action.

i. Illegal Use of Opium. If the GC/MS does not confirm the presence of 6-monoacetylmorphine, the M.R.O. shall determine whether there is clinical evidence, in addition to the urine test result, of illegal use of any opium, opiate or opium derivative.

j. Report to Government. The M.R.O. shall report all positive and negative urine drug test results, in a manner to assure confidentiality, to the employee's appointing authority, and to the Director of Personnel Management.

k. M.R.O. and Confidentiality. Other than as specified above, the M.R.O. shall not release the results of drug tests to any other individual without a written release from the tested employee.

l. Statistical Reporting. The M.R.O. shall compile statistical data, that is not name-specific, related to testing and rehabilitation. The M.R.O. shall release the statistical data to the Director of Personnel Management upon request.

9. EMPLOYEE AWARENESS AND REHABILITATION

a. Employee Awareness Training. All employees shall receive information concerning the effects and consequences of drug and alcohol use on personal health, safety, and the work environment; the manifestations and behavioral clues indicative of drug and alcohol use; and the resources available to the employee in evaluating and resolving problems associated with the use of illegal and legal drugs and alcohol.

b. Employees Seeking Voluntary Assistance. Government employees shall be allowed to voluntarily seek assistance for alcohol or drug use at any time prior to being required to be tested under the reasonable suspicion, post-accident or random testing procedures.

(1) *Referrals.* Employees may request referral to an S.A.P. for treatment, may refer themselves, or may be referred by a supervisor as part of a performance counseling. Such referrals shall only be made a part of the employee's medical file and shall not be a part of the employee's Official Personnel Folder. Referrals shall be kept confidential.

(2) *Voluntary referrals.* Employees who voluntarily seek assistance in dealing with drug and alcohol problems or accept referrals, before job performance is compromised, shall be provided the same leave benefits for recommended treatment as provided for any other health problem.

(3) *Accountability for job performance.* Regardless of participation in or requests for referrals, employees shall be held accountable for acceptable job performance. In no case where job performance has been compromised will disciplinary action be waived for employees asking for assistance and referral. However, such requests may be considered a mitigating factor in determining the appropriate form of discipline.

c. Job Security Maintained. Employees shall not have job security or promotional opportunities jeopardized solely because of a request for a drug or alcohol treatment referral.

d. Required Documentation. Although voluntary referrals or referrals made prior to testing are kept strictly confidential, documentation of poor performance or disciplinary actions taken due to drug or alcohol abuse shall be included in the employee's Official Personnel Folder.

10. DISSEMINATING INFORMATION ON REGULATIONS

a. Distribution to Employees. All current employees shall receive a copy of these Regulations at least thirty (30) days before the implementation date. New employees hired after the effective date of this policy will be given a copy of this policy at the time of hire. Each employee shall sign a form prescribed by the Director of Personnel Management which acknowledges the receipt of the policy and the employee's understanding that he or she is bound by this policy. This acknowledgment shall be kept in the employee's Official Personnel Folder.

b. Posting. These regulations will be posted in all government workplaces for at least sixty (60) days following their implementation.

11. RECORD RETENTION AND REPORTING REQUIREMENTS

a. Administrative Records. Records relating to the administration of this policy, including policy and program development, employee awareness training, supervisory training, collection site training, program administration, and calibration documentation, shall be kept by the Director of Personnel Management and the M.R.O. for five years.

b. Records Relating to Collection Process. Records relating to the breath and urine collection process shall be kept by the Director of Personnel Management, the M.R.O., and the specimen collector at the collection site for two years.

c. Refusals, Referrals, and Test Results. The Director of Personnel Management shall keep a copy of all records of refusals to be tested, breath and urine test results, and referrals to an S.A.P. in the employee's medical file, not the employee's Official Personnel Folder, at least until such time as disciplinary action is taken. The M.R.O. shall keep a copy of all urine test results and the B.A.T. shall keep a copy of all breath test results in a manner to assure confidentiality. No test results shall be available for use in a criminal prosecution of the employee without the employee's consent.

(1) Positive test result records, records of refusals to be tested and referrals to an S.A.P. shall be kept for five (5) years.

(2) Negative test result records shall be kept for a period of one (1) year.

d. Report to Federal Contract Agency. To comply with the Drug Free Workplace Act of 1988, 41 U.S.C. '701(a)(1)(E), the Director of Personnel Management shall notify the federal contracting agency of the conviction of any employee for selling, manufacturing or dispensing any illegal drug on government business property or government time, within 10 days of the conviction.

COMMONWEALTH DEVELOPMENT AUTHORITY

P.O. BOX 502149, SAIPAN MP 96950
Tel.: (670) 234-6245/6293/7145/7146 • Fax: (670) 234-7144 or 235-7147
Email: cda@itecnmi.com • Website: www.cda.gov.mp

COMMONWEALTH DEVELOPMENT AUTHORITY AND THE DIVISION OF REVENUE AND TAXATION, DEPARTMENT OF FINANCE PUBLIC NOTICE ON THE PROPOSED AMENDMENT TO THE RULES AND REGULATIONS OF THE QUALIFYING CERTIFICATE WITHIN THE COMMONWEALTH DEVELOPMENT AUTHORITY

The Division of Revenue and Taxation of the Department of Finance and the Commonwealth Development Authority (CDA), of the Commonwealth of the Northern Mariana Islands hereby notify the general public of the approval of the proposed amendments to the Qualifying Certificate (QC) Program Rules and Regulations. These Rules and Regulations are promulgated under Public 12-32, as amended and in accordance with the Administrative Procedures Act, 1 CMC §9101, et.seq.

Pursuant to §3323 of the Investment Incentive Act of 2000 (P.L. 12-32), as amended, and Chapter XIV of the QC Rules and Regulations, the CDA Board of Directors and the Director of Revenue and Taxation are amending the QC Rules and Regulations which was published in its entirety, and adopted, in the Commonwealth Register, Volume 23, Number 8, dated August 16, 2001.

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

The Chairman of the Board of Directors and the Executive Director of the Commonwealth Development Authority, and the Director of Revenue and Taxation, Department of Finance, urge the general public to submit written comments and recommendations regarding the amendments to the QC Rules and Regulations within thirty (30) days after the publication of this notice in the Commonwealth Register. Comments on the amendment to the QC Rules and Regulations may be sent to the Executive Director of the Commonwealth Development Authority, P. O. Box 502149, Saipan, MP 96950 or by e-mail at cda@itecnmi.com.

Dated this 16 of July 2003.

Juan S. Tenorio, Chairman
Board of Directors

Maria Lourdes S. Ada, Executive
Director

Esther S. Ada, Director
Division of Revenue & Taxation

8/19/03
Date Received in the Office of the Governor

Governor's Authorized Staff

08-19-03
Date of Filing with Registrar

Registrar of Corporations

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

Dated this 20th August of ~~July~~ 2003.

Acting Attorney General

COMMONWEALTH DEVELOPMENT AUTHORITY

P.O. BOX 502149, SAIPAN MP 96950
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COMMONWEALTH DEVELOPMENT AUTHORITY (CDA) YAN I DIBISION REVENUE AND TAXATION I DIPÅTTAMENTON I FINANCE, NOTISIAN PUPBLIKU PUT MA PROPOSITO NA AMENDASION I AREKLAMENTO YAN REGULASION PUT ASUNTON SETIFIKUN KUALIFIKAO GI HÅLOM CDA

I Dibision Revenue yan Taxation genin i Dipåttamenton i Finance yan i Commonwealth Development Authority genin Commonwealth Gi sankattan Siha Na Islas Mariånas ma infotma i henerat pupbliku put i ma apreban i propositon amendasion i Areklamento yan Regulasion put asunton prugråman Setifikun Kualifikao. Este na Areklamento yan Regulasion ma anunsia gi papa Lai Pupbliku 12-32, anai ma amenda yan kininsiste ni Administrative Procedures Act, 1 CMC 9101, et.seq.

Tinatitiyi ni 3323 put asunton Investment Incentive Act genin 2000 (Lai Pupbliku 12-32), anai ma amenda, yan Chapter XIV gi Setifikun Kualifikao Areklamento yan Regulasion, i Board of Directors genin i CDA yan i Direktot Revenue yan Taxation ma amenda i Areklamento yan Regulasion put asunton Setifikun KualifiKao ni ma pupblisa enteru, yan ma adopta, gi Rehistradoran Commonwealth, Volume 23, Numiru 8, ma fecha gi Agosto 16, 2001.

Guaha kopia put este i Setifikun Kualifikao ni tinetika put bandan Areklamento yan Regulasion ni este man ma amenda gaige na available gi Ofisinan i CDA, giya Gualo Rai, Saipan, M.P. 96950.

I Chairman i Board of Directors, i Executive Director genin i CDA, yan i Direktot i Division of Revenue and Taxation Dipåttamenton i Finance, ma sosohyo i henerat pupbliku para u ma submiti i opinion yan rekomendasion put asunton i Amendasion i Areklamento yan Regulasion i Setifikun Kualifikao gi hålom trenta (30) dias an despues di pupblikasion este na notisia gi Registradoran Commonwealth. Opinion put i Amendasion i Areklamenton yan Regulasion i Setifikun Kualifikao sina ma un na hanao guato para i Executive Director genin i CDA, P.O. Box 502149, Saipan, M.P. 6950 pat u ma e-mail gi cda@itecnmi.com.

Ma fecha gi 16 gi na ha'ane Julio, 2003.

Juan S. Tenorio, Kabesiyun (Chairman)
Kuetpon i Direktot siha
(CDA Board of Directors)

Maria Lourdes S. Ada
Eksakatibun Direktot
(Executive Director CDA)

Esther S. Ada, Direktot (Director)
Dibision i Re'ditu yan Aduanasion
(Division of Revenue & Taxation)

Fecha

8/19/03
Fecha Anai Ma risibi gi Ofisinan Gobietno

Ma aturisa Na Empliaon Gobietno

08-19-03
Fecha Anai Ma polú Gi Rehistradot

Rehistradoran Koporasion siha

Sigun gi 1 CMC §2153, ni ma amenda gi Lai Pupbliku 10-50, i ma proposito na inamendan Areklamento yan Regulasion siha ni checheton guine man ma ribisa yan apreba genin i Commonwealth Gi Sankattan Siha Na Islas Marianas Abugadan Henerat.

Ma fecha gi mina _____ na ha'ane Julio 2003.

Abugâdan Henerat

COMMONWEALTH DEVELOPMENT AUTHORITY

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COMMONWEALTH DEVELOPMENT AUTHORITY
ME DIVISION OF REVENUE AND TAXATION
BWULASIYOL FINANCE ARONGORONGOL TOULAP REEL
POMWOL LLIWEL NGÁLI ALLÉGHÚL
QUALIFYING CERTIFICATEP ROGRAM
MELLOL
COMMONWEALTH DEVELOPMENT AUTHORITY

Division of Revenue and Taxation mellól Bwulasiyol Finance me bwal Commonwealth Development Authority (CDA), mewóól Commonwealth metawal wool falúwasch Marianas ekke arongaar Toulap reel aléghúlúghúl pomwol lliwel reel mille Qualifying Certificate (QC) Program, allegh kkaal nge e akkateelo faal aileewal alléghúl Toulap ye 12-32, iye e lliwel me ebwe ghol ngáli Administrative Procedures Act, 1 CMC 9101, et. seq.

Sángi 3323 me reel Investment Incentive Act llól 2002 (P.L. 12-32) iye a lliwel me Chapter XIV sángi alléghúl QC, CDA Board of Directors me Director of Revenue and Taxation rebwe lliweli alléghúl QC igha e arongowow mellól aighúghúl me ebwe adopt-li Commonwealth Register, Volume 23, Numoro 8, ral ye elúwel 16, 2001.

Schéél lliwel kkaal mereel alléghúl QC nge eyoor reel Bwulasiyol Commonwealth Development Authority, iye elo aimairaw Seipel MP 96950.

Chairman of the Board of Directors me Executive Director of Commonwealth Development Authority, me bwal Director of Revenue and Taxation, Bwulasiyol Finance, ekke amweschelliir Toulap bwe rebwe ischilong yaar mángemáng aisiis bwelle reel lliwel kkaal ngáli alléghúl QC llól (30) rál sángi ffééról arongorong yeel mellol Commonwealth Register. Ayegh mereel lliwel kkaal reel alléghúl QC nge ebwe akkafang ló reel Executive Director mellól Commonwealth Development Authority, P.O. Box 502149, Seipel, MP 96950 me ngáre e-mail ngáli cda@itecnmi.com.

Rál ye 16 Ulleyo, 2003.

Juan S. Tenorio, Chairman
CDA Board of Directors

Maria Lourdes S. Ada, Executive
Director, CDA

Esther S. Ada, Director
Division of Revenue and Taxation

8/21/03
Date Received in the Office of the Governor

Governor's Authorized Staff

Date of Filing with the Registrar

Registrar of Corporations

Sángi 1 CMC 2153 igha a lliwel faal alléghúl Toulap P.L. 10-50, Pomwol allégh kkaal ikka e appassch ngáli nge atakkal amwuri me alúghúlúgh ló mereel CNMI Attorney General.

Rál ye _____, Ulleyo, 2003

Attorney General

COMMONWEALTH DEVELOPMENT AUTHORITY

P.O. BOX 502149, SAIPAN MP 96950
Tel.: (670) 234-6245/6293/7145/7146 •• Fax: (670) 234-7144 or 235-7147
Email: cda@itecnmi.com •• Website: www.cda.gov.mp

PROPOSED AMENDMENT TO THE QUALIFYING CERTIFICATE RULES AND REGULATIONS WITHIN THE COMMONWEALTH DEVELOPMENT AUTHORITY

Statutory Authority: Public Law 12-32 as amended.

Goals and Objectives: The attached amendments to the Qualifying Certificate Program Rules and Regulations are intended to refine the existing QC Rules & Regulations.

Brief Summary of the Proposed Amendments to the QC Rules and Regulations: The proposed amendments were formulated to give beneficiaries a time limit to accept or reject the Qualifying Certificate. These amendments are necessary to effectively carry out the intent of the Investment Incentive Act of 2000.

Contact Person: Interested parties may contact Maria Lourdes S. Ada, Executive Director of the Commonwealth Development Authority with questions at (670) 234-6245/7146/7145. Written comments may be directed to the Commonwealth Development Authority, P. O. Box 502149, Saipan, MP 96950, or delivered at its office at Wakin's Building, Gualo Rai, Saipan, or e-mail at cda@itecnmi.com, within thirty (30) days of publication of this proposed amendments to the rules and regulations.

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

Date: July 16, 2003

Juan S. Tenorio, Chairman
Board of Directors, Commonwealth
Development Authority

Ma. Lourdes S. Ada, Exec. Director
Commonwealth Development
Authority

Esther S. Ada, Director
Division of Revenue & Taxation

The following are the changes to the Qualifying Certificate Rules and Regulations approved by the Board of Directors on April 10, 2003:

CHAPTER VII. REQUIREMENTS OF THE BENEFICIARY:
Section A, Reports, becomes Section B.

Section B, Public Benefit Contributions, becomes Section C.

Section C, Goods Required to be Purchased Locally, becomes Section D.

Section D, Compliance with Applicable Laws, becomes Section E.

Section E, Inspections, becomes Section F.

Add new Section A, Acceptance to the Qualifying Certificate, to read as follows:

"The Beneficiary shall, in writing, accept or reject the Qualifying Certificate, in its entirety, within sixty (60) days after its effective date. CDA may, for compelling reasons, grant an extension of this deadline for not more than thirty (30) days. This requirement does not change the effective date of the Qualifying Certificate."

Subsection 1, Reports Prior to Commencement of Operations, under new Section B, Reports, is changed to read as follows: "*Notwithstanding the requirement under A, above*, no later than fifteen (15) days after the end of each *complete* month after the effective date of the Qualifying Certificate, the Beneficiary shall submit to the Administrator the following reports:"

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MA PROPONI I AMENDASIÓN PARA I AREKLAMENTO YAN REGULASIÓN I SETIFIKUN KUALIFIKAO SIHA GI HÅLOM I ATURIDÅT INADULANTAN I COMMONWEALTH

Aturidåt i Lai: Lai Pupbliku 12-32 ni inamenda

Goals and Objectives: I man checheton na amendasión Para i Areklamento yan Regulasión i Progrâman Setifikun Kualifikao man ma intensiona para u ma arekla i man eksiste na Regulasión i Setifikun Kualifikao siha.

Kada'da' na Mensåhe put i Man Ma Proponi na Amendasión para i Areklamento Yan Regulasión i Setifikun Kualifikao: I man ma proponi na amendasión ma fotma put para u nå'i' i Binifisåriu siha tiempo para i inasepta yan rinunsian i Setfifikun Kualifikao. Este siha na amendasión nisisåriu put para u efektibu i dinirihen i intension i Investment Incentive Act ginen 2000.

Petsona ni para u ma ågan: I man enteresao na petsona u ma ågan si Maria Lourdes S. Ada, Direktot Eksekatibun i Aturidåt Inadulantan i Commonwealth yan i kuestión siha (670) 235-6245/7146/7145. Tinigé opinion u ma dirihi guato i Aturidåt Inadulantan i Commonwealth, P.O. Box 502149, Saipan, MP 96950, pat entrega guato i Ofisina gi Wakin's Building, giya Gualo Rai, Saipan, pat Email gi cda@itecnmi.com gi hålom trenta (30) dihas ginen i pupblikasión este man ma proponi na amendasión para i Areklamento yan Regulasión siha.

I man achuli pat inafekta na Lai, Regulasión, yan Otden: I man ma Proponi na amendasión siha u afekta palu na seksiona ni man eksiste gi Areklamento yan Regulasión i Setfifikun Kualifikao siha.

Fecha: 16 Julio, 2003.

Juan S. Tenorio, Kabesiyu
Kuetpon i Direktot siha,
Aruridåt Inadulantan i Commonwealth

Ma. Lourdes S. Ada, Eksekatibun Direktot
Aturidåt Inadulantan i Commonwealth

Esther S. Ada, Direktot
Dibisión I Re'ditu yan Aduanasión
(Division of Revenue and Taxation)

COMMONWEALTH DEVELOPMENT AUTHORITY

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POMWOL LLIWEL NGÁLI ALLÉGHÚL QUALIFYING CERTIFICATE MELLÓL COMMONWEALTH DEVELOPMENT AUTHORITY

Akkatéél Bwángil: Alléghúl Toulap 12-32 iye aa lliwel.

Aweewel Bwángil: Lliwel Kkaal ikka e appasch ngáli Progromaal alléghúl Qualifying Certificate, nge bwelle ebwe ghi fisch allégh kka ighila.

Aweweel bwángil reel pomwol lliwel kkaal ngáli alléghúl QC: Pomwol lliwel kkaal ikka aa ffééirló bwe rebwe ngálleer beneficiaries ótol akkayúúló igha rebwe acceptaay me ngáre asáfááli Qualifying Certificate. Lliwel kkaal ikka e welepakk igha ebwe allégh yaal toowow aghiyágh Investment Incentive Act llól 2000.

Arama ye ubwe faingi: Schóókka eyoor yaar aghiyágh nge emmwel rebwe faingi Maria Lourdes S. Ada, Samwoolul Commonwealth Development Authority fengal me ayegh reel (670) 234-6245/7146/7145. Ischil mángemáng nge ebwe akkafangeló reel Bwulasiyool Commonwealth Development Auhority, P.O. Box 502149, Seipél, me ngáre bwughiiló reel Bwulasiyool Wakin's Building Amai Raaw, Seipél, me ngáre e-mail reel cda@itecnmi.com, llól eliigh (30) rál sángi yaal arongowow pomwol lliwel kkaal ngáli allégh kkaal.

Akkatéél Akkááw Allégh: Pomwol lliwel yeel iye ebwe affectaay akkááw Tálil kkaal ikka eyoor llól alleghul QC.

Rál: 16 Ulleyo, 2003

Juan S. Tenorio, Chairman
Mwiischil Samwool, Commonwealth Development Authority

Ma. Lourdes S. Ada, Exec. Director
Commonwealth Development Authority

Esther S. Ada, Samwool
Division of Revenue & Taxation

PUBLIC NOTICE OF PROPOSED AMENDMENTS TO THE AMENDED RULES AND REGULATIONS FOR THE OPERATION OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS LOTTERY

The Secretary of Finance hereby gives notice to the general public that the Department of Finance is proposing to amend the Amended Rules and Regulations for the Operation of the CNMI Lottery, as originally published in the Commonwealth Register, Volume 15, No. 10, October 15, 1993, and subsequently amended on June 20, 2000, Commonwealth Register, Volume 22, No. 6 and again amended on August 21, 2002, Commonwealth Register Volume 24, No. 8. This amendment is made pursuant to the Department's authority and directions set forth in the Commonwealth Code including, but not limited to, 1 CMC §9305, 1 CMC §9306, the Commonwealth Administrative Procedure Act, 1 CMC §9101 *et. seq.*, and Executive Order 94-3.

The purpose of these amendments are enacted to implement, interpret, prescribe and clarify the policies and procedures required to implement, regulate and supervise the operation of the CNMI Lottery. These Rules and regulations shall have the force and effect of law.

The proposed regulations may be inspected at, and copies obtained from the Secretary's Office, EDP Bldg., Capitol Hill, Saipan, MP. 96950. The proposed regulations are published in the Commonwealth Register.

The Secretary of Finance is soliciting comments on this proposed amendment to the Amended Rules and regulations for the Operation of the CNMI Lottery from the general public, Anyone interested in commenting on this proposed amendment may do so in writing. Comments may be addressed to the Secretary of Finance, Department of Finance, P.O. Box 5234 CHRB, Saipan, MP. 96950. All comments must be received within 30 days from the date of this notice published in the Commonwealth Register.

Certified By: _____ 8/18/03
Robert A. Schrack — Date
Acting Secretary of Finance
Department of Finance

Filed By: _____ 08/19/03
Bernadita B. Dela Cruz — Date
Commonwealth Register

Received By: _____ 8/19/03
Thomas A. Tebuteb — Date
SAA, Office of the Governor

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

Dated this 19th Day of August 2003.

Clyde Lemons Jr.
Acting Attorney General

Notisian Pupbliku Put Man Ma Propone Na Amendasión Siha Para I Areklamento Yan Regulasión Siha Put I Kinalamten I Lottery Gi Commonwealth I Sankattan Siha Na Islas Mariånas (CNMI Lottery)

I Sekritåriun i Finance man nånå'i' notisia para i pupbliku henerât na i Dipåttamenton i Finance ma propone para u ma amenda i Areklamento yan Regulasión Siha Put I Kinalamten I CNMI Lottery, ni ma pupblisa orihinât gi Rehistran I Commonwealth, Baluma 15, Num. 10, gi Okutubre 15, 1993, yan tumatatte' ma amenda gi Junio 20, 2000, gi Rehistran i Commonwealth, Baluma 22, Num. 6, yan matalun amenda gi Agosto 21, 2002 gi Rehistran i Commonwealth Baluma 24, Num. 8. Este na amendasión ma fatinas sigun para i aturidât yan dinirihen i Dipåttamento ni ma mensiona gi Kodigun i Commonwealth ni inenklusu, lao ti ma pribi para, i Lai 1 CMC Sek. 9305, Lai 1 CMC Sek. 9306, i Commonwealth Administrative Procedures Act, Lai 1 CMC Sek. 9101 *et.seq.*, yan Otden Eksekatibu 94-3.

I rason este siha na amendasión man ma otdena para u ma implimenta, intepeti, otden yan klarifika i areklamento yan minaneha siha ni ma nisisita para u implimenta, gobietna yan maneha i kinalamten i CNMI Lottery ginen i pupbliku henerât, hâye man enteresao munahalom opinion put este man ma propone na amendasión u fan nahalom tinige' . I opinion siha u ma hanague guatto i Sekritariun i Finance, Dipåttamenton i Finance, gi P.O. Box 5234 CHRB, Saipan, M.P. 96950. Todu i opinion siha debi di u ma risibi gi hålom trenta (30) dihas ginen i ma fechan este na notisia anai ma pupblisa gi Rehistran i Commonwealth.

Inaprueban: Robert A. Schrack — 8/18/03
Robert A. Schrack — Fecha
Acting Para I Sekritariun I Finance
Dipåttamenton i Finance

Pine'lon: Bernadita B. Dela Cruz — 08.19.03
Bernadita B. Dela Cruz — Fecha
Rehistran i Commonwealth

Rinisiben: _____ 8/19/03
Thomas A. Tebuteb — Fecha
Espisiåt Na Ayudånte Para I Atministrasión
Ofisinan I Gobietno

Sigun i Lai 1 CMC Sek. 2153, ni inamenda ginen i Lai Pupbliku 10-50, i regulasión ni man checheton man ma ribisa yan aprueba ginen i Abugådo Heneråt i Commonwealth I Sankattan Siha Na Islas Mariånas.

Ma fecha este mina 19th na diha gi Agosto, 2003.

_____
Clyde Lemons, Jr.
Acting Para I Abugådo Heneråt

Arongol Toulap reel pomwol lliwel kkaal ngáli allégh kka reel mwóghútúghútúl Commonwealth matawal wóól falúwasch Marianas Lottery

Samwoolul Finance ekke isisiwow arong ngáliir toulap bwe Bwulasiyool Finance ekke pomwoli bwe ebwe lliwel allégh kkaal ngáli mwóghútúghútúl CNMI Lottery, iye e fasúl arongoló mellól*Commonwealth Register*, Volume 15, No. 10. Sarobwel 15, 1993, me e sóbwósóbwóló yaal lliwel wóól Alimaté 20,2000, Commonwealth Register, Volume 22, No 6 me aisis lliwel wóól Elúwel 21, 2002,Volume 24, No .8. lliwel kkaal iye e ffééř sángi bwángil Bwulasiyo me afalafal ye e toowow mereel Commonwealth Code fengál, me ese aighúgh, 1CMC, tálil 19305, 1CMC tálil CMC 9306, Commonwealth Administrative Procedure Act, 1CMC tálil 9101 et seq., me Akkalééyal Sow Lemelem (Executive Order) 94-3.

Bwulul pomwol lliwel kkaal reel, ebwe allégh sefal igha ebwe yooreta, sów aweewe, ischil me affatal allégh kkaal me mwóghútúghútúl ye e yáayá ngáli milikka ebwe yoor, alléghúl me alúghúlúghúl mwóghútúghútúl CNMI Lottery. Allégh kkaal iye ebwe fisch llól allégh.

Pomwol allégh kkaal nge emmwel rebwe amweri mereel, me emwel ubwe bweibwogh copia sángi Bwulasiyool Samwool, EDP Bldg., Capitol Hill, Seipél, MP. 96950. Pomwol allegh kkaal aa akkateelo mellol Commonwealth Register.

Samwoolul Finance ekke titingór aghiyagh mereer aramas toulap reel pomwol lliwel kkaal ngáli allégh kka aa lliwel ngáli mwóghútúghútúl CNMI Lottery. Schóókka eyoor yaar mángemáng reel pomwol lliwel kkaal nge emmwel rebwe ischilong. Mángemáng nge emmwel ebwe addressed ngáli Samwoolul Finance, Depattamentool Finance, P. O. Box 5234 CHRB, Seipel, MP, 96950. Alongal aghiyagh nge rebwe bwughil llól eliigh rálil sángi ráálil yaal arongowow mellól Commonwealth Register.

Alúghúlúgh sángi : Robert A. Schrack — 8/18/03 Rál
Robert A. Schrack
Acting ngali Secretary of Finance
Bwulasiyool Finance

Aisis sángi : _____ Rál
Bernadita B. Dela Cruz
Commonwealth Register

Mwir sángi _____ 8/19/03 Rál
Thomas A. Tebuteb
SAA, Bwulasiyool Sów Lemelem

Sángi 1CMC tálil 2153, iye aa lliwel mereel Alléghúl Toulap 10-50, allégh kka e appasch nge raa takkal amweri me alúghúlúghúló mereel CNMI Sow Bwungúl Allégh.

Ráálil ye _____ llól Elúwel 2003.

_____
Clyde Lemons Jr.
Acting ngáli Sow Bwungúl Allégh

Office of the Secretary
Department of Finance

P.O. Box 5234 CHRB SAIPAN, MP 96950 TEL. (670) 664-1100 FAX: (670) 664-1115

DEPARTMENT OF FINANCE
PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS FOR THE OPERATION OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS LOTTERY

Citation of Statutory Authority:	The proposed amendments to the Rules and regulations for Operation of the CNMI Lottery are promulgated pursuant, but not limited to, 1 CMC §9305, 1 CMC §9306, the Commonwealth Administrative Procedure Act, 1 CMC §9101 et. seq., and Executive Order 94-3.
Statement of Goals and Objectives:	To amend the Rules and Regulations for the Operation of the CNMI Lottery, as published in the Commonwealth Register, Vol.15, No. 10, October 15, 1993, Commonwealth Register, Vol. 22, No. 6, June 20, 2000 and Commonwealth Register Vol.24, No. 8, August 21, 2002.
Brief Summary of the Rules:	The rules and regulations provide the polocies and procedures required to implement and regulate and supervise the operation of the CNMI Lottery. These rules and regulations may be amended, modified or repealed as deemed appropriate by the CNMI Department of Finance.
For Further Information, Contact:	Robert A. Schrack, Acting Secretary of Finance. Telephone number 664-1100 and facsimile number 664-1115.
Citation of Related and/or Affected Statutes, Regulations and Orders:	1 CMC §9301 et. seq; Commonwealth Register Vol. 15, No. 10, October 15, 1993, Commonwealth Register Vol. 22, No. 6, June 20, 2000 and Commonwealth Register Vol. 24, No. 8, August 21, 2002.

Submitted by: Robert A. Schrack 8/18/03

Robert A. Schrack Date

Acting Secretary of Finance

PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISALNDS LOTTERY

Rule 31 Rules for the Marianas Lottery is hereby repealed and reenacted to read as follows:

RULE 31 – GAME RULES FOR MARIANAS LOTTERY

31.0 Definitions

For the purposes of "Marianas Lottery", a 5 of 38 lotto game and a 4 of 28 lotto game, the following definitions apply unless the contract requires a different meaning or is otherwise inconsistent with the intention of the rules adopted by the Commonwealth Department of Finance:

(a) "Authorized Retailer" means a person under contract with the Marianas Lottery Licensee to sell Game Tickets to the public.
(b) "Central Computer System" means the computer system maintained by the Marianas Lottery Licensee for the recording of Tickets sold for a particular Drawing.
(c) "Drawing" means that process whereby the Lottery Licensee through the use of a random number generator selects five winning numbers between 1 and 38 for the Friday game, and four numbers between 1 and 28 for the Thursday game.
(d) "Drawing Coordinator" means the person designated by the Marianas Lottery Licensee to develop and implement procedures for conducting drawings.
(e) "Game" means the opportunity provided a player to purchase a ticket with the chance to win a prize by purchase of that ticket.
(f) "Game Ticket" or "Ticket" means a ticket produced by a Terminal, which contains the caption "Marianas Lottery", a game play of which has five numbers from 1 through 38 for the Friday game, or four numbers from 1 through 28 for the Thursday game, followed by the drawing date, the price of the ticket, a retailer number, and a serial number.
(g) "Marianas Lottery Licensee" means the person licensed by the Commonwealth Department of Finance to operate the Marianas Lottery lotto pursuant to these rules.
(h) "Person" means any natural person, corporation, partnership, limited partnership, limited liability company, or any other entity recognized under the laws of the Commonwealth of the Northern Mariana Islands.
(i) "Play" or "Game Play" means the five different numbers from 1 through 38 for the Friday game, or four different numbers from 1 through 28 for the Thursday game, which appear on Ticket and are to be played by player in a game.
(j) "Quick Pick" means the random selection by a terminal of five different numbers from 1 through 38 for the Friday game, or four different numbers

from 1 through 28 for the Thursday game, which appear on a Ticket and are to be played by player in the game.

(k) "Random Number Generator" means a computer- driven electronic device or mechanical device capable of producing numbers at random.

(l) "Terminal" means a device owned by the Marianas Lottery Licensee and leased to an Authorized Retailer and is the only device that can issue Game Tickets.

(m) "Winning Numbers" means the five numbers between 1 and 38 for the Friday game or four numbers between 1 and 28 for the Thursday game, randomly selected at each drawing, which shall be used to determine winning plays contained on a game ticket.

31.1 Price

(A) Game plays shall sell for $1 each. Game plays and tickets may only be purchased through an Authorized Retailer.

(B) An offer to buy and an offer to sell a Marianas Lottery ticket shall be made only at a location which has a contract with the Marianas Lottery Licensee or only by a method which is approved by the Commonwealth Department of Finance.

31.2 Ticket Purchase, Characteristics and Restrictions

(A) (i) Marianas Lottery is a pari-mutuel lotto game. A player must select a set of five different numbers, between 1 and 38 or four different numbers between 1 and 28, depending on the game played, for input into a terminal. Tickets can be purchased from a terminal operated by an Authorized Retailer. The player may provide the numbers to the authorized retailer or by requesting "Quick Pick" from the retailer. The retailer will then issue a Game Ticket, via the Terminal, containing the selected number set or Quick Pick number set that constitutes a game play. Authorized Retailers shall cease selling Tickets for a particular Drawing 60 minutes before the scheduled drawing.

(ii) From time to time, as determined by the Lottery Operator, there may be conducted a "Super Supplemental Promo" during Friday night's 1 of 38 drawing. An additional ball will be drawn after the first 5 balls are drawn. This ball is only used for participants that won 4 of the 5 numbers drawn (2nd prize winners). Any of those winners of the 4 of 5 numbers and the supplemental number will be eligible to win or share a special prize pot. This supplemental winning will be in addition to any share from the 2nd place prize pot as provided in Rule 34.4(1)(i)(b). The funds for this supplemental game will not come from any funds required to be placed in the second and third prize pots. The minimum supplemental prize pot shall be $2,000.00.

(B) A ticket shall be the only valid receipt for claiming a prize or prizes. A play slip has no pecuniary or prize value and shall not constitute evidence of ticket purchase or of numbers selected.

(C) It shall be the sole responsibility of the player to verify the accuracy of the game play or plays and other data printed on the ticket. A Marianas Lottery ticket may not be voided or cancelled by returning the ticket to the retailer, including tickets that are printed in error. The placing of plays is done at the player's own risk through the authorized retailer who is acting on behalf of the player in entering the player's plays.

Rule 31.3 Drawings

(A) Marianas Lottery Drawings shall normally take place twice a week every Thursday and Friday night at 7:00 PM. The Thursday drawing will be for the 4 of 28 game, and the Friday drawing will be for the 5 of 38 game. Drawings on those nights shall never take place prior to 7:00 PM, but may take place at some later times.

(B) The Marianas Lottery Licensee shall designate a Drawing Coordinator. Drawings shall be conducted pursuant to the procedures developed by the Drawing Coordinator. The objective of a drawing shall be to randomly select five winning numbers between 1 and 38. Drawings may be conducted with the aid of mechanical drawing equipment or a random number generator or other such devices as the Drawing Coordinator may determine.

(C) The equipment used to determine the winning combination shall be tested prior to and after each drawing to assure proper operation and lack of tampering or fraud. No prizes shall be paid until after all post-inspection checks have been completed.

(D) If, during a drawing for a game, a mechanical or electronic failure or operator error causes an interruption in the selection of numbers or symbols, the Drawing Coordinator will call a "technical difficulty". Any number drawn prior to a "technical difficulty" being declared will stand and be deemed official after passing inspection and certification by the Drawing Coordinator. The drawing of the remaining numbers shall commence only after the Drawing Coordinator finds that the "technical difficulty" has been corrected. Nothing in this subsection shall supersede the determination by the Marianas Lottery Licensee of equipment malfunction, tampering, or fraud resulting in the voiding of the entire drawing.

(E) The Marianas Lottery Licensee will delay payment of all prizes if any evidence exists or there are grounds for suspicion of equipment malfunction, tampering, or fraud. Payment shall be made after an investigation is

completed and the Marianas Lottery Licensee approves the drawing will be conducted to determine an actual winner.

Rule 31.4 Determination of Prize Winners

(A) (i) Prizes for the Friday 5 of 38 Drawing shall be drawn in the following order and determined and awarded on the following basis:

(a) First Prize – Match 5 numbers – Minimum Pool amount to be divided equally among valid tickets will be the greater of $45,000.00 or the amount described in Rule 31.6(A) or (B).

(b) Second Prize – Match 4 numbers – Minimum Pool amount to be divided equally among valid tickets will be the greater of $3,500.00 or the amount described in Rule 31.6(A) or (B).

(c) Third Prize – Match 3 numbers – Minimum Pool amount to be divided equally among valid tickets will be the greater of $1,500.00 or the amount described in Rule 31.6(A) or (B).

(ii) Prizes for the Thursday 4 of 28 Drawing shall be drawn in the following order and determined and awarded on the following basis:

(a) First Prize – Match 4 numbers – Minimum Pool amount to be divided equally among valid tickets will be the greater of $2,000 or the amount described in Rule 31.6(B).

(b) Second Prize – Match 3 numbers – Minimum Pool amount to be divided equally among valid tickets will be the greater of $1,000 or the amount described in Rule 31.6(B).

(B) Validated winning Tickets may be redeemed for a prize only through the Marianas Lottery Licensee from the hours of 11:00 am through 6:00 pm, Monday through Friday excluding legal holidays as defined by the government of the Commonwealth of the Northern Mariana Islands. The Commonwealth Department of Finance shall keep on record the current address and locations of the Marianas Lottery Licensee for purposes of redeeming winning Tickets.

(C) Prize winners shall have 60 days from the date of the drawing in which to redeem their prize. Unclaimed prizes shall lapse on the 61st day.

(D) Unclaimed prizes, including any unclaimed portion of a minimum pool that was divided equally among winning tickets shall lapse in accordance with 1 CMC §9315.

(E) Marianas Lottery licensee shall not be bound by any rule or agreement made between syndicate or group entrants.

(F) Subject to Rule 31.4(G) and even though a ticket may bear only the name of a syndicate, Marianas Lottery will recognize only the person(s) by whom the ticket is surrendered as the absolute owner (and where more than one in equal shares) and except as ordered by a court of competent jurisdiction shall not be bound to take notice or see to the execution of any trust, whether express, implied or constructive to which any such ticket may be subject. Payment by Marianas Lottery to the person(s) surrendering the ticket of any prize money payable thereon shall be a good discharge to Marianas Lottery, notwithstanding any notice Marianas Lottery may have of the right, title, interest or claim of any other person(s) to such prize money.

(G) Subject to the discretion of the Marianas Lottery, no prize money shall be payable except on surrender of the prize winning ticket to Marianas Lottery. The ticket name and address section should be completed before presentation for prize validation, and full identification may be required prior to payment. Claimant shall also indicate his Social Security Number (SSN) or Taxpayer Identification Number (TIN) on the ticket.

31.5 Ticket Validation Requirements

(A) To be a valid ticket and eligible to receive a prize, all the following requirements must be satisfied:

(i) The Ticket data must have been recorded in the central computer system prior to the drawing and the information appearing on the Ticket must correspond with the computer record;

(ii) The Ticket shall be intact to the extent that all information appearing on the Ticket corresponds with the Marianas Lottery Licensee's computer records;

(iii) The Ticket shall not be altered, mutilated or tampered with in any manner;

(iv) The Ticket shall not be counterfeit;

(v) The Ticket must have been issued by an Authorized Retailer in an authorized manner;

(vi) The Ticket must not have been stolen or canceled;

(vii) The Ticket must not have been previously paid;

(viii) The Ticket is subject to all other confidential security checks of the Lottery.

(B) Except as provided in Rule 31.3, a Ticket shall be the only valid receipt for claiming a prize. A copy of a Ticket or a play slip has no pecuniary or prize value and shall not constitute evidence of Ticket purchase or of numbers selected.

(C) A Ticket shall be validated through the Lottery's computer system.

(D) In the event of a dispute between the Marianas Lottery Licensee and a claimant as to whether a Ticket is a winning Ticket, and if the Marianas Lottery Licensee determines that the Ticket is not a winning Ticket, the Marianas Lottery Licensee may replace the disputed Ticket with a Ticket of at least the equivalent sales price for a future drawing of the same game. This shall be the sole and exclusive remedy of the claimant.

(E) In the event a defective Ticket is purchased, the only responsibility or liability of the Lottery or the Authorized Retailer shall be the replacement of the defective Ticket with another Ticket for a future drawing of the same game.

(F) The final decision on whether a prize will be paid shall be made by the Marianas Lottery Licensee.

31.6 Allocation of Revenues

(A) 35 percent of all weekly gross sales revenues over $15,000 for the Friday 5 of 38 game shall be reserved for prizes and shall be allocated to the prize categories as set forth below.

First Prize Pool	90.00%
Second Prize Pool	7.00%
Third Prize Pool	3.00%

(B) In the event it is determined that there are no valid winning tickets for a specific prize category (i.e. "Match 5", "Match 4", or "Match 3") in any given drawing, all monies allocated for that particular prize category for the Thursday's 4 of 28 game or Friday's 5 of 38 game drawing, as applicable, shall be carried forward and accumulated with the monies allocated for that particular prize category for particular day's drawing. For example, the monies allocated for the Thursday 4 of 28 drawing shall be carried forward and accumulated for the following Thursday drawing, while the monies allocated for the Friday 5 of 38 game drawing shall be carried forward and accumulated for the following Friday 5 of 38 game drawing. This process shall continue until such time as there is one or more valid winning ticket(s) for the particular prize category.

(C) In the event the "Marianas Lottery" game is terminated for any reason whatsoever, any prizes which were not won shall be reallocated by the Marianas Lottery Licensee. Any prizes which were won but not claimed within sixty (60) days of the drawing shall revert to the CNMI government.

(D) Nothing in these regulations shall prohibit the Marianas Lottery Licensee from declaring prizes larger that the minimum amounts set forth herein prior to any drawing. Such declaration shall only be made by delivering to the CNMI Secretary of Finance a notarized notice from the Marianas Lottery Licensee setting forth the prizes to be offered for a specified drawing.

31.7 Probability of Winning

The following table sets forth the probability of winning and the probable distribution of winners in and among each prize category, based upon the total number of possible combinations of five drawn from a field of 38 numbers.

First Prize	1 in 501,942
Second Prize	1 in 3,042
Third Prize	1 in 95
Any Prize	1 in 92

31.8 Governing Law

All players must abide by all laws, rules, regulations, and procedures applicable to the Marianas Lottery Lotto game. The Marianas Lottery Licensee shall make all final decisions regarding the game, including but not limited to, all final decisions regarding the determination of prize winners and the validation of tickets.

31.9 Suspension of Marianas Lottery Lotto Game

At the discretion of the Marianas Lottery Licensee, the Marianas Lottery Lotto Game may be suspended or terminated at any time to be effective prior to any scheduled drawing. In case of a terminated drawing, the sole remedy for holders of tickets for such drawing shall be the refund of the ticket purchase price.

RULE 32 – RULES FOR THE "MARIANAS PICK 3" GAME

Rule 32.0 Definitions

For the purposes of "Marianas Pick 3", the following definitions apply unless the context requires a different meaning or is otherwise inconsistent with the intention of the rules adopted by the Commonwealth Department of Finance:

(a) "Authorized Retailer" means a person under contract with the Marianas Lottery Licensee to sell Game Tickets to the public.

(b) "Central Computer System" means the computer system maintained by the Marianas Lottery Licensee for the recording of Tickets sold for a particular Drawing.

(c) "Drawing" means that process whereby the Lottery Licensee through the use of a random number generator selects three single-digit winning numbers, each from zero to nine, and the order in which they occur.

(d) "Drawing Coordinator" means the person designated by the Marianas Lottery Licensee to develop and implement procedures for conducting drawings.

(e) "Game" means the opportunity provided a player to purchase a ticket with the chance to win a prize by purchase of that ticket.

(f) "Game Ticket" or "Ticket" means a ticket produced by a Terminal, which contains the caption "Marianas Lottery Pick 3", a game play of which has three numbers, each from zero through nine followed by the drawing date, the price of the ticket, a retailer number, and a serial number.

(g) "Marianas Lottery Licensee" means the person licensed by the Commonwealth Department of Finance to operate a Marianas Lottery Pick 3 pursuant to these rules.

(h) "Person" means any natural person, corporation, partnership, limited partnership, limited liability company, or any other entity recognized under the laws of the Commonwealth of the Northern Mariana Islands.

(i) "Play" or "Game Play" means the three different numbers, each from zero through nine, which appear on a Ticket and are to be played by a player in a game.

(j) "Quick Pick" means the random selection by a terminal of three different numbers, each from zero through nine, which appear on a Ticket and are to be played by a player in the game.

(k) "Random Number Generator" means a computer-driven electronic device or mechanical device capable of producing numbers at random.

(l) "Terminal" means a device owned by the Marianas Lottery Licensee and leased to an Authorized Retailer and is the only device that can issue Game Tickets.

(m) "Winning Numbers" means the three numbers, each from zero through nine, randomly selected at each drawing, which shall be used to determine winning plays contained on a game ticket.

32.1 Price

(a) Game plays shall sell for $1 each. Game plays and tickets may only be purchased through an Authorized Retailer.

(b) An offer to buy and an offer to sell a Marianas Lottery ticket shall be made only at a location which has a contract with the Marianas Lottery Licensee or only by a method which is approved by the Commonwealth Department of Finance.

32.2 Ticket Purchase, Characteristics and Restrictions

(a) A player must select a set of three numbers, each from zero through nine for input into a terminal. Tickets can be purchased only from a terminal operated by an Authorized Retailer. The player may provide the numbers to the authorized retailer or by requesting "Quick Pick" from the retailer. The retailer will then issue a Game Ticket, via the Terminal, containing the selected number set or Quick Pick number set which constitutes a game play. Authorized Retailers shall cease selling Tickets for a particular Drawing 60 minutes before the scheduled drawing.

(b) A ticket shall be the only valid receipt for claiming a prize or prizes.

(c) It shall be the sole responsibility of the player to verify the accuracy of the game play or plays and other data printed on the Ticket. A Marianas Lottery Ticket may not be voided or cancelled by returning the Ticket to the Authorized Retailer after the drawing, including tickets that are printed in error. The placing of plays is done at the player's own risk through the Authorized Retailer who is acting on behalf of the player in entering the player's Plays.

32.3 Drawings

(a) Marianas Lottery Drawings shall normally take place a minimum of once a week on Monday at 7:00 PM. Drawings for a particular week shall never take place prior to 7:00 PM, but may take place at some later times.

(b) The Marianas Lottery Licensee shall designate a Drawing Coordinator. Drawings shall be conducted pursuant to the procedures developed by the Drawing Coordinator. The objective of a drawing shall be to randomly select three winning numbers each from

zero through nine. Drawings may be conducted with the aid of mechanical drawing equipment or a random number generator or other such devices as the Drawing Coordinator may determine.

(c) The equipment used to determine the winning combination shall be tested prior to and after each drawing to assure proper operation and lack of tampering or fraud. No prizes shall be paid until after all post-inspection checks have been completed.

(d) If, during a drawing for a game, a mechanical or electronic failure or operator error causes an interruption in the selection of numbers or symbols, the Drawing Coordinator will call a "technical difficulty". Any number drawn prior to a "technical difficulty" being declared will stand and be deemed official after passing inspection and certification by the Drawing Coordinator. The drawing of the remaining numbers shall commence only after the Drawing Coordinator finds that the "technical difficulty" has been corrected. Nothing in this subsection shall supersede the determination by the Marianas Lottery Licensee of equipment malfunction, tampering, or fraud resulting in the voiding of the entire drawing.

(e) The Marianas Lottery Licensee will delay payment of all prizes if any evidence exists or there are grounds for suspicion of equipment malfunction, tampering, or fraud. Payment shall be made after an investigation is completed and the Marianas Lottery Licensee approves the drawing and authorizes payment. If the drawing is not approved, it will be void and another drawing will be conducted to determine an actual winner.

32.4 Determination of Prize Winners

(a) Prizes for each Drawing shall be determined and awarded on the following basis:

First Prize – Match three numbers in the order drawn - $400 each Game Ticket with a three number match in the order drawn. The aggregate prize amount per Drawing will be subject to a maximum total payout of $50,000.00. Should the product of the total winning Game Tickets sold multiplied by the prize payout per game exceed $50,000.00 for a particular Drawing the prize per Game Ticket shall be equal to $50,000.00 divided by the number of winning Game Tickets sold.

(b) Validated winning Tickets may be redeemed for a prize only through the Marianas Lottery Licensee from the hours of 11:00 am through 6:00 p.m., Monday through Friday excluding legal holidays as defined by the government of the Commonwealth of the Northern Mariana Islands. The Commonwealth Department of Finance shall keep on record the current address and location of the Marianas Lottery Licensee for purposes of redeeming wining Tickets

(c) Nothing in these regulations shall prohibit the Marianas Lottery from declaring prizes larger than the minimum amounts set forth herein prior to any drawing.

32.5 Ticket Validation Requirements

To be a valid Ticket and eligible to receive a prize, all the following requirements must be satisfied:

(a) To be a valid winning Ticket, all of the following conditions must be met:
(1) The Ticket data must have been recorded in the central computer system prior to the drawing and the information appearing on the Ticket must correspond with the computer record;
(2) The Ticket shall be intact to the extent that all information appearing on the Ticket corresponds with the Marianas Lottery Licensee's computer records;
(3) The Ticket shall not be altered or tampered with in any manner;
(4) The Ticket shall not be counterfeit or a duplicate of another winning Ticket;
(5) The Ticket must have been issued by an Authorized Retailer in an authorized manner;
(6) The Ticket must not have been stolen or canceled;
(7) The Ticket must not have been previously paid;
(8) The Ticket is subject to all other confidential security checks of the Lottery.

(b) Except as provided in section (d) of this rule, a Ticket shall be the only valid receipt for claiming a prize. A copy of a Ticket or a play slip has no pecuniary or prize value and shall not constitute evidence of Ticket purchase or of numbers selected.

(c) A Ticket shall be validated through the Lottery's computer system.

(d) In the event of a dispute between the Marianas Lottery Licensee and a claimant as to whether a Ticket is a winning Ticket, and if the Marianas Lottery Licensee determines that the Ticket is not a winning Ticket or not valid and a prize is not paid, the Marianas Lottery Licensee may replace the disputed Ticket with at least a Ticket of equivalent sales price for a future drawing of the same game. This shall be the sole and exclusive remedy of the claimant.

(e) In the event a defective Ticket is purchased, the only responsibility or liability of the Lottery or the Authorized Retailer shall be the replacement of the defective Ticket with another Ticket for a future drawing of the same game.

(f) The final decision on whether a prize will be paid shall be made by the Marianas Lottery Licensee.

32.6 Probability of Winning

The following table sets forth the probability of winning and the probable distribution of winners in and among each prize category, based upon the total number of possible combinations of three numbers, each from zero through nine.

First Prize 1 in 1,000

32.7 Governing Law

All players must abide by all laws, rules, regulations, and procedures applicable to the Marianas Lottery Pick 3 Game, and all other Lottery Rules and Regulations as published and adopted in the Commonwealth Register. The Marianas Lottery Licensee shall make all final decisions regarding the Game, including but not limited to, all final decisions regarding the determination of prize winners and the validation of Tickets.

32.8 Suspension of Marianas Lottery Lotto Game

At the discretion of the Marianas Lottery Licensee, the Marianas Lottery Lotto Game may be suspended or terminated at any time to be effective prior to any scheduled drawing. In case of a terminated drawing, the sole remedy for holders of tickets for such drawing shall be the refund of the ticket purchase price.

RULE 33 – RULES FOR THE "MARIANAS SCRATCHIT"

33.0 Definitions

For the purposes of Marianas Scratchit, the following definitions apply except as otherwise specifically provided or unless the context requires otherwise:

(a) "Pack" means a book of shrink-wrapped Scratch-It game tickets which may or may not be attached to each other by perforations.

(b) "Pack-Ticket Number" means the uncovered number printed on the back of the ticket; the number consists of a game number, a unique pack identification number, and a ticket number.

(c) "Play Symbols" mean the figures printed in gray-black or other colored ink which appear under each of the ruboff spots on the front of the ticket.

(d) "Play Symbol Caption" means the small printed material appearing below each play symbol which repeats or explains the play symbol; only one of these play symbol captions appears under each play symbol and is printed in gray-black or other colored ink.

(e) "Retailer Validation Code" means the small letters found under the removable rub-off latex that covers the play symbols on the front of the ticket. The letters appear in varying locations beneath the removable rub-off latex and among the play symbols.

(f) "Scratch-It" means a game in which winning tickets are produced at the time of manufacture with the aid of equipment, and the winning tickets are identified after purchase by scanning the bar code or manually entering the bar code number printed on the back of each ticket with equipment provided by the Lottery. A Scratch-It game ticket offers a player the opportunity to remove a latex covering on the front of a ticket and play the Scratch-It ticket for entertainment purposes.

(g) "Ticket Validation Number" means the unique number covered by latex on the front of the ticket.

(h) "Void if Removed Number" (VIRN) means the series of digits on the face of a Scratch-It ticket located beneath the play area and covered with latex which is used in the validation process.

33.1 Scratch-It Ticket Price

The minimum price of a Scratch-It ticket shall be $1, and the maximum price shall not exceed $10.00.

33.2 Method of Determining Winners

(a) Winning tickets in a Scratch-It game are determined at the time of manufacture when winning tickets are produced at random with the aid of equipment in accordance with the payout percentage and prize structure established for the game.

(b) To determine a winning ticket, the official bar code or bar code number printed on the back of the ticket must be scanned or manually entered either at the Marianas Lottery office. If the ticket is a winner, Lottery's computer system will identify it as such based upon the official bar code or bar code number. Removing the latex covering on the front of the ticket does not identify a winning ticket. The latex covering feature is offered for entertainment purposes only. The ticket holder must notify the Lottery or a retailer of the apparent winning ticket and submit it for validation as specified in these rules in order to claim a prize. The ticket must be validated in accordance with Lottery's administrative rules as may be amended from time to time before a prize may be paid.

(c) Only the highest prize amount will be paid on a given Scratch-It ticket, except for games which are designed to offer multiple prizes. In all events, the determination of prize winners is subject to the general ticket validation requirements set forth in Rule 33.4 and any additional requirements set forth on the back of each Scratch-It ticket. If the terms on the back of a ticket conflict with the Lottery's administrative rules, then the rules are the controlling authority.

33.3 Payment of Prizes

This rule provides procedures for a player to claim Scratch-It ticket prizes and for payment of prizes on valid winning tickets.
(a) Scratch-It ticket prizes shall be claimed Marianas Lottery Office during Lottery business hours and presenting the ticket to the Marianas Lottery.

(b) Upon the Director's determination that the ticket is a winner and the validation of the ticket, and upon the delivery and surrender of the ticket to the Marianas Lottery, the Lottery shall then present in person or by mail a check to the player in payment of the amount of the prize due less any applicable tax withholding. If the ticket is determined to be invalid or a non-winning ticket or the claim is invalid, the claim shall be denied and the player shall be promptly notified.

(c) Any ticket not passing all applicable validation checks is invalid and void for claims made. A player submitting an invalid or void ticket is ineligible for any prize and no prize shall be paid for such a ticket.

33.4 Ticket Validation Requirements

(a) Besides meeting all of the other requirements in Rule 33.2 and as may be printed on the back of each ticket, the following validation requirements shall apply with regard to Scratch-It game tickets:

(b) To be a valid Scratch-It game ticket, all of the following requirements must be met:

(1) Where applicable, each of the play symbols must have a play symbol caption underneath, and each play symbol must agree with its play symbol caption;

(2) Each of the play symbols and captions must be present in its entirety and be legible;

(3) Each of the play symbols and its play symbol caption must be printed according to game specifications;

(4) The game number, pack number, ticket number, bar code, bar code number, and VIRN number must be present and all information shall correspond with the Lottery's computer records.

(5) The play symbols, play symbol captions, game number, pack-ticket number, and VIRN number must be right-side-up and not reversed in any manner;

(6) The ticket must have exactly one pack-ticket number;

(7) The VIRN number of an apparent high-tier winning ticket shall appear on the Lottery's official record of winning ticket VIRN numbers; and a ticket with that VIRN number shall not have been paid previously;

(8) Each of the following must correspond precisely to the artwork on file at the Lottery: play symbols on the ticket, play symbol captions, pack-ticket numbers, display printing, game numbers, retailer validation code; and ticket VIRN number.

33.5 Confidentiality of Scratch-It Tickets

No retailer or its employees or agents shall attempt to ascertain the numbers or symbols appearing in the designated areas under the removable latex coverings or otherwise attempt to identify winning Scratch-It tickets.

RULE 34 – RULES FOR THE "MARIANAS POWER PICK 3" GAME

Rule 34.0 Definitions

For the purposes of "Marianas Power Pick 3", the following definitions apply unless the context requires a different meaning or is otherwise inconsistent with the intention of the rules adopted by the Commonwealth Department of Finance:

(a) "Authorized Retailer" means a person under contract with the Marianas Lottery Licensee to sell Game Tickets to the public.

(b) "Central Computer System" means the computer system maintained by the Marianas Lottery Licensee for the recording of Tickets sold for a particular Drawing.

(c) "Drawing" means that process whereby the Lottery Licensee through the use of a random number generator selects three single-digit winning numbers, each from zero to nine, and the order in which they occur.

(d) "Drawing Coordinator" means the person designated by the Marianas Lottery Licensee to develop and implement procedures for conducting drawings.

(e) "Game" means the opportunity provided a player to purchase a ticket with the chance to win a prize by purchase of that ticket.

(f) "Game Ticket" or "Ticket" means a ticket produced by a Terminal, which contains the caption "Marianas Lottery Power Pick 3", a game play of which has three numbers, each from zero through nine followed by the drawing date, the price of the ticket, a retailer number, and a serial number.

(g) "Marianas Lottery Licensee" means the person licensed by the Commonwealth Department of Finance to operate a Marianas Lottery Power Pick 3 pursuant to these rules.

(h) "Person" means any natural person, corporation, partnership, limited partnership, limited liability company, or any other entity recognized under the laws of the Commonwealth of the Northern Mariana Islands.

(i) "Play" or "Game Play" means the three different numbers, each from zero through nine, which appear on a Ticket and are to be played by a player in a game.

(j) "Quick Pick" means the random selection by a terminal of three different numbers, each from zero through nine, which appear on a Ticket and are to be played by a player in the game.

(k) "Random Number Generator" means a computer-driven electronic device or mechanical device capable of producing numbers at random.

(l) "Terminal" means a device owned by the Marianas Lottery Licensee and leased to an Authorized Retailer and is the only device that can issue Game Tickets.

(m) "Winning Numbers" means the three numbers, each from zero through nine, randomly selected at each drawing, which shall be used to determine winning plays contained on a game ticket.

34.1 Price

(a) Game plays shall sell for $1 each. Game plays and tickets may only be purchased through an Authorized Retailer.

(b) An offer to buy and an offer to sell a Marianas Lottery ticket shall be made only at a location which has a contract with the Marianas Lottery Licensee or only by a method which is approved by the Commonwealth Department of Finance.

34.2 Ticket Purchase, Characteristics and Restrictions

(a) A player must select a set of three numbers, each from zero through nine for input into a terminal. Tickets can be purchased from a terminal operated by an Authorized Retailer. The player may provide the numbers to the authorized retailer or by requesting "Quick Pick" from the retailer. The retailer will then issue a Game Ticket, via the Terminal, containing the selected number set or Quick Pick number set which constitutes a game play. Authorized Retailers shall cease selling Tickets for a particular Drawing 60 minutes before the scheduled drawing.

(b) A ticket shall be the only valid receipt for claiming a prize or prizes. A play slip has no pecuniary or prize value and shall not constitute evidence of ticket purchase or of numbers selected.

(c) It shall be the sole responsibility of the player to verify the accuracy of the game play or plays and other data printed on the ticket. A Marianas Lottery ticket may not be voided or cancelled by returning the ticket to the retailer, including tickets that are printed in error. The placing of plays is done at the player's own risk through the authorized retailer who is acting on behalf of the player in entering the player's plays.

34.3 Drawings

(a) Marianas Lottery Drawings shall normally take place a minimum of once a week on Wednesday at 7:00 PM. Drawings for a particular week shall never take place prior to 7:00 PM, but may take place at some later times.

(b) The Marianas Lottery Licensee shall designate a Drawing Coordinator. Drawings shall be conducted pursuant to the procedures developed by the Drawing Coordinator. The objective of a drawing shall be to randomly select three winning numbers each from

zero through nine. Drawings may be conducted with the aid of mechanical drawing equipment or a random number generator or other such devices as the Drawing Coordinator may determine. The numbers shall be drawn in the following manner:

(i) Three (3) sets of balls each numbered zero (0) through nine (9) shall be placed in a mechanical drawing device.

(ii) Three numbers shall be drawn from the ball set without replacement.

(c) The equipment used to determine the winning combination shall be tested prior to and after each drawing to assure proper operation and lack of tampering or fraud. No prizes shall be paid until after all post-inspection checks have been completed.

(d) If, during a drawing for a game, a mechanical or electronic failure or operator error causes an interruption in the selection of numbers or symbols, the Drawing Coordinator will call a "technical difficulty". Any number drawn prior to a "technical difficulty" being declared will stand and be deemed official after passing inspection and certification by the Drawing Coordinator. The drawing of the remaining numbers shall commence only after the Drawing Coordinator finds that the "technical difficulty" has been corrected. Nothing in this subsection shall supersede the determination by the Marianas Lottery Licensee of equipment malfunction, tampering, or fraud resulting in the voiding of the entire drawing.

(e) The Marianas Lottery Licensee will delay payment of all prizes if any evidence exists or there are grounds for suspicion of equipment malfunction, tampering, or fraud. Payment shall be made after an investigation is completed and the Marianas Lottery Licensee approves the drawing and authorizes payment. If the drawing is not approved, it will be void and another drawing will be conducted to determine an actual winner.

34.4 Determination of Prize Winners

(a) Prizes for each Drawing shall be determined and awarded on the following basis:

(i) Triple Prize – Player selects three identical numbers. $1,000 for each game where numbers drawn matches the three identical numbers selected.

(ii) Double Prize – Player selects three numbers with two of the three numbers being identical. $700 for each game where the numbers selected matches the numbers drawn in the order drawn.

(iii) Singles Prize – Player selects three numbers with no numbers being identical. $400 where the numbers selected matches the numbers drawn in the order drawn.

(b) Amount per game will be subject to a maximum payout of $50,000.00 per draw. Should the product of the total winning games sold multiplied by the prize payout per game exceed $50,000.00 for a particular draw the prize shall be equal to $50,000.00 divided by the number of winning games sold.

(c) Validated winning Tickets may be redeemed for a prize only through the Marianas Lottery Licensee from the hours of 11:00 am through 6:00 pm, Monday through Friday excluding legal holidays as defined by the government of the Commonwealth of the Northern Mariana Islands. The Commonwealth Department of Finance shall keep on record the current address and location of the Marianas Lottery Licensee for purposes of redeeming wining Tickets

(d) Nothing in these regulations shall prohibit the Marianas Lottery from declaring prizes larger than the minimum amounts set forth herein prior to any drawing.

34.5 Ticket Validation Requirements

To be a valid ticket and eligible to receive a prize, all the following requirements must be satisfied:

(a) To be a valid winning Ticket, all of the following conditions must be met:

(1) The Ticket data must have been recorded in the central computer system prior to the drawing and the information appearing on the Ticket must correspond with the computer record;

(2) The Ticket shall be intact to the extent that all information appearing on the Ticket corresponds with the Marianas Lottery Licensee's computer records;

(3) The Ticket shall not be altered or tampered with in any manner;

(4) The Ticket shall not be counterfeit or a duplicate of another winning Ticket;

(5) The Ticket must have been issued by an Authorized Retailer in an authorized manner;

(6) The Ticket must not have been stolen or canceled;

(7) The Ticket must not have been previously paid;

(8) The Ticket is subject to all other confidential security checks of the Lottery.

(b) Except as provided in subsection (d) of this rule, a Ticket shall be the only valid receipt for claiming a prize. A copy of a Ticket or a play slip has no pecuniary or prize value and shall not constitute evidence of Ticket purchase or of numbers selected.

(c) A Ticket shall be validated through the Lottery's computer system.

(d) In the event of a dispute between the Marianas Lottery Licensee and a claimant as to whether a Ticket is a winning Ticket, and if the Marianas Lottery Licensee determines that the Ticket is not a winning Ticket or not valid and a prize is not paid, the Marianas Lottery Licensee may replace the disputed Ticket with at least a Ticket of equivalent sales price for a future drawing of the same game. This shall be the sole and exclusive remedy of the claimant.

(e) In the event a defective Ticket is purchased, the only responsibility or liability of the Lottery or the Authorized Retailer shall be the replacement of the defective Ticket with another Ticket for a future drawing of the same game.

(f) The final decision on whether a prize will be paid shall be made by the Marianas Lottery Licensee.

34.6 Probability of Winning

The following table sets forth the probability of winning and the probable distribution of winners in and among each prize category, based upon the total number of possible combinations of three numbers, each from zero through nine.

Triples	1 in 4,060
Doubles	1 in 1,353
Singles	1 in 902

34.7 Governing Law

All players must abide by all laws, rules, regulations, and procedures applicable to the Marianas Power Pick 3 game. The Marianas Lottery Licensee shall make all final decisions regarding the game, including but not limited to, all final decisions regarding the determination of prize winners and the validation of tickets.

34.8 Suspension of Marianas Lottery Lotto Game

At the discretion of the Marianas Lottery Licensee, the Marianas Lottery Lotto Game may be suspended or terminated at any time to be effective prior to any scheduled drawing. In case of a terminated drawing, the sole remedy for holders of tickets for such drawing shall be the refund of the ticket purchase price.

Rule 24 of the Amended Lottery Rules and Regulations relating to the game of Jueteng are hereby repealed and reenacted as follows:

RULE 24 – JUETENG DEFINITIONS

24.0 Definitions. For the purposes of Jueteng, a One Number game, or a Two Number game, the following definitions apply:

(a) " Authorized Retailer" means a person under contract with the Jueteng Licensee to sell Game Tickets to the public.

(b) "Central Computer System" means the computer system maintained by the Jueteng Licensee for the recording of Tickets sold for a particular Drawing.

(c) "Drawing" means that process whereby the Lottery Licensee through the use of a random number generator selects one number or two numbers, depending on the type of game, as explained further in Rule 25 of these Regulations. With respect to the two number game, the first number generated will be for the first number of that game, and the second number generated will be for the second number of that game.

(d) "Drawing Coordinator" means the person designated by the Jueteng Licensee to develop and implement procedures for conducting drawings.

(e) "Game" means the opportunity provided a player to purchase a ticket with the chance to win a prize by purchase of that ticket.

(f) "Game Ticket" or "Ticket" means a ticket produced by a Terminal, which contains the name of the Jueteng Lottery Operator, a game play of which is either a One Number Game or a Two Number Game as further described in Rule 25, followed by the drawing date, the price of the ticket, a retailer number, and a serial number.

(g) "Jueteng Lottery Licensee" means the person licensed by the Commonwealth Department of Finance to operate the Jueteng Lottery pursuant to these rules.

(h) "Number Pick" means the random selection by a terminal of one number, or two numbers, depending on the game played, ranging from 1 through 38 which appear on a Ticket and are to be played by player in the game.

(i) "Person" means any natural person, corporation, partnership, limited partnership, limited liability company, or any other entity recognized under the laws of the Commonwealth of the Northern Mariana Islands.

(j) "Play" or "Game Play" means for the One Number Game, one number from 1 through 38, and for the Two Number Game, two numbers from 1 through 38, which appear on Ticket and are to be played by player in a game.

(k) "Random Number Generator" means a computer- driven electronic device or mechanical device capable of producing numbers at random.

(l) "Terminal" means a device owned by the Jueteng Lottery Licensee and leased to an Authorized Retailer and is the only device that can issue Game Tickets.

(m) "Winning Numbers" means the one numbers between 1 and 38 for the One Number Game, and the two numbers between 1 and 38, listed in the exact sequence as the winning numbers randomly generated for the two number

game, which shall be used to determine winning plays contained on a game ticket.

Rule 25 – The Game Rules for Jueteng is hereby repealed and reenacted to read as follows:

RULE 25 – GAME RULES FOR JUETENG GAME

Rule 25.0 - One Number Game.

A one number game is a game ticket, or tickets which are sold to players. A player will receive a "Number Pick" from a retailer. The player selects a number from the pre-printed Number Pick between 1 and 38, and prints it on the Number Pick. The retailer will then issue a Game Ticket, via the Terminal, containing the selected number or Number Pick that constitutes a game play. Authorized Retailers shall cease selling Tickets for a particular drawing 60 minutes before the scheduled drawing.

Rule 25.1- Two Number Game.

A two number game is played similarly to the One Number Game as described in Rule 25.0, immediately above, except the player selects two numbers from the Number Pick and prints one number in each box on the game ticket. The retailer will then issue a Game Ticket, via the Terminal, containing the selected number or Number Pick that constitutes a game play. Authorized Retailers shall cease selling Tickets for a particular drawing 60 minutes before the scheduled drawing.

Rule 25.2

(a) The Jueteng Lottery Licensee shall designate a Drawing Coordinator. Drawings shall be conducted pursuant to the procedures developed by the Drawing Coordinator. The objective of a drawing shall be to randomly select one winning number between 1 and 38 for the One Number Game, and two winning numbers between 1 and 38 for the Two Number Game. Drawings shall be conducted with a random number generator.

(b) A player's ticket having the number or numbers selected matching to the number or numbers drawn is entitled to the winning prize for that particular drawing date and game. The player must have the winning numbers listed in the exact sequence as the winning numbers drawn. Any order of numbers not listed in sequence with the drawn winning combination does not win the grand prize.

(c) The equipment used to determine the winning combination shall be tested prior to and after each drawing to assure proper operation and lack of tampering or fraud. No prizes shall be paid until after all post-inspection checks have been completed.

(d) If, during a drawing for a game, a mechanical or electronic failure or operator error causes an interruption in the selection of numbers or symbols, the Drawing Coordinator will call a "technical difficulty". Any number drawn prior to a "technical

difficulty" being declared will stand and be deemed official after passing inspection and certification by the Drawing Coordinator. The drawing of the remaining numbers shall commence only after the Drawing Coordinator finds that the "technical difficulty" has been corrected. Nothing in this subsection shall supersede the determination by the Jueteng Lottery Licensee of equipment malfunction, tampering, or fraud resulting in the voiding of the entire drawing.

(e) The Jueteng Lottery Licensee will delay payment of all prizes if any evidence exists or there are grounds for suspicion of equipment malfunction, tampering, or fraud. Payment shall be made after an investigation is completed and the Jueteng Lottery Licensee approves the drawing and authorizes payment. If the drawing is not approved, it will be void and another drawing will be conducted to determine an actual winner.

(f) A ticket shall be the only valid receipt for claiming a prize or prizes. A play slip or Number Pick slip has no pecuniary or prize value and shall not constitute evidence of ticket purchase or of numbers selected.

(g) It shall be the sole responsibility of the player to verify the accuracy of the game play or plays and other data printed on the ticket. A Jueteng Lottery ticket may not be voided or cancelled by returning the ticket to the retailer, including tickets that are printed in error. The placing of plays is done at the player's own risk through the authorized retailer who is acting on behalf of the player in entering the player's plays.

25.3 The cost of a 1 number game ticket shall be $1.00 for each ticket. The cost of a two number game shall be $1.00 for each ticket.

25.4 The prize pool available each day for the Two Number game is $50,000. The prize pool available each day for the One Number game shall be a minimum of $1,000. Each one number winning ticket receives $30.00, payable at the time of the drawing. Each two number winning ticket receives $600.00 payable at the time of the drawing. If there is more than one winner, each winner receives $600.00 for the two number games or $30.00 for the one number game up to the limit of the respective game's prize pool. Before any winner of any game is paid, the licensee shall determine the number of winners and if the sum of all prizes exceeds the prize pool, each winner shall receive a pro-rata share of the prize pool.

25.5 To assure the Department that all prizes will be paid and there is sufficient money to pay each days winners, the Jueteng Lottery Licensee shall deposit and maintain a balance of not less than $50,000 in a Prize Trust Account for the Two Number game and a balance of not less than $1,000 in a Prize Trust Account for the One Number game, on terms and conditions established by the Department.

25.6 Drawing for the games are to be held once daily, not later than 10:00 p.m. Tickets shall not be sold after 9:00 p.m. A second of subsequent drawing shall not be conducted without the written approval of the Department.

25.7 Drawing for winning number(s) are open to the public for viewing. For each drawing a video tape of the drawing is to be made and maintained for one year subsequent to the drawing unless erasures or destruction of the video tape(s) is authorized in writing by the Department.

25.8 In addition to the specific rules relating to the play and/or record keeping for the Jueteng game, the holder of a Jueteng Lottery License shall also be bound and strictly adhere to, Rules 6.1 through Rule 23 of these Rules and Regulations.

Rule 10(b) of the Amendments to the Rules and Regulations for the Operation of the Commonwealth of the Northern Mariana Islands, is hereby repealed and reenacted to read as follows:

(b) "Reserved".

Office of the Secretary
Department of Finance

P.O. Box 5234 CHRB SAIPAN, MP 96950 TEL. (670) 664-1100 FAX: (670) 664-1115

PUBLIC NOTICE

DEPARTMENT OF FINANCE
PROPOSED AMENDMENTS TO CUSTOMS SERVICE REGULATIONS
NO. 4300 *et. seq.*

The Secretary of the Department of Finance hereby notifies the general public of proposed amendments to the Customs Service Regulations, Section 4300 *et seq.*, published in the Commonwealth Register, Vol. 18, No. 12, December 15, 1996, Adopted February 25, 1997. These Regulations establish a procedure for garment manufacturers who intend to import cut fabric panels into the CNMI for assembly and export to the customs territory of the United States of America.

It is the intent of the Department of Finance to adopt the proposed amendments to the Customs Service Regulations, Section 4300 *et seq.*, as permanent, pursuant to 1 CMC §9104(a)(1) and (2) of the Administrative Procedures Act. The publication of these proposed amendments in the Commonwealth Register provides notice and opportunity for the public to comment. If necessary, a public hearing will be provided. All interested persons may submit written comments on the proposed amendments to Robert Schrack, Acting Secretary of the Department of Finance, PO Box 5234, Capitol Hill, Saipan, MP 96950 or by fax to (670) 664-1115, during the thirty-day period immediately following publication of the proposed amendments.

Submitted by: _____ 8/20/03
ROBERT SCHRACK Date
Acting Secretary of Finance

Received by: _____ 8/20/03
THOMAS A. TEBUTEB Date
Special Assistant for Administration

Filed and Recorded by: _____ 08/20/03
BERNADITA B. DE LA CRUZ Date
Corporate Register

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

Dated this 20th day of August, 2003.

_____
CLYDE LEMONS, JR.
Acting Attorney General

NOTISIAN PUPBLIKU

DIPÅTTAMENTON I FINANCE

MA PROPONE I AMENDASIÓN SIHA POT REGULASIÓN I SETBISIUN CUSTOMS NO 4300 ET SEQ.

I Sekretariun i Dipåttamenton I Finance ha notisia i pupbliku heneråt pot i Ma Propone I Amendasión Siha Put I Regulasión I Setbisiun Custom, Seksiona 4300 et. seq. ni ma publisa gi hålom Rehistran I Commonwealth, Baluma 18, Numiru. 12, gi Disiembre diha, 15, 1996, ya ma adapta gi Febreru diha 25, 1997. Este siha na regulasión man ma establesi areklamenton para i Fakterian bestidura siha ni ma intensióna na ufan na hålom (import) man ma utut na fabrika siha gi hålom CNMI, para u man fan achetun yan despues mana huyong (export) para i customs i teritoriun i Ustados Unidos Amerika.

I intensión i Depåttamenton i Finance para hu adapta i Amendasión Siha Put I Regulasión I Setbisiun Customs, Seksiona 4300 et. seq, komo petmanente sigun i Lai 1CMC 9104 (a) (1) yan (2) gi Lai i Areklamenton Administrative. I pubplikasion este siha I Man Ma Propone Na Amendasión gi hålom Rehistran i Commonwealth ha probeniyi notisia yan opottunidåt para i pupbliku ufan na'i' mensåhe. Yanggen Prisisu, umana guaha inekungok pupbliku. Todo i man interesao na taotaogue siha siña man na halom tinige' na mensåhe pot i Man Ma Propone Na Amendasión para i Sekretarian i Dipåttamenton i Finance PO Box 5224, Capitol Hill, Saipan MP 96950 pat sino fax gi (670) 664-1115, gi duranten i trenta (30) dihas, ensigidas an ma pupblisa i Man Ma Propone Na Amendasión.

Nina hålom: _____ _____
Robert Schrack — Fecha
Acting Para i Sekritariun i Finance

Ma resibe as: _____ 8/22/03
Thomas A. Tebuteb — Fecha
Espisiåt Na Ayudånte Para i Atministrasión

Pine'lo as: Bdela Cruz
Bernadita B. Dela Cruz
Rehistran i Koporasión

8-22-03
Fecha

Sigun i Lai 1CMC 2153 ni inamenda ni Lai Pupbliku 10-50 i regulasión siha ni man gaige guine man ma rebisa yan aprueba gi fotmat yan ligåt sufisiente ginen i CNMI Abugådon Henerål na Ofisina.

Ma fecha gi _____diha, Agusto, 2003.

CLYDE LEMONS, JR.
Acting para Abugådo Henerål

Bwulasiyool Samwool
Bwulasiyool Finance

ARONGORONGOL TOULAP
POMWOL LLIWEL REEL ALLÉGHÚL AMMWELIL CUSTOMS NO. 4300 ET.SEQ.

Somwoolul Bwulasiyool Finance ekke arongaar aramas toulap reel pomwol lliwel reel Alléghúl Ammwelil Customs, Tálil 4300 et seq, ye aa arongowow mellól Commonwealth Register, Vol. 18, No. 12, llól Tumwur 15, 1986, nge aa Allégheló llól Maaischigh 25, 1997. Allégh kkaal e ayoorawow lemelem ngáli garment manufactures kka re mángi rebwe akkafangelong (import) cut fabric panels llól CNMI bwelle rebwe yááyá reel assembly me akkafangewow (export) reer customs territory kka mwischil falúw kka wóól Amerikka.

Tipal Bwulasiyool Finance bwe ebwe allégheló pomwol lliwel reel Alléghúl Lemelemil Customs, Tálil 3400 et iye ebwe schééschéél, sángi allégh ye 1CMC tálil 9104 (a) (1) me (2) reel Administrative Procedures Act. Pomwol lliwel kkaal ye e arongowow mellól Commonwealth Register nge ebwe ayoora arong me bwángiir toulap reel aghiyagh yeel. Ngáre e welepakk, arongorong ngaliir toulap ye rebwe ayoora. Alongeer schóókka eyoor mafiyeer reel pomwol lliwel kkaal nge ebwe isch ngáli Robert Schrack, Acting ngáli Somwoolul Finance, PO Box 5234, Capitol Hill, Seipél, MP 96950 me ngáre fax ngáli (670) 664-1115, ótol eliigh ráálil mwirilóól yaal arongowow pomwol lliwel kkaal.

Isáliiyalong: _____ Rál
ROBERT SCHRACK
Acting ngali Samwoolul Finance

Mwir sángi: _____ Rál
THOMAS A. TEBUTEB
Sow alillisil Sow Lemelem

8-21-03

Aisis sángi: _____ Rál
BERNADITA B. DELA CRUZ
Corporate Register

Sángi allégh ye 1CMC tálil 2153, iye aa lliwel mereel Alléghúl Toulap 10-50, allégh kkaal nge raa takkal amweri me allégheló mereel CNMI Bwulasiyool Sów Bwungúl Allégh.

Ráálil ye _____llól Elúwel, 2003.

_____
CLYDE LEMONS, JR.
Acting ngáli Sow Bwungúl Allegh

PUBLIC NOTICE
PROPOSED AMENDMENTS TO THE CUSTOMS SERVICE REGULATIONS - SECTION 4300 *et seq.*

Citation of Statutory Authority: The Department of Finance is authorized to promulgate these regulations governing the importation of cut fabric panels pursuant to 1 CMC §2553; 1 CMC §2557; 1 CMC §1104; 4 CMC §1402(a)(21); 4 CMC §1402(b)(9); 4 CMC §1425; 4 CMC §1426; and 4 CMC §1818.

Short Statement of Goals and Objectives: To reduce the strain on local resources caused by fabric waste generated from the local garment industry, by encouraging the use of cut fabric panels in the garment manufacturing process.

Brief Summary of the Proposed New Section: These proposed amendments to the Customs Service Regulations seek to achieve their objective by:

(1) Facilitating compliance with U.S. Customs Headnote 3(a) requirements that allow finished garments to be shipped duty free from the CNMI into the United States.

(2) Exempting cut fabric shipments that appear to conform to Headnote 3(a) requirements from excise tax in the CNMI, while establishing application and inspection procedures to ensure this exemption is not abused.

For Further Information Contact: Brian R. Caldwell, Assistant Attorney General, Office of the Attorney General, telephone (670) 664-2341 or facsimile (670) 664-2349.

Citation of Related And/or Affected Statutes, Rules and Regulations And Orders: Customs Service Regulations, 4300 *et seq.*; 4 CMC §1402(a); 4 CMC §1402(b); 4 CMC §1426.

Dated this 20th day of August, 2003.

Submitted by:

Robert A. Schrack

Robert Schrack
Acting Secretary of Finance

PROPOSED AMENDMENTS TO CUSTOMS SERVICE REGULATIONS

Customs Regulations, Section 4300 *et seq.*, is hereby amended to read as follows:

PART XI

Section 4310 – Introduction – Rules and Regulations Governing the Importation of Cut Fabric Panels Into the CNMI

Section 4310.1. Authority

The authority for the promulgation and issuance of Customs Service Regulations Part XI is derived from the Commonwealth Code, including, but not limited to, the following Sections: 1 CMC §2553; 1 CMC §2557; 4 CMC §1402(a)(21); 4 CMC §1402(b)(9); 4 CMC §1425; 4 CMC §1426; 4 CMC §1818.

Section 4310.2. Purpose

The purpose of Custom Service Regulations Part XI is:

(a) To assist, increase and continue the competitiveness of the CNMI's garment industry by encouraging the use of cut fabric in the local manufacturing process;

(b) To facilitate compliance with United States Customs Headnote 3(a) requirements;

(c) To reduce the amount of fabric waste generated by the garment industry; and

(d) To ensure the integrity of the CNMI excise tax system by identifying fabric shipments which do not comply with United States Customs Headnote 3(a).

Section 4310.3. Scope and Disclaimer

These regulations apply only to cut fabric shipments from a foreign country into the CNMI, where the fully assembled garment is intended to be shipped directly to the customs territory of the United States of America ("U.S."). At all times the final determination of clearance of garments in the U.S., assembled in the CNMI as manufactured in compliance with these regulations, will be determined by U.S. Customs. Compliance with these regulations does not ensure that the shipment will meet the criteria and specifications of Headnote 3(a), and at all times, the risk of non-clearance, or seizure of goods by U.S. Customs is on the garment company or buyer.

Section 4310.4. Definitions

(a) "Added Value Components" mean a minor attachment or minor embellishment to "cut fabric", not appreciably affecting the identity of the finished garment. Examples of added value components include, but are not limited to, appliques, beads, spangles, embroidery, buttons, zippers, silk screen printing, rhinestones, labels, button holes, and partially assembled fabric components like pockets sewn

on panels, detached hoods, detached collars, plackets, cuffs, fabric stripes sewn on panel, and belt loops.

(b) "Cut fabric" means:

(1) an unassembled garment component cut to shape;

(2) of foreign origin; and

(3) imported into the CNMI for the purpose of being assembled with at least one other unassembled garment component to form an assembled garment for export.

(c) "Cut Fabric Set" means a group consisting of at least two "cut fabric" components packaged together, and will be assembled to form one complete garment. A cut fabric set may include added value components.

(d) "Export Value" means the value of the finished garments as determined by any of the valuation methods contained in 19 U.S.C. 1401a, any subsequent amendments thereto, and any regulations passed thereunder.

(e) "Garment Section Chief" means the Chief of the Garment Section, for the Division of Customs, in the Department of Finance.

(f) "Garment Style" refers to the specific size, shape, and color of the components of a fully assembled garment, including any "added value components."

(g) "Headnote 3(a) " refers to the provisions of General Note 3(a)(iv), Harmonized Tariff Schedule of the United States (HTSUS).

(h) "Foreign Cost" means actual cost for the foreign materials, including, but not limited to, the cost of the "cut fabric set", accessories, packing material and cost of transporting those materials to the CNMI, but excluding any duties or taxes assessed on the materials by the CNMI, and any charges which may accrue after landing.

(i) "Local Value" means that portion of the "export value" attributable to value added in the CNMI, and shall not be comprised of any "foreign cost".

Section 4311 - Excise Tax & Added Value Fee

Section 4311.1. Amount of Excise Tax

All "Cut Fabric" and "Added Value Components" which are imported into the CNMI for first sale, use and manufacture, for business purposes or for personal use exceeding the value specified in 4 CMC §1402(c) of the Commonwealth Code, shall be imposed an excise tax in the amount of Five Per Cent (5%) ad valorem, payable upon arrival into the CNMI.

Section 4311.2. Added Value Fee On "Added Value Components"

Notwithstanding the provisions of Section 4311.1 herein, "added value components" which are imported into the CNMI for the purpose of being incorporated into a garment for export to the United States will be exempt from excise tax, provided that the "added value components" are not resold in the CNMI. If not resold in the CNMI, such "added value components" shall be assessed an Added Value Fee in the amount of Five Per Cent (5%) ad valorem, payable upon arrival into the CNMI.

Section 4311.3. **Exemption For Certain "Cut Fabric"**

Notwithstanding Section 4311.1 herein, "cut fabric" which is imported into the CNMI for the purpose of being exported to the United States shall be exempt from excise tax, provided:

(a) The "cut fabric" is packaged in a "cut fabric set," in accordance with these regulations;

(b) The "cut fabric" is not intended to be resold in the CNMI; and

(c) The finished garment has a "local value" to be added which complies with United States Customs Headnote 3(a).

Section 4312 -Required Pre-arrival Documentation

Section 4312.1. **Application To Import Cut Fabric**

(a) Ten (10) days prior to the arrival of a "cut fabric" shipment into the CNMI, the importer shall provide the "Garment Section Chief " with an Application to Import Cut Fabric (hereafter "Application") into the CNMI.

(b) One Application must be submitted for each "garment style" to be imported into the CNMI. If a single shipment contains multiple "garment styles", then a separate Application must be submitted for each "garment style."

(c) Such Application will contain the following information:

(1) Date of Application;

(2) Name of CNMI garment company assembling cut fabric;

(3) Location of facility in CNMI;

(4) Contact person and title at garment company;

(5) Telephone number of contact person;

(6) Name and address of Importer in the United States;

(7) Name of Label (if known);

(8) Requested date of importation into CNMI;

(9) Anticipated date of export of assembled garment from CNMI;

(10) Production schedule for garment factory assembling "cut fabric sets";

(11) Description of garment or picture of finished garment;

(12) Description of fabric material;

(13) Number of "cut fabric sets" to be imported;

(14) Total estimated cost of "cut fabric";

(15) Total estimated cost of "added value components";

(16) Total value "landed cost";

(17) Percentage of total "export value" of "landed cost";

(18) Total "local value";

(19) Percentage of total "export value" of "local value";

(20) Total "export value"; and

(21) Price FOB SAIPAN, if different than subsection (20) above.

(d) Upon payment of Application Fees, the Garment Section Chief will certify the shipment for importation and assembly in the CNMI and mark the Application approved.

Section 4312.2. **Ruling Letter From United States Customs Service Required**

(a) Prior to the importation of any cut fabric shipment into the CNMI, a ruling letter shall be submitted with each Application from the United States Customs Service in accordance with the procedures set forth in 19 CFR 177.9, and any amendments thereto. The ruling letter must contain a country of origin determination for the intended shipment and duty status, if any.

(b) For purposes of subsection (a), a ruling letter from prior shipments, or from a different "garment style" within the same, or prior, shipment, may be supplied with an Application, provided that the facts and rationale for the ruling are, or remain, substantially the same. If there are any substantial changes in the facts, then a new ruling letter must be supplied. Without limitation, an importer shall submit a new ruling letter for the following reasons:

(1) any appreciable modification to the assembly process; or

(2) a change in number of cut fabric components comprising the fully assembled garment.

(c) The ruling letter shall be attached to the Application, or the Application shall reference a United States Customs ruling number of a prior shipment, as

provided for in subsection (b). By indicating a reference number, the importer certifies that the facts and rationale in the ruling apply to the "garment style" being shipped.

Section 4312.3. **Production Details and Bill of Material Attached to Application**

(a) Attached to the Application the importer shall include:

(1) Production details (written in English) providing a description of the cut fabric sets per style, or drawing of pieces, to be imported listing each cut piece, number of pieces, brief description of each piece, or drawings, sketch, diagram, picture or artwork of final assembled garment and its components;

(2) Description of any assembly or production operations to "cut fabric set" in country sourcing foreign material and those assembly sets to be undertaken or completed in CNMI; and

(3) Bill of material listing the "foreign material" for each "garment style" including but not limited to fabric cost, cutting cost, artwork, added value components, accessories, packing material and transportation to CNMI.

(b) Sample of the "cut fabric set" to be imported can be supplied to the Garment Section Chief in lieu of production details per subsection (a)(1) above. Each sample will have the garment style clearly marked and referencing the Application. These actual samples of cut fabric sets will not be returned.

Section 4312.4. **Copy of Original Commercial Invoice**

(a) The importer shall also attach to the Application a copy of the Commercial Invoice covering each shipment of "cut fabric sets". If the original invoice is not available, a Proforma Commercial Invoice may be submitted in lieu of a copy of the original invoice prior to arrival (hereinafter, "Invoice").

(b) The Invoice supplied pursuant to subsection (a) shall contain the following information:

(1) a style number listing each "garment style" to be produced;

(2) the number of "cut fabric sets" for each "garment style";

(4) the price per "cut fabric set";

(5) the total price of each "garment style";

(6) the total number and value of "cut fabric sets" for all "garment styles" on each Invoice;

(7) the total price on Invoice for all other foreign material in a "garment style", if different than subsection (b)(4);

(8) the unit of measurement (weight, length or units), price per unit and total value of any ancillary materials necessary for assembly of the "cut fabric sets." Examples include, but are not limited to, ribbon, thread, labels, tape, eyelets, buttons, snaps, zippers, beads, embroidered patches, hang tags, packing material; and

(9) the total price of all foreign material used in all "garment styles".

Section 4312.5. **Copy of Original Added Value Commercial Invoice**

(a) If an exported garment is to contain "added value components", there must be attached to the Application an Added Value Commercial Invoice.

(b) A Proforma Added Value Commercial Invoice may be submitted in lieu of an actual Added Value Commercial Invoice if an actual Added Value Commercial Invoice is unavailable (hereinafter "Added Value Invoice").

(c) The Added Value Invoice supplied shall contain the following information:

(1) A style number corresponding to a particular "garment style" to be produced as detailed in the Application;

(2) The total number of "added value components" per "garment style";

(3) A brief description of the "added value component" (Examples include but are not limited to silk screen printing, embroidery, beads, zippers, buttons, pockets);

(4) The price per "added value component"; and

(5) The total price of all "added value component" orders in the shipment.

Section 4312.6. **Format of Required Documentation**

The Garment Section Chief shall prescribe the format, and make available forms which shall contain the information mandated in Sections 3.1, through 3.4.

Section 4313 - Processing of Application

Section 4313.1. **Location**

The documents described in Section 4312 above shall be submitted to the Garment Section Chief's Office located at the Seaport Facility.

Section 4313.2. **Fees**

(a) There shall be a processing and inspection fee in the amount of $150.00 for each Application submitted.

(b) If an application is submitted less than Ten (10) days prior to arrival of a shipment, a $75.00 late filing penalty shall be assessed.

Section 4313.3. Denial of Application

(a) Within 2 business days after receipt of an Application, the applicant shall receive notice as to whether the application is denied.

(b) The following are prima facie grounds for denial of an Application:

(1) The Application was submitted to the Garment Section Chief less than five (5) days (120 hours) prior to arrival of shipment;

(2) The applicant fails to supply all information and documentation required above;

(3) The facts described in the ruling letter materially deviate from the information supplied pursuant to Section 4312.3 above; or

(4) From the face of the Application, it appears to the Garment Section Chief that the finished garments will not meet the requirements for duty free entry into the United States under Headnote 3(a).

(c) If an Application is denied for the reasons detailed in subsection (b)(1) through (b)(3), then the cut fabric shipment will be assessed a penalty payment equal to One and One-Half Percent (1.5%) of the total value of the shipment.

(d) If an Application is denied for the reasons detailed in Subsection (b)(4), then the cut fabric shipment will be assessed an excise tax of Five Per Cent (5%) ad velorum.

(e) If foreign material imported under the Application is later exported either to the United States or other countries, the excise tax collected will be applied to any user fee assessed and due upon shipment of completed garments.

Section 4314 - Inspection of Cut Fabric

Section 4314.1. Inspection

Upon arrival, all shipments of "cut fabric" shall be inspected by a Customs Officer prior to clearance and release.

Section 4314.2. Packing Requirements

(a) All cut fabric shall be packaged in "cut fabric sets".

(b) All "cut fabric sets" and "added value components" shall be shipped in clear polybags. No polybag may contain more than one "garment style".

(c) All polybags shall have a label affixed to it, describing the contents therein by style number which shall correspond to the style number(s) on the Invoice and Added Value Invoice. The label will show the polybag number, number of "cut fabric sets", and "added value components" contained therein.

Section 4314.3. Documents

The following documents shall be submitted to the Customs Officer upon arrival of "cut fabric" shipment:

(a) Originals of the Invoice and Added Value Invoice;

(b) Copy of the Bill of Lading for shipment;

(c) A copy of a packing list which shall identify:

(1) all polybags numbers by style number corresponding to the style number on the Invoice and Added Value Invoice; and

(2) number of "cut fabric sets" contained within each polybag by style number;

(d) Copies of all documents submitted with the Application.

Section 4314.4. Denial of Clearance

"Cut Fabric" will be denied clearance into the CNMI for any of the following reasons:

(a) Complete set of documents are not provided at time of arrival;

(b) "Cut fabric sets" are not packed in clear polybags and marked to verify each "cut fabric set" or "added value component" against packing list; or

(c) The shipment described in the Application and the actual shipment are not the same such that the actual shipment appears not to comply with Headnote 3(a) requirements or the ruling letter from United States Customs Service.

Section 4314.5. Effects of Denial of Clearance

(a) Shipments denied customs clearance pursuant to subsections (a) and (b) of Section 4314.4 above will be subject to the provisions of Section 4302.2 herein, and shall only be released upon the Consignee's cure of defect(s).

(b) Shipments denied clearance under subsection (c) of Section 4314.4 shall be released upon consignee's payment of an excise tax equal to 5% ad velorum.

(c) Consignee or importer can apply to Garment Section Chief to apply the excise tax collected under subsection (b) to a user fee assessment on exported garments if "cut fabric sets" are later found to be exported into the United States in compliance with Headnote 3(a).

Section 4315 - On-Site Inspections

Section 4315.1. Consent To Inspection

By submitting the Application information pursuant to Section 3.3 herein, the importer of "cut fabric" consents to an on-site verification of the assembly process by the Garment Section Chief or any duly authorized customs officer.

Section 4315.2. **Time of Inspection**

Such inspection(s) shall only occur on the dates and times specified for production on the Application.

Section 4315.3. **Discretion of Garment Section Chief**

Such inspection(s) shall be undertaken at the sole discretion of the Garment Section Chief.

Section 4315.4. **Site of Inspection**

Such inspection(s) shall be confined to the area(s) of the manufacturing facility where:

(a) cut fabric sets are assembled; and

(b) where production records are kept.

Section 4315.5. **Content of Inspection**

Such inspection(s) will be for the sole purpose of determining whether or not the importer of "cut fabric" is complying with (1) the assembly process submitted pursuant to Section 4312.3 herein, and (2) comports with the production description in the United States Customs Ruling Letter. Such inspection shall consist of the following verification measures:

(a) Visual confirmation that the specified "cut fabric sets" are being assembled together into finished garments;

(b) Inspection of production records for the purpose of determining:

(1) how many finished garments are assembled per day;

(2) total amount of garments finished;

(3) how many garments have been packed; and

(4) whether any deviations from the production schedule have occurred.

(c) Comparison of final garments to visual depiction at time of Application;

(d) Comparison of actual production process to description pursuant to Section 4312.3 herein, and to the United States Customs Ruling Letter; and

(e) Comparison of inventory records for actual production and shipment against the information supplied in the Application to determine whether the import and export of the finished garments are consistent with inventory counts.

Section 4315.6. **Penalties At Time Of Inspection**

If the manufacturer is not in compliance under these regulations, has faulty or incomplete record keeping, or is not performing under the guidelines of Headnote 3(a), the Garment Section Chief may impose penalties as sanctioned under Section 7.3.

Section 4315.7. Refusal To Allow Inspection

If the Garment Section Chief, or any duly authorized customs officer, is denied admittance by the garment manufacturer to inspect pursuant to this Section, the importer of "cut fabric", in addition to being subject to penalties sanctioned under Section 4316.3 herein:

(a) shall be denied export clearance for all finished garments covered under the Application; and

(b) an excise tax of 5% ad velorum shall be imposed upon the entire shipment.

Section 4316 - Verification of Garment Export

Section 4316.1. Verification

Upon export clearance of fully assembled garments, a Customs Officer shall verify that the export shipment matches the projections and information on the Application. The Customs Officer shall verify that:

(a) The export invoice shows the quantity of finished garments exported to be the same as the number of "cut fabric sets" imported;

(b) The export value and FOB price is equal to the original projections on the Application; and

(c) The fully assembled garments match the visual depictions in the Applications.

Section 4316.2. Excise Tax Upon Shortfall

(a) Subject to the Garment Section Chief's approval, reasonable allowances will be made in the verification calculation, required under Section 4316.1 herein to account for any defects in the manufacturing process.

(b) However, if the number of "cut fabric sets" imported into the CNMI under any Application exceeds the number of exported finished garments attributable to that Application, an excise tax of 5% ad velorum shall be imposed upon the difference in "foreign cost" between the number of imported "cut fabric sets" and the number of finished garments actually exported.

Section 4316.3. Penalties

The following penalties will be assessed under the following conditions:

(a) False declaration or submission of false documents not conforming to these regulations or Headnote 3(a) requirements will result in NO CERTIFIICATE OF ORIGIN being issued for that shipment from the Garment Section Chief;

(b) Three shipments in violation of these regulations within a one-year period, or one willful violation of these regulations, will result in a nine-month suspension of a garment manufacturer from obtaining permission on future approval of Applications to import cut fabric. Such violations shall be determined by the Garment Section Chief with the concurrence of the Director of Customs;

(c) Any garment manufacturer who is placed on such suspension shall have the right to an administrative hearing pursuant to the procedures established under the Commonwealth Administrative Procedures Act, 1 CMC §9108 - §9115, upon the filing of a request for such hearing with the Department of Finance, Customs Division.

Section 4317 - Severability

Section 4317.1 Severability

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

PUBLIC NOTICE OF PROPOSED AMENDMENTS TO PART IV OF THE NON-COMMERCIAL FISH & WILDLIFE REGULATIONS RE: HUNTING SEASONS

The Department of Lands and Natural Resources, Commonwealth of the Northern Mariana Islands, hereby notifies the general public of its intention to amend and rescind certain regulations in Part IV of the Non-Commercial Fish & Wildlife Regulations pursuant to 1 CMC Section 2654, 2 CMC Section 5104 (b) (7) and the Administrative Procedures Act. The proposed amended regulations attached provide further detail on the end date of hunting seasons and what constitutes a take after the end date of the season. The proposed regulations, if adopted, will replace prior regulations.

All interested parties may examine the proposed regulations and may submit written comments for or against the proposed regulations to the Secretary, Department of Lands and Natural Resources, Lower Base, Caller Box 10007, Saipan, MP 96950 no later than thirty days following the date of publication of this Public Notice in the Commonwealth Register Copies of said proposed regulations may be obtained or viewed at the Lower Base Offices of the Department of Lands and Natural Resources.

Dated this 18th day of August, 2003 on Saipan.

Submitted by:

Thomas B. Pangelinan
Secretary of Lands and Natural Resources

Date: 8/19/03

Received By:

Thomas A. Tebuteb
Special Assistant for Administration
Office of the Governor

Date: 8-19-03

Filed & Recorded By:

Bernadita B. Dela Cruz
Registrar of Corporations

Pursuant to 1 CMC Section 2153, as amended, the proposed regulations provide additional detail on the end date of hunting seasons and what constitutes a take after the end date of a hunting season attached hereto, have been reviewed and approved as to form and legality by the Office of the Attorney General.

Date: 8/19/03

Clyde Lemons, Jr.
Acting Attorney General

Notisian Publiku Pot Amendasion
Para Patti IV Regulasion Non Commercial
Fish and Wildlife
RE: Tiempon Kasadules

I Dipattmenton I Lands & Natural Resources, Commonwealth giya Northern Mariana Islands, ha infofotama I publiku hinerat pot I intension ni para ma amenda yan ma ataha palu regulasion siha gi halom Patte IV gi Regulasion Non-Commercial Fish and Wildlife, sigun I lai 1CMC seksiona 2654, 2CMC seksiona 5104(b)(1) yan I Akton Areklamenton Atministradod. I propositon amendasion regulasion siha. I propositon amendasion regulasion siha ni checheton ha na guahayemas infotmasion pot I uttimon I haanen tiempon kasadules yan hafa para hu huyong I kineni despues de I uttimon I tiempon kasadules. I propositon regulasion siha yanggen ma adopta, hu tinague I finenena na regulasion siha.

Todo man interesao sina ma eksamina I propositon I regulasion siha yan sina man na halom tinige mensahe siha pot finabot osino kinentra, guato gi I Sekratariun I Depattamenton Naturat Na Finkas Tano, giya Lower Base, Caller Box 10007, Saipan, MP. 96950 antes de hu trenta (30) dias despues de ma publika este na Notisian Publiko gi halom I Rehistran I Commonwealth. Kopian I propositon regulasion siha sina ma chule osino ma atan gi Ofisinan Lower Base, Dipattamenton Tano yan Finkas Naturat.

Ma Fecha 8.21.03 diha gi Agusto, 2003 giya Saipan.

Nina halom: _____

Thomas B. Pangelinan

Sekretarion Naturat Na Finkas Tano

Fecha 8/29/03 Rinesibe As: _____

Thomas A. Tebuteb

Espesiat na Ayudanten

Administrasion, Ofisinan Gobetno

Fecha: 8-22-03 Rinekod As: _____

Bernadita B. DelaCruz

Rehistran I Koporasion

Siguun I Lai 1CMC Seksiona 2153, ni ma amenda, I propositon regulasion siha ha probeniyi mas Infotmasion pot I ottimon haanen tiempon kasadules yan hafa para u huyong I kineni despues de I ottimon kasadules checheton guine, esta ma ina yan apreba gi ligat na manera ginen I Ofisinan I Abugadon Hinerat.

Fecha:_____ _____

Clyde Lemons Jr.

Acting para Abugadon Hinerat

Mensahen Infotmasion

Pot I Propositon Amendasion Para Patte IV

Gi Regulasion I Non-Commercial Fish & Wildlife

Re: Tiempon Kasadules

Aturidad I Lai: 1CMC Seksiona 2653 yan 2654 yan

2CMC Sesiona 5104

Mensahen Propositon

Regulasion: Para huma na klaru I difinasion

I uttimon I haanen tiempon

Kasadules.

Pot mas infotmasion

Agang si: Thomas B. Pangelinan

Dipattmenton Naturat na Finkas Tano

Sitasion otro siha

Na regulasion yan

Otden siha: Aturidat 1CMC seksiona 2653 yan Lai Publiko 2-51, I Fish, Game, yan Endangered Species Act, ma codified gi 2CMC 5101 et. Seq.

Otden: Otden Eksekatibu 94-3

Seksiona 20. Tiempon Kasdules yan limitasion kineni Game Animals

Klasen gag (species) siha ni man machalek (wildlife) ni man gaige gi listan I table 2 ti sampapa man ma konsidira komu Game Animals gi halom CNMI yan sina man ma konne ligat gi duranten I tiempon kasadules. I tiempon kasadules magpo gi tatalo puengen I uttimo diha gi tiempon kasadules. Maseha hafa na koleksion, kineni, guinaha, transpotasion osino kinanu, gi maseha hafa na klasen gaga ni machalek, ni ma lista gi sampapa despues de I uttimon tiempon kasadules uma konsidera kumo kineni. Kada taotao man kasadules debi de hu chuchule I bali na lisensia, gi kada kineni, I kineni ufan ma paketi yan debi de hu kumple I limitasion kineni kada kasadules. Atan I Table 2 para mas infotmasion pot tiempon kasadules yan limitasion kineni.

Table 2 – CNMI Game Species

Game Animals	Bag Limit	Season Limit	Season
Binadu (Luta ha)	1	1	9/1---11/30
Machelela			
Chiba/babui/guaka	Taya limitasion	Taya limitasion	ma baba todo I tiempo
Paluman apu	5	20	4/15---5/31
	10	20	10/1---11/30
Ayuyu	5	10	9/15---11/15
Panglao	Taya limitasion	Taya limitasion	4/1---6/30
			10/1---12/31

Arongorongol Toulap reel Pomwol Lliiwel Kkaal Reel Peigh IV
Mereel Alleghul lon Commercial Fish and Wildlife
Re: Otol Attaw

Bwulasiyool Faliw me Nguluwal (Lands and Natural Resources), Commonwealth of the Northern Mariana Islands, ekke aronga ngaliir aramas toulap igha ebwe liweli me akkaschewow akkaaw allegh mellol Peigh IV mereel Alleghul Non-Commercial Fish and Wildlife , sangi allegh ye 1CMC talil 2654, 2cmc talil 5104 (b) (7) me Alleghul Administrative Procedures. Pomwol lliwelil allegh kka e appasch eghi affatawow rallil mwutchul otol attaw me meeta mwirilool bweibwogh ngare aa toori mwutchul otol attaw.

Alongeer schookka re tipeli, emmwel rebwe amwweri pomwol allegh kkaal nge raa isisilong yaaar mangemang eweewe schaagh ngali me ngare sangi pomwol allegh kkaal ngali Samwoolul Bwulasiyool Faliw me Nguluwal, me Lower Base, Caller Box 10007, Seipel, MP. 96950 nge esobw lu sangi, elligh (30) ral mwiril ral ye aa alleghelo Arongol toulap yeel mellol Commonweatlh Register, tighiyal pomwol allegh kkaal emmwel ebwe bwughi Faliw me Nguluwal, Lower Base.

Llol 8.21.03 ral Eluwel (August) ~~2003~~ mewool Seipel.

Isaliiyalong:

Thomas B. Pangelinan
Samwoolul Faliw me Nguluwal

Ral: 8/21/03 Mwir Sangi:

Thomas A. Tebuteb
Sow Alillisil Sow Lemelem

Ral_____ Aisis Sangi: _____

Bernadita B. DelaCruz
Registrar of Corportions

Sangi alleghul 1CMC Talil 2153, igha aa lliwel pomwol allegh kkaal e ayoora affat reel rallil mwutchul rallil otol attaw me meeta towowul reel bweibwoghul mwiril mwutchul attaw e bwal appaschelong, aa affat me allegh sangi, alughulughul Bwulasiyool Sow Bwungul Allegh.

Ral_____ _____

Clyde Lemons, Jr.
Acting Attorney General

Ammataf
Reel Pomwal Lliiwel Ngali Peigh IV
Reel Alleghul Non-Commercial Fish &Wildlife
RE: OTOL ATTAW

Akkateel Bwangil:	Sangi Allegh 1CMC Talil 2653 me 2654 me 2 CMC Talil 5104
Aweweel Bwangil:	Ebwe afatwow aweweel mwutchul Rallil atol ataw
Aweweel Bwangil Allegh:	Pomwol lliwel allegh kkaal e bwal toolong Affatal rallil mwutechul otol attaw me meeta Mwirimwiril attaw igha mwutch otol.
Ngare ubwe faffay:	Thomas B. Pangelinan, Swamwool Bwulasiyool Faliw me Nguluwal Tilifon: 322-2438 Fax: 322-2638
Akkateel Akkaaw Allegh:	Allegh: 1CMC 2653 me Alleghul Towlap 2-51, Alleghul "The Fish, Game, me Endangered Species, codified mellol 2CMC 5101 et seq. Allegh Kka: Alleghul Non Commercial Fish and Wildlife, ye e Toowow mellol Commonwealth Register wool Abrid 20, 2000 mellol peigh 17190-17195. Akkule: Akkuleel Sow Lememlem 94-3.

Talil 20. Otol Attaw Llaplal reel Suusubwul Maal
Maal kka leyil wal ikka e taletiw llol
Tablw 2 me faal nge malul llol CNMI nge
emmwel ebwe sussubw llol otol attaw. Otol
attaw ebwe mwutch llol lughalebwongil mwutchul attaw.

Alongal maal kka re yeelu, subwuri, laili, umuuw me ngare yaali (mwongu) mereel malul wel kka e taletiw fall mwiril mwutchullol otol attw, nge ebwe lo bw aa bwughi. Alongeer school attaw ebwe yoor yaaar Lisensiyaal Attaw, ngare ebwe attaw mll kkaal ebwe lo llol bag me rebwe tabweey akkapeel fitimal llol otol attaw. Mwir sangi Table 1 reel ammatafal attaw me akkapeel.

Ital Maal	Akkapeel Bag	Akkapeel Attaw	OTOL Attaw
Miloosch (Luta)	1	1	9/1---9/30
Malul wal Siibwa/Siilo Wakke	Esoor Akkapeel	Esoor akkapeel	Suusu ffosch
Lipwot	5 10	20 20	4/15--- 10/1—11/30
Yaf	5	10	9/15---11/15
Roghumw	Esoor Akkapeel	Esoor Akkapel	4/1---6/30 10/1---12/31

INFORMATION STATEMENT
FOR THE PROPOSED AMENDMENTS TO PART IV
OF THE NON-COMMERCIAL FISH & WILDLIFE REGULATIONS
RE: HUNTING SEASONS

Statutory Authority:	1 CMC Sections 2653 and 2654 and 2 CMC Section 5104
Short Statement of Goals And Objectives:	To clearly define the end date of a hunting season
Brief Summary of the Proposed Regulations:	The proposed amendment to the regulation adds clarity to the end date of a hunting season and what constitutes a take after the end date of a hunting season.
For further information Contact:	Thomas B. Pangelinan, Secretary Department of Lands and Natural Resources Phone 322-2438; Fax 322-2633
Citation of Related or Affected statutes, Regulations or orders:	Statutes: 1 CMC Section 2653 and Public Law 2-51, The Fish, Game and Endangered Species Act, codified at 2 CMC 5101 et seq. Regulations: The Non-Commercial Fish & Wildlife Regulations, Published in the Commonwealth Register on April 20, 2000 at pages 17190-17195. Orders: Executive Order 94-3.

Section 20. Hunting Seasons and Harvest Limits for Game Animals

The species of wildlife listed in Table 2 below are game animals in the CNMI and may be legally hunted during the hunting seasons ~~specified by individuals in possession of a valid hunting license unless otherwise stated~~. The hunting season ends at midnight on the last day of the season. Any collection, capture, possession, transportation or consumption of any of the species of wildlife listed below after the end of the season shall be considered a take. Individual hunters must be in possession of a valid hunting license for each game species to be bagged and must abide by bag limit, season limit and the season. Consult Table 1 for information on hunting seasons and harvest limits.

TABLE 2 - CNMI GAME SPECIES

GAME ANIMALS	Bag Limit (Total/CNMI)	Season Limit (Total/CNMI)	SEASON
Sambar Deer (Rota only)	1	1	9/1 - 11/30
Wild Goat/Pig/Cow	No Limit	No Limit	Open all year
Philippine Turtle-Dove	5 10	20 20	4/15 - 5/31 10/1 - 11/30
Coconut Crab	5	10	9/15 - 11/15
Land Crab	No Limit	No Limit	4/1 - 6/30 and 10/1 - 12/31

NOTE: Unprotected Wildlife may be taken year round without a hunting license.

Department of Commerce
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
Caller Box 10007 CK., Saipan, MP 96950
Tel. (670) 664-3000/1 • Fax: (670) 664-3067

CERTIFICATE OF ADOPTION OF THE
PROPOSED REPEAL OF THE WORKERS' COMPENSATION TARIFF OF 1989
AND PROPOSED ENACTMENT OF THE NORTHERN MARIANAS INSURANCE
ASSOCIATION
WORKERS'COMPENSATION TARIFF AND UNDERWRITING MANUAL
BY THE OFFICE OF THE INSURANCE COMMISSIONER

I, Fermin M. Atalig, Insurance Commissioner, Department of Commerce, which is promulgating the "Proposed Repeal of the Workers' Compensation Tariff of 1989 and the Proposed Enactment of the Northern Marianas Insurance Association Workers'Compensation Tariff and Underwriting Manual" by the Office of the Insurance Commissioner published in the Commonwealth Register, Volume 25, Number 6, on July 15, 2003, at pages 20261 through and including page 20398, by my signature below, do hereby certify that the proposed repeal and enactment were adopted as set forth in the Public Notice of Adoption accompanying this certificate. I hereby request and direct that the Public Notice and this Certificate of Adoption be immediately published in the Commonwealth Register.

I declare under penalty of perjury that the "Repeal of the Workers' Compensation Tariff of 1989 and Proposed enactment of the Northern Marianas Insurance Association Worker's Compensation Tariff and Underwriting Manual" as true, complete and correct copy of the rules and regulations adopted by the Office of the Insurance Commissioner, Department of Commerce, Commonwealth of Northern Mariana Islands, and that this 22nd, day of August 2003, at Saipan, Commonwealth of the Northern Mariana Islands.

Fermin M. Atalig
Insurance Commissioner,
Department of Commerce

Thomas A. Tebuteb
Special Assistant for Administration

Received at Governor's Office by:

Date: 8-22-03

Filed By: Bdela Cruz
Bernadita Boyer Dela Cruz
Commonwealth Register

Date: 08-22-03

Commonwealth of the Northern Mariana Islands
Department of Community and Cultural Affairs
Office of the Secretary

Caller Box 10007
Saipan, Mariana Islands 96950

CERTIFICATE OF ADOPTION OF THE PROPOSED RULES AND REGULATIONS GOVERNING CHILD CARE STANDARDS OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

I, Juan L. Babauta, Secretary, Department of Community and Cultural Affairs, which is promulgating the " Proposed Rules and Regulations, Governing Child Care Standards," published in the Commonwealth Register, Volume 25, Number 5, on May 29, 2003, at pages 20134 through and including page 20141, by my signature below, do hereby certify that the proposed regulations were adopted as set forth in the Public Notice of Adoption accompanying this certificate. I hereby request and direct that the Public Notice and this Certificate of Adoption be immediately published in the Commonwealth Register.

I declare under penalty of perjury that the " Rules and Regulations, Governing Child Care Standards," as true, complete and correct copy of the rules and regulations adopted by the Office of the Secretary, Department of Community and Cultural Affairs, Commonwealth of the Northern Mariana Islands, and that this 15th, day of August 2003, at Saipan, Commonwealth of the Northern Mariana Islands.

Juan L. Babauta
Secretary, Department of
Community and Cultural Affairs

Thomas A. Tebuteb
Special Assistant for Administration

Received at Governor's Office by:

Date: 8/15/03

Filed By: Bdela Cruz
Bernadita Boyer Dela Cruz
Commonwealth Register

Date: 08/15/03

DAY CARE RULES AND REGULATIONS

Commonwealth of the Northern Mariana Islands
Department of Community and Cultural Affairs

Table of Contents

DEFINITIONS: For the purpose of this chapter and all sections:

"Acting director" means a person who assumes the responsibilities of director of the child care facility in the absence of the director.

"After school care" means child care provided after the close of the regular school day during the academic year, summer and school holidays for children ages four years and nine months and older who are enrolled in public or private elementary schools.

"Applicant" means the person(s) who is applying for license to operate child care center or group child care center.

"Approved child development or early childhood training courses" means child development or early childhood courses taken from accredited institutions of higher learning and other agencies or organizations authorized by the department which are automatically accepted. Other courses, workshops, or seminars shall be subject to approval by the department.

"Before school care" means child care provided before the opening of the regular school day during the academic year for children ages four years and nine months and older who are enrolled in public or private elementary schools.

"Building code," means the CNMI building code used by the Department of Public Works.

"Caregiver" or **"provider"** means any person who is responsible for the physical well-being, direct care, health, safety, supervision, and guidance of children in child care.

"Child" means any person who has not reached the age of eighteen.

"Child care" means the provision of care for children by persons other than parents or guardians with or without compensation, for less than 24 hours.

"Child Care Advisory Committee" means a group of people appointed by the Secretary, Department of Community and Cultural Affairs, to advise the Department on matters regarding child care, including child care rules.

"Child care aide," **"aide,"** or **"child care assistant,"** means any person who helps the teacher or teacher assistant with all aspects of the planned program.

"Child care center" or **"group child care center"** means a place maintained by any individual, organization, or agency for the purpose of providing child care to children between ages of 2 and 16. The term child care center shall include day nurseries, nursery school groups, preschool child play groups, parent cooperatives, drop-in child care centers, group child care homes, or other similar units operating under any name.

"Child Care License" means certificate of approval issued by the Child Care Licensing Program (CCLP), Office of the Secretary, Department of Community & Cultural Affairs authorizing the operation of a specified type of child care facility i.e. day care center, infant care center, group child care center, family home child care, and before and after school programs.

"Child Development Associate" means any person credentialed by the council for early childhood professional recognition (national association for the education of young children) to assume primary responsibility for a group of young children in a developmental early childhood program.

"Child with a disability" means a child who is medically determined blind, deaf, mental illness, emotionally disturbed, orthopedically, or otherwise chronically disabled.

"Children with special needs" means children with special needs which requires modification of care or services not regularly available.

"Compliance" means conformity in fulfilling formal or official requirements of all sections of this chapter.

"Council for Early Childhood Professional Recognition (National Association for the Education of Young Children)" means the agency contracted by the DCCA/CCLP to grant the child development associate credential.

"Critical incident" is a serious life safety or potential life safety incident or concern that poses a danger to the life, health, and/or well-being of a child or children at the center/child care home or of a staff member at the center/child care home.

"**Criminal records check**" means obtaining a police clearance, FBI background check and an examination of local records.

"**Demonstration project**" means any place providing child care which is operating with special approval of the department for exemptions to specific registration rules.

"Day care" means provisions of care for children with or without charging a fee.

"Department" refers to the Department of Community and Cultural Affairs (DCCA).

"Director," "principal," head teacher," or **"operator,"** means the person at the facility having responsibility for the administration of a child care center and its program.

"Drop-in care" means child care where children are permitted to arrive and leave at irregular, non-scheduled times during the facility's operating hours.

"Drop-in child care center," means a facility, which accepts children for drop in care.

"Emergency" means an unforeseen combination of circumstances, which calls for immediate action.

"Facility" means all the physical parts belonging to, or which are a part of, a place in which child care is provided including enclosed areas, lanais, and outdoor areas.

"Family child care home" or **"family child care"** means child care in any private home maintained by an individual which provides care to three and no more than six children during any part of a twenty-four hour day, and where the relationship of child and family child care provider is not by blood, marriage, or adoption.

"First aid kit" means the materials and equipment in one location in a suitable container for meeting medical emergencies. A first aid kit shall be of the type approved by the American Red Cross, or the Department of Health Services.

"Group child care home" means child care provided by any individual in a facility that may be an extended or modified family child care home which provides care to no more than twelve children during any part of a twenty-four hour day. Group child care homes are licensed under the rules for group child care centers.

"Guardian" means a person other than a child's parents who has legal authority over and responsibility for a child.

"Illness" means a subjective term that shall be defined by each provider with regard to admitting or not admitting sick children to child care.

"Immunization Form" means a printed form made available by the Commonwealth Health Center, department of health or the department of education to record a child's immunizations and health record.

"Infant" means children who are newborn up to age one (through the twelfth month).

"Infant nursery" or **"infant center"** means a center that provides care for children between the age of 6 weeks and 12 months.

"Irrational" means the typical or normal pattern of the child care center, group child care home, or family child care home, or a practice of schedule that is routine and uniform and is not subject to unexplained or irrational variations.

"Lavatory" means a vessel or basin for washing, which is in conformity with plumbing codes.

"Local Sanitary Codes" means the specific rules set up by the Department of Health Services and those promulgated pursuant to the Commonwealth Health and Sanitation Act of 2000.

"New hire" means a person seeking to be a family child care home provider for the first time in the Commonwealth of the Northern Marianas Islands, either as an applicant or prospective employee of a family child care home.

"Night care" means child care provided to children who stay at night or overnight at a group child care center, group child care home, or family child care home. Care shall not be provided for twenty-four consecutive hours.

"Panic hardware," means a standard device on doors that permit quick and safe exits upon emergencies (push bars and plates).

"Primary Caregiver" means the individual in the infant and toddler child care center to whom the care of a specific child and family is assigned. Primary care is defined as direct care, primary responses to infant or toddler's physical and emotional needs while in the center and continued interaction with parents concerning the child.

"Policy" means a principal plan for the management of a child care facility.

"Provider" any person whose duties include direct care, supervision, and guidance of children in child care.

"Provisional license" or **"temporary permit"** means a temporary license issued at the discretion of the department for a period of three (3) months to any child care facility which is unable to conform to all the rules at the time the license or certificate of child care license is issued.

"Qualified Trainer" means a person who has twelve credits in early childhood or child development or related fields such as human development, psychology, social work, or nursing and a combined total of three years of experience in training adults who work with children or has six credits in early childhood or child development or related fields such as human development, psychology, social work, or nursing, and a combined total of five years of experience in training adults who work with children.

"Qualified nutrition consultant" means a Dietitian or nutritionist who meets the advanced educational requirements for membership in the American dietetic Association and is eligible for registration; or one who has a master's degree in public health nutrition or nutritional sciences.

"Rehire" means an applicant or prospective employee of a family child care home who is seeking to operate or be employed in a family child care home following termination of employment of more than six months and who has been out of Commonwealth of Northern Marianas Islands during this break in employment.

"Rules" means the rules developed by the Child Care Licensing Program, Office of the Secretary, Department of Community and Cultural Affairs to set minimum standards of care and safety for the protection of children in child care.

"Sanitary Codes" means the special rules set up by a Sanitation Office, the department of health, or a comparable federal agency, which govern aspects of health and safety.

"Single service utensils" means the supplies or equipment used once to serve food (paper plates cups, disposable forks).

"Staff member" means administrative, child care, clerical, and maintenance personnel who are employed by the child care facility.

"Substitute" means a person who serves as a replacement when another caregiver is absent.

"Teacher Assistant" means any person who works with the guidance of the teacher and director to carry out the program of the center.

"Temporary permit" (see provisional license).

"Toddler" means a child who is twelve to thirty-six months of age.

"Toddler nursery" or **"toddler center"** means any child care center that provides care for children age 12 months (walking independently) and 36 months.

"USDA Child Care Food Program" means the food standards established by the United States Department of Agriculture.

"Volunteer" means a person offering services to a child care facility without remuneration, except for reimbursable personal expenses allowed by the caregivers.

DAY CARE RULES

Commonwealth of the Northern Mariana Islands
Department of Community and Cultural Affairs

PART A. RULES GOVERNING THE LICENSING Of DAY CARE CENTERS, GROUP CHILD CARE HOMES, FAMILY CHILD CARE HOMES, AND BEFORE AND AFTER SCHOOL PROGRAMS

Section 1: Licensing Procedures

1.1 Application

(a) The application to obtain a child care license to operate a day care center, group child care home, family child care home, infant/toddler center, and before and after program(s) shall be made on forms supplied by the department and shall be completed in a manner prescribed thereon and submitted with the appropriate fee a minimum of sixty (60) calendar days prior to the proposed opening date.

(b) Applicants shall provide criminal history, background, employment information, and consent to conduct checks as may be required by PL-4-67, as Amended PL-4-69. Records of such information and consent shall be maintained by the facility and available for inspection by the Department.

(c) The Department shall conduct employment history, background checks, and criminal history checks on all applicants. Applicant shall maintain accurate records, e.g. employment application, police clearance, and diplomas if any.

(d) A licensing evaluation will occur only after the Department has received the complete application and appropriate fee.

(e) Multiple licenses shall be required as follows:

(1) If a licensee wishes to assume child care responsibility in more than one classification of care, separate application, fees, and licensing evaluation are required for each classification; or

(2) If a licensee wishes to operate more than one facility of the same classification but at different locations, a separate application, fee, and evaluation are required for each location.

(f) There shall be no child facility be operated or maintained unless licensed by the Department.

1.2 Fees

(a) The appropriate application fee outlined in this section must be submitted to the Department with the application for a child care license at least sixty (60) calendar days prior to the opening date of the facility.

(b) The appropriate application fee outlined in this section must be submitted to the Department annually, at least sixty (60) calendar days prior to the expiration date of the license, along with a completed continuation declaration.

(c) Following is a schedule of original, annual and renewal fees for all types of child care facilities and agencies:

Type	Fee
Initial / Renewal (1-6 children)	$25

DAY CARE CENTERS, GROUP CHILD CARE, INFANT/TODDLER CARE, AND BEFORE AND AFTER SCHOOL PROGRAMS

Type	Fee
Initial / Renewal (5-20 children)	$75
Initial / Renewal (21-50 children)	$100
Initial / Renewal (51-100 children)	$125
Initial / Renewal (101-150 children)	$150
Initial / Renewal (151-250 children)	$175
Initial / Renewal (251 or more children)	$200
CHANGES TO LICENSES (capacity and/or number of children)	$15
DUPLICATE LICENSES	$10
ANNUAL LISTING FEE	$20

1.3 **Inspection and issuance of child care licenses**

(a) In exercising its authority to license child care centers or group child care center of any type or renew, suspend, or revoke the certificate of child care licenses, the Department shall review the qualifications of providers of child care, review the written policies and program provisions, and conduct inspection(s) of the facility or home. Authorized representatives of the Department and parents or guardians of children in care may visit a child care center at any time during the hours of child care operation for purposes of observing, monitoring and inspecting the facilities, activities, staffing, and other aspects of the child care center.

(b) The applicant or licensee shall cooperate with the Department by providing access to its facilities, records, and staff. Failure to comply with reasonable requests may constitute grounds for denial, suspension, or revocation of the child care license.

(c) After the approval of child care license, the licensee shall ensure that the facility has the required employees to operate.

(d) The Department shall request the applicant to terminate the employment of an employee who has a criminal history, employment history, or background, which poses a risk to children in care. Any such request shall be in writing and shall state with specificity those criminal convictions, employment history, or background information, which indicates a risk to children. A due process hearing will be held if requested by the employee.

(1) When the applicant does not terminate the employment of the employee, the applicant shall notify the Department not later than five working days of receipt of the request. The notification shall be in writing and shall state the reasons for the decision;

(2) Refusal to terminate the employment of an employee, when requested under this section, may be grounds for revocation or suspension of a child care license.

(e) The Department shall issue a child care license under the following conditions;

(1) A regular child care license shall be issued if the result of the Department's evaluation indicates compliance with the applicable rules as established by the department; or

(2) A provisional child care license shall be issued, provided that requested documents shall be met on or before the three (3) months allowed for a regular child license to be issued.

(f) The length of the child care license period shall be as follows:

(1) Regular certificates of child care license shall be valid for one year unless subsequently suspended or revoked. When a regular child care license is issued after provisional certificate, the expiration date of the regular child care license shall be one year from the issuance date of the provisional child care license; or

(2) Provisional child care license may be issued for no more than three months; and

(3) Child care license shall be renewed only upon application and upon the Department's approval.

(g) Each child care license shall clearly state the type of program the licensee is permitted to operate, the address and location of the licensee, and the number and types of children who can be cared for at the facility.

(h) The operation of a family child care center without a license is a violation of Child Care Standards Act of 1985 and shall be punishable in accordance with this Act by imprisonment of not more than one (1) year, or a fine of not more than $2,000 or both.

1.4 Fire and Health Inspections

(a) Prior to the original license being issued, or following the renovation of the facility that would affect the licensing of the facility and at least every 2 years thereafter, all child care facilities except family child care homes must be inspected and obtain an approving inspection report from the Department of Health Services and from the local fire department. A copy of these reports shall be submitted to the Department and a copy must be kept on file at the facility or home. Should the fire inspection not be completed, the facility must advise the Department as to when the inspection should be completed for submission.

1.5 Denial, suspension, revocation of child care license, and hearings.

(a) The conditions for denial, suspension, or revocation of a child care license application and the action to be taken by the department are as follows:

(1) The Department may deny, suspend, or revoke the child care license, if an applicant or licensee does not comply with the rules of the Department respecting child care facilities;

(2) The Department shall suspend registration if the violation of the minimum requirement is the first violation of the provider does not warrant revocation;

(3) The Department may revoke child care license application if the provider has violated any minimum requirement to such an extent or of a nature that the provider is unfit to be trusted with the care of children, or if the provider's application has been suspended at least once previously;

(4) An applicant or licensee whose child care license is about to be denied, suspended, or revoked shall be given written notice by certified or registered mail addressed to the location shown on the child care license application;

(5) The notice shall contain a statement of the reasons for the proposed action and shall inform the applicant of the right to appeal the decision to the Office of the Secretary, Department of Community & Cultural Affairs, no later than ten (10) working days after acknowledgement of the notice of the proposed action;

(6) The applicant has twenty (20) days from receipt to make a written request for a hearing; the Secretary of the Department shall give written notice to the applicant of a time and place for a hearing before a hearing officer. On the basis of the evidence adduced at the hearing, the hearing officer shall make the final decision of the Department as to whether the application or child care license shall be denied, suspended, or revoked; and

(7) If no timely written request for a hearing is made, processing of the application shall and or the child care license shall be suspended or revoked as of the termination of the ten day period.

(b) The immediate suspension of the child care license shall be ordered if conditions exist which the Department determines constitute an imminent danger to the health, welfare, or safety of the children. The Department shall take the following actions:

(1) Provide the applicant written notice of the order by personal service or by certified or registered mail addressed to the location shown on the child care license application;

(2) Provide a statement of the reasons for the suspension in the notice and inform the applicant of the right to petition the Department to reconsider the order not later than ten working days after mailing of the notice;

(3) Declare that all operations shall cease as of the date of receipt of the notice, give the applicant reasonable notice upon receiving a written petition, and provide an opportunity for a prompt hearing before a hearing officer with respect to the order of suspension of the child care license application. On the basis of the evidence adduced at the hearing, the hearing officer shall make the final decision of the Department as to whether the order of suspension shall be affirmed or reversed; and

(4) Notify the parent or legal guardian of each child who is provided care in the family child care home of the suspension or revocation.

(5) The Department shall notify the Public School System for any applicant being suspended or revoked within five (5) working days.

(c) At any hearing provided for by this section, the applicant or licensee may be represented by counsel and has the right to call, examine, and cross-examine witnesses. Evidence may be received even though inadmissible under rules of evidence applicable under court procedures. Hearing officer decisions shall be in writing, shall contain findings of fact and conclusions of law, and shall be mailed to the parties to the proceedings by certified or registered mail to the last known address as may be shown in the application, on the child care license, or otherwise. The Administrative Procedures Act shall also be applicable at any hearing.

1.6 Report of a Critical Incident

(a) Within 24 hours, excluding weekends and holidays, of the occurrence of a critical incident at the facility, the applicant must report in writing to the Department the following critical incidents involving a child in the care of the facility or a staff member on duty:

(1) The death of a child or staff member as a result of an accident, suicide, assault, or any natural cause while at the facility, or while on authorized or unauthorized leave from the facility.
(2) An injury to a child or staff member that requires emergency medical attention by a health care professional or admission to a hospital.
(3) A mandatory reportable illness, as required by the Department of Public Health, of a child or staff member that requires emergency medical attention by a health care professional or admission to a hospital.
(4) Any allegation of physical, sexual, or emotional abuse or neglect to a child that results in reporting to a law enforcement or social services agency.
(5) Any fire that is responded to by a local fire department.
(6) Any major threat to the security of a facility including, but not limited to, a threat to kidnap a child, riots, bomb threats, hostage situations, use of a weapon, or drive by shootings.
(7) A drug or alcohol related incident involving a staff member or a child that requires outside medical or emergency response.
(8) An assault, as defined by law, by a child upon a child, a child upon a staff member, or a staff member upon a child which results in a report to law enforcement.
(9) Felony, theft, or destruction of property by a child while in care at the facility for which law enforcement is notified.
(10) A suicide attempt by a child at the facility, which requires emergency intervention.

1.7 Reporting Child Abuse

(a) A child care facility must require each staff member of the facility to read and sign a statement clearly defining child abuse and neglect pursuant to state law and outlining the staff member's personal responsibility to report all incidents of child abuse or neglect according to state law.

(b) Any caregiver or staff member in a child care facility who has reasonable cause to know or suspect that a child has been subjected to abuse or neglect or who has observed the child being subjected to circumstances or conditions that would reasonably result in abuse or neglect must be reported within 24 hours or cause a report to be made of such fact to the Division of Youth Services or local law enforcement agency.

(c) At the time of admission the facility must give the child's parent or guardian information that explains how to report suspected child abuse or child neglect.

1.8 Licensing Complaints

(a) Child care facilities must provide written information to parents at the time of admission and staff members at the time of employment on how to file a complaint concerning suspected licensing violations. The information must include the complete name, mailing address, and telephone number of the Department of Community and Cultural Affairs, Office of the Secretary, Child Care Licensing Program.

1.9 Posting of Licensing Information

(a) At all times during the operating hours of the center or home, the center shall post the current child care license in a prominent and conspicuous location easily observable by those entering the facility.

(b) At all times during the operation of a child care center, the center shall post in a prominent and conspicuous location information regarding the procedures for filing a complaint with the Department of Community and Cultural Affairs, Child Care Licensing, including the telephone number and mailing address.

1.10 Confidentiality of Records

(a) The records concerning the applicant of a facility and agencies are open to the public except as provided below.

(b) Anyone wishing to review a record must submit a written request to the department.

(c) The following documents are confidential and shall not be available for review:

(1) Information identifying children or their families.
(2) Scholastic records, health reports, social or psychological reports.
(3) Personal references requested by the department.
(4) Reports and records received from other agencies, including police and child protection investigation reports.

1.11 Parental Accessibility

(a) During hours of operation, a facility must allow access to parents and guardians having legal custody of a child in care to those areas of the center that are licensed for child care.

(b) During the hours of operation, the center's most recent licensing, fire department, and health department inspection reports must be accessible to parents and legal guardians of children in care or their designee and to parents and legal guardians considering placing their children in care at the center.

1.12 Perjury Statement

(a) Every application used in the Commonwealth for employment with a child care provider or Day Care Center, shall include the following notice to the applicant:

"Any applicant who knowingly or willfully makes a false statement of any material fact or thing in the application is guilty of perjury and shall be subject to the Penalty for Perjury Act, and, upon conviction thereof, shall be punished accordingly."

PART B. DAY CARE CENTER & GROUP CHILD CARE HOMES, BEFORE AND AFTER SCHOOL PROGRAMS

Section 1. Administration Requirements

1.1 **Supervision of children.** It is the responsibility of each applicant to provide supervision to all children from the time classes begins at the facility until the time classes are over in the home or at the center. All staff members who are entrusted with supervisory responsibility shall exercise reasonable care in the discharge of supervisory duties. Applicants shall formulate, distribute and explain to the children's parents and guardians procedures regulating children's behavior on the premises accordingly.

1.2 **Age of children in care.** A child care center or group child care home may provide care to children aged two years (twenty-four months) and older.

1.3 **Statement of operation policies.**

(a) A facility shall have written operation policies. Written policies shall be available to the department, caregiver staff, and parents or guardians of children for whom care is, or may be, available, and shall cover the following areas:

(1) Ages of children accepted;
(2) Maximum number of children permitted by license;
(3) Specific hours of day, night, holiday, and vacation operation;
(4) Whether or not meals are served;
(5) Type of child care services to be offered; e.g. daily routines, language, arts, math, children's progress, communication with parents, educational field trips and show & tell.
(6) Provisions which may be made for special needs of individual children;
(7) Admission requirements and enrollment procedures;
(8) Fees and plan for payment, including fees for different types of service and refund policy;
(9) Policy and plan for emergency medical care;

(10) Insurance coverage – each facility shall inform parents or guardians in writing of its policy relating to liability insurance. Should a facility, which has liability insurance at the time of a child's enrollment, subsequently cancel or terminate its liability insurance, it shall provide written notice to each parent or guardian of a child in its center, no later than three (3) working days of the cancellation or termination of its liability insurance coverage;
(11) Rules concerning personal belongings brought to the facility;
(12) Transportation arrangements;
(13) Parental permission for trips and related activities outside the facility;
(14) Fund raising campaigns – children and staff shall not be exploited in activities which would be detrimental to the children or the program;
(15) Admission of sick or children with disabilities; and
(16) Other policies, which may be required by the Department.

(b) Written policies and procedures shall be reviewed with each caregiver in the facility.
(c) Written policies shall be made available for review by parents or guardians at the time of enrollment of the infant or toddler.
(d) Written notification of changes in the services offered by the facility shall be provided to the Department, Public School System and to parents or guardians of the children enrolled in the facility at least four weeks prior to the effective date of change.

1.4 Information on owner or operator.

(a) The name, address, and telephone number of the facility shall be supplied to the Department.
(b) The name, business address, and business telephone number of the persons bearing the responsibility for the child care facility shall be supplied to the Department.
(c) The name, business address, and business telephone number of the persons having specific authority and responsibility for overall administration and the services offered shall be supplied to the Department.
(d) The name of the owner or sponsoring agency (privately owned, church or agency owned, etc.) of the facility shall be supplied to the Department.

1.5 Change in services.

(a) A facility shall notify parents or guardians and the Department of any changes in the child care services it provides as follows:

(1) Written notification of changes in the services offered by the facility shall be provided to the Department and to parents or guardians of children enrolled in the facility; and
(2) Notification of any changes in service shall be made no later than thirty days after the date of the change and shall be included in the facility's operating policies.

1.6 **Information and records on each child.**

(a) Admission procedures shall require that sufficient information and instruction from the parents or guardians be furnished to enable the caregiver to make decisions or act on behalf of the child.

(b) Prior to admission of a child to a facility, the provider shall obtain in writing from the child's parents or guardians the following information:

(1) The child's full legal name, birth date, current address, and preferred names;
(2) The name and address of the parents or guardians who are legally responsible for the child;
(3) Telephone numbers or instructions as to how the parents or guardians may be reached during the hours the child is in the child care center;
(4) The name, address, and telephone number of persons who shall assume responsibility for the child if for some reason the parents or guardians cannot be reached immediately in an emergency;
(5) The names, addresses, and telephone numbers of persons authorized to take the child from the facility; and
(6) Health information concerning the child, as required by sections 5.2 and 5.3.

(c) The information shall be available on facility forms and shall be updated as necessary.

1.7 **Disclosure of information on the child.**

(a) Information pertaining to an individual child or parents or guardians of the child shall not be disclosed to persons other than the facility staff, unless the parents or guardians of the child grant written permission for the disclosure or an emergency arises.

(b) The parents or guardians shall be informed in writing of the facility's policy regarding disclosure of information.

(c) The Office of the Attorney General may, by written request obtain disclosure of information required to be kept by these regulations when it appears that a violation of the criminal law may have occurred and such information may reasonably be needed to investigate such an allegation.

1.8 **Information and records on facility.**

(a) Written information and records on the facility shall be maintained and made available to the Department. The facility shall maintain current records and information including:

(1) Roster of enrolled children;
(2) Daily attendance records by names of children;
(3) Daily menu; and
(4) Daily schedule of activities

1.9 **Transportation provisions.**

(a) When transportation is provided by a facility, children shall be protected by adequate supervision, safety precautions, and liability and medical insurance coverage as follows:

(1) For transportation to and from school the vehicle and driver shall satisfy all relevant school bus and traffic laws.
(2) During any field trip or excursion operated or planned by the facility, the staff-child ratios as provided in section 4.2 shall apply; and
(3) Children shall be instructed in safe transportation conduct as appropriate for age and stage of development.

Section 2. Program Requirements

2.1 **Program Requirements**

(a) The program conducted in the facility shall provide for staff supervision at all times and an environment and experiences, which are aimed at promoting the individual child's physical, intellectual, emotional, and social well-being and growth. This shall be done in the following ways:
(1) The child care director shall provide the Department with a brief written description of the facility's program goals and how the daily activities of the center satisfy the physical, intellectual, emotional, social development, and well-being of the child;
(2) Activities which promote physical development shall include:
(a) Daily opportunities for running, climbing, and other vigorous physical activities;
(b) Varied physical activities; and
(c) Opportunities for children to learn about the health, development, and care of the children's bodies, including exercise, nutrition, and hygiene;
(3) Programs to promote intellectual development shall:
(a) Provide that a variety of learning materials are introduced and are available to the children; and
(b) Include first-hand experiences for children to learn about the world;
(c) Reading aloud to children, Developing listening and speaking skills, teaching about sounds of spoken language, print books, letters, building children's back ground knowledge and thinking skills, teaching about numbers and counting and checking children's progress.
(4) Programs to promote emotional development shall provide that:
(a) There are opportunities for individual self-expression;
(b) Each child is recognized as an individual;
(c) The child is afforded constructive guidance and the setting of clear-cut limits which foster the child's ability to be self-disciplined;
(d) Each child's personal privacy is respected;

(5) Providers shall not use;
  (a) Physical punishment, or
  (b) Methods of influencing behavior which are frightening, humiliating, damaging, or injurious to the child's health or self-esteem; and
(6) Providers respect each child's cultural, ethnic, and family background, as well as the child's primary language or dialect;
(7) Providers interact with the children in ways which emphasize and foster attitudes of mutual respect between adults and children; and
  (a) Providers behave in ways that help the children develop attitudes of respect for all other persons as individuals and develop an appreciation of cultural and ethnic diversity;
  (b) Children are guided in developing and working out ways of getting along with each other;
(8) The activities and experiences provided by the program are appropriate to the developmental level of the children;
(9) The program encourages the development of the children's special interests and abilities;
(10) The program provides a balance of active and quiet activities; and
(10) The program shall provide for the self-direction of the children by:
(12) Affording children opportunities to choose activities according to personal desires and interests and to move from one activity to another;
(13) Encouraging children to do things independently; and
(14) Providing children opportunities to be involved in decision making about group and individual activities.

2.2 Communication with Parents and Caregivers.

(a) Caregivers shall exchange information with parents or guardians about the children as follows:

  (1) Plans shall be made and followed daily with parents or guardians to exchange information about each child; and
  (2) Caregivers shall relay concerns about the health, development, or behavior of the child to the parents or guardians promptly and directly.
  (3) Caregivers shall partner with parents and guardians in helping to get the children ready for future school success.

2.3 Program materials and equipment.

(a) The amount and variety of materials and equipment available and the arrangement and use of the materials and equipment shall be appropriate to the ages of the children in care.
(b) The quantity of materials and equipment shall be sufficient to:

(1) Avoid excessive competition between the children and to avoid long waits for use of the materials and equipment; and
(2) Provide for a variety of experiences and appeal to the individual interests of the children.

(c) Protected areas where equipment and materials will be used with minimal interference or interruption shall be provided.

(d) Materials shall be kept in good repair and shall be accessible to children. The materials shall be stored in an orderly way and shall be arranged to allow children to select, remove, and replace the materials either independently or with assistance.

(e) Grass, soft media, or other protective measures shall be used under swings, slides, jungle gyms, and other similar outdoor play equipment.

(f) Equipment for both indoor and outdoor play shall allow children to use small and large muscles for imaginative play and creative activities.

(g) Provision for individual storage of children's clothing and personal belongings shall be available.

(h) Storage spaces for play materials and equipment used by the children shall be available.

(i) The following sleeping equipment shall be available:
(1) Individual bed, cot, mat, or rug for each child who rests; and
(2) A clean sheet or cover to be used on the bed, cot, mat or rug for each child.

2.4 Transition to a new facility or school setting.

(a) Provision shall be made to assist the child in making the transition from the child care setting to a new child care, a kindergarten, or school setting.

(b) Provision shall be made for cooperation between the caregiver and parents or kindergartens when information is requested which may assist a child to adjust to a new environment as allowed by section 2.6.

Section 3. Staffing Requirements

3.1 Staff training, experience, and personal qualifications.

(a) Each caregiver shall be qualified through training, experience, and personal qualities for the age group with which the person works.

(b) Staff growth and development shall be encouraged. The director shall make information about workshops, seminars, training sessions or courses available to all staff and volunteers.

(c) Applicants, employees and volunteers shall be of reputable and responsible character and shall not have a criminal history record, employment history or background which poses a risk to children in care.
(1) Conviction of a crime involving violence, alcohol or drug abuse, sex offense, offense involving children and any other conviction, the circumstances of which indicate that the applicant or employee may pose a danger to children, are grounds for denial or revocation of a license or a reason to request termination of an employee under Section 1.3 (d).

(2) Type of criminal offense, when it occurred and evidence of rehabilitation may be considered in determining whether the criminal history record poses a risk to the health, safety or well-being of children in care.

(3) An employment history indicating violence, alcohol or drug abuse and any other violation of employer rule or policy, the circumstances of which indicate that the applicant or employee may pose a danger to children, may be grounds for denial or revocation of a license or a reason to request termination of an employee under Section 1.3 (d).

(4) Background information which shows that the individual has been identified as and substantiated to be the perpetrator of child abuse or neglect may be a basis for denial or revocation of a license or a reason to request termination of an employee under Section 1.3 (d).

(d) Directors, teachers, teachers assistant, and aides employed in a licensed facility shall be required to have adequate minimum qualifications for the type of staff position occupied.

(e) The age requirements for staff shall be as follows:

(1) All staff in positions other than child care aide, volunteer, or maintenance personnel shall be at least eighteen years old; and

(2) A child care aide shall be at least sixteen years old to be counted in the staff-child ratio.

(f) The director of a facility licensed for six or more children shall have the following qualifications:

(1) A bachelor's degree from an accredited college or university preferably with courses in early childhood education, child development, or related fields, and two years of experience working with children; or

(2) Combination of two years of college education or child development associate certification and four years of experience in work with children; and

(3) In either case, at least one year of experience shall be with children of the appropriate age for the child care center being directed.

(g) A teacher shall meet one of the following qualifications:

(1) A degree in child development or early childhood education from an accredited college or university, and six months working experience in an early childhood program; or

(2) Post secondary credential in child development associate program or organized two-year (sixty credit) college program and certificate in early childhood education, plus one year supervised teaching experience in an early childhood program; or

(3) Baccalaureate (bachelor's degree) in elementary education from an accredited college or university plus six months working in an early childhood program, plus six credit – semester or equivalent approved child development or early childhood training courses, (may be included as part of bachelors of arts or bachelors of science degree); or

(4) Baccalaureate (bachelor's degree) in any field from an accredited college or university plus six months working in an early childhood program, plus twelve credits—semester or equivalent approved child development or early childhood training courses, (may be included as part of bachelor of arts or bachelor of science degree).

(h) An assistant teacher shall meet one of the following qualifications:
(1) Post secondary credential in child development associate program or associate of arts degree and certificate in early childhood education, and six months experience working in an early childhood program; or
(2) Two years (sixty credits) of post secondary education plus six months working in an early childhood program and nine credits—semester equivalent approved child development or early childhood training courses.

(i) Waivers for teacher or assistant teacher positions may be granted by the department if there are no qualified applicants available for the position, provided:
(1) The position vacancy has been advertised in the classified ad section of the largest newspaper in the county;
(2) The prospective employee meets the requirement for the next lower position;
(3) There is a written plan presented to the department's division administrator on the steps to be taken to bring the employee up to the proper qualifications for the position; and
(4) Approval for a waiver has been received prior to the hiring of the non-qualified teacher or assistant teacher.

(j) A child care aide shall meet one of the following qualifications:
(1) High school vocational child care training course; or
(2) Orientation training course in the center.

(k) Volunteers shall:
(1) Participate in an orientation to the program; or
(2) Be a participant in a high school program which includes child care training; and
(3) Meet the requirements of regular staff members to be counted in the staff-child ratio.

(l) Temporary hires shall meet qualifications of positions for which hired.

(m) Substitutes for teachers and assistant teachers shall be at least eighteen years of age and shall have participated in an orientation program of the facility. The center's director shall closely supervise the curriculum, lesson plans, and daily activities assigned to the substitute.

(n) Substitutes for director shall meet qualifications for director.

(o) Substitutes for aides shall meet the qualifications of an aide.

(p) Substitutes may be granted an extension to serve in the same position for more than ten consecutive days upon consultation with and approval of the department.

3.2 <u>Staff–child ratio.</u>

(a) The staff-child ratio shall be met and maintained by all facilities.

(b) The staff-child ratio shall be in writing and shall be made available to the department. Distribution of staff may include a team comprised of teacher, teacher assistant, and child care aides. The staff members shall be on site and shall be assigned to a group of children to be included in the staff-child ratio. Custodians, cooks, and bus drivers shall not be counted in the staff-child ratio when performing regular duties.

(c) The director may teach and may be counted in the staff-child ratio as follows:

(1) In a center with less than fifty children, the director may teach and may be counted in the staff-child ratio; and

(2) In a center with fifty or more children the director may teach but shall not be included in the staff-child ratio.

(a) Exception may be made and the director may be included in the staff-child ratio in cases of emergency or in special situations. In any case this inclusion in the staff-child ratio may not exceed ten hours per week.

(b) Exception may be made be made and the director of a child care center, full day only, may be included in the staff-child ratio during the first and last hours of the regular operational day.

(c) The following staff-child ratio shall be implemented:

Ratio Chart I

Age	Number of Children Per Staff Member
0 - under 24 mos.	Not Permitted
2 year olds	7 or less
3 year olds	7 or less
4 year olds	10 or less
5 years and older	10 or less

(1) Unless specific instructional curriculum and related provisions specify mixing the ages and excepting nap time, the number of children assigned to a staff member shall be determined by the age of the youngest child in the group.

(2) In those facilities in which an instructional curriculum as well as classroom environment and teacher training specifically require mixing the ages, the number of children per staff member shall be determined by the average of the staff-child ratios according to the chart above. Such provision shall not apply to more than three hours of mixed instructional time during any operational day for the same child or group of children.

(3) During nap time or night care when children of various ages are mixed together:

(a) The number of children per staff member shall be determined by the average of the staff-child ratios according to the chart above;

(b) Non-teaching staff members at the center may be included in the staff ratios.

(4) Children ages two years eight month or older, who are enrolled in the center on or between September and December 31 of any year and whose birthdays fall on or between these dates may be considered part of the next older age group when determining staff ratios.

(d) The following chart reflects minimum requirements for the grouping of children of a certain age in units so that one unit of two-year-olds will be eight children, one unit of three-year-olds will be twelve children, one unit of four-year-olds will be sixteen children. One teacher shall be mandated for the first unit, three or more units require the addition of an assistant teacher plus aides as needed to meet the ratio.

Ratio Chart II
Minimum Staff Employment Sequence

Age of Children	No. of Children	Teacher	Teacher Assistant	Aide	Total Staff
2 year-olds	1-7	1			1
	8-15	1		1	2
	16-23	1	1	1	3
	24-31	1	1	2	4
	32-39	2	1	2	5
	40-47	2	2	2	6
	48-55	2	2	3	7

Ratio Chart II
Minimum Staff Employment Sequence

Age of Children	No. of Children	Teacher	Teacher Assistant	Aide	Total Staff
3 year-olds	1-7	1			1
	8-15	1		1	2
	16-23	1	1	1	3
	24-31	1	1	2	4
	32-39	2	1	2	5
	40-47	2	2	2	6
	48-55	2	2	3	7

Ratio Chart II
Minimum Staff Employment Sequence

Age of Children	No. of Children	Teacher	Teacher Assistant	Aide	Total Staff
4 year-olds	1-10	1			1
	11-21	1		1	2
	22-32	1	1	1	3
	33-43	1	1	2	4
	44-54	2	1	2	5
	55-65	2	1	3	6
	66-76	2	2	3	7

Ratio Chart II
Minimum Staff Employment Sequence

Age of Children	No. of Children	Teacher	Teacher Assistant	Aide	Total Staff
5 years and older	1-10	1			1
	11-21	1		1	2
	22-32	1	1	1	3
	33-43	1	1	2	4
	44-54	1	1	2	5
	55-65	1	1	3	6

(e) Exception: During the first and last hours of the regular operational day the staffing sequence may be adjusted so that the director, a teacher, or assistant teacher may be counted as fulfilling any position in this ratio chart.

Section 4. Health Standards for Children

4.1 Health consultation provisions.

(a) All child care centers and child care homes shall have one of the following provisions for health consultation to assist in developing health policies and in keeping them current:

1) The child care center and group child care homes shall have on file written evidence that an arrangement has been made with a physician in private practice to provide consultation, and that this arrangement is satisfactory with parents of the children;
2) The child care center has made a contractual arrangement with a private physician or non-profit health organization in the community to provide health care for children in the program;
3) There is already a procedure existing in the community for the provision of health consultation service and arrangements have been made for use of this services; or
4) The child care centers or group child care homes shall have a health advisory group that may serve in such a capacity.

4.2 **Evidence of child's health.**

(a) The child care facility shall obtain from the parent(s) or guardian(s), a health record of the child that complies with the provisions of this Section. Which relate to the school entry examination requirements for tuberculosis clearance, immunization, and physical examination.

(1) Written evidence of a physical clearance obtained within two months of admission to the facility;

(2) Written evidence that the infant or toddler has received a tuberculin test indicating that the infant or toddler is free from tuberculosis in a communicable form; and

(3) Initial and continuous written evidence that immunizations are current; or

(4) A written statement from a licensed physician certifying that the physical condition of the infant or toddler is such that immunizations would endanger the infant or toddler's life or health; or

(5) A written statement from a parent or guardian requesting exemption from the required immunizations on the grounds that such immunizations conflict with the parent or guardian's bona fide religious tenets and practices.

(b) The facility shall have in writing:

(1) The name, address, and telephone number of a physician or health resource that shall be called in case of emergency; and

(2) Permission of the parent or guardian to call the physician or health resource, or another source of care if the parent or guardian cannot be reached in the case of a health emergency.

(c) The records of the child in the program shall include pertinent information about health status, developmental progress, and any special needs and efforts necessary to meet these needs.

4.3 **Emergency care provisions.**

(a) Every facility shall have the following provisions for emergency care of children requiring treatment at a hospital or clinic away from the child care setting and for care of children who become ill after arrival:

(1) The facility shall have one of the following written policies which indicate that:

(a) The responsible individual in the child care setting, director, child care provider, or health-trained caregiver, has obtained the name of the nearest hospital or clinic where such care may be provided and has obtained written permission from each parent or guardian to provide emergency care for the child;

(b) The facility's health consultant has made arrangements for emergency coverage, and written permission from each parent or guardian shall be on file in the child care setting; or

(c) Health care shall be provided in the child care setting, and the written permission from the parent or guardian covering all aspects of health care shall be on file in the child care setting.

(2) An adult shall accompany a child to the source of emergency care. The adult shall stay with the child until the parent or parent's designee assumes responsibility for the child's care. The selection of the adult shall not compromise the supervision of the other children in the program; and

(3) Physical arrangements for children who become ill after arrival at the facility shall be taken care of and be placed at the resting area away from other children. The parents or guardians shall be notified for alternative arrangements.

4.4 First aid and Rescue Breathing.

(a) There shall be at least one adult caregiver with a current certificate in first aid and rescue breathing at the facility when children are present.

(b) A first aid kit shall be available at the facility at all times.

4.5 Admission of ill children.

(a) When health policies of the facility allow ill children to be admitted or to remain in the facility, medical consultation shall be available regarding special care and medication. When medication prescribed by a physician is administered in the facility.

(1) The medication shall be kept in the original container bearing the prescription label which shows the date filled, the physician's directions for use, and the child's name;

(2) Medication shall be kept out of reach of children and shall be returned to parents or guardians when no longer in use; and

(3) There shall be an authorization signed by the parent or guardian for the administration of medication by the facility.

(b) Both the provider and the parents or guardians shall be familiar with special policies of the facility relevant to ill children. Special policies regarding illnesses shall be explained to the parent or guardian at the time of enrollment of the child.

(c) Provisions shall be made to allow the facility's medical consultant and the child's regular source of health care to communicate in order to preserve continuity and consistency of care.

(d) The child care facility shall have, in writing, the name, address, and telephone number of a physician or health resource that shall be called in case of emergency. Written permission of the parent or guardian to call upon the physician or health resource, or another responsible source of care, if the parent or guardian cannot be reached, shall be required.

(e) The facility shall, in consultation with its health consultant, establish a re-admission policy for children who have been absent because of illness.

(f) The facility shall, in consultation with its health consultant, establish a re-admission policy for children who have been absent because of illness.

4.6 Non-admission of ill children.

(a) If children with illness are not allowed admission into a group child care center or a group child care home, this policy shall be clearly stated in writing and made known to parent or guardian at the time of enrollment.

4.7 Admission of children with disabilities.

(a) When children with a disability are admitted into a group child care center or group child care home, the facility shall provide for the special needs of each child.

(b) The disabled child shall be admitted only after consultation with the child's source of health care and the program's health consultant occurs. The consultation shall include written recommendations to cover the child's educational plan in the facility.

(c) If the child's health care source considers it advisable, the staff of the program shall receive training related to the nature of the child's disability and the child's potential for growth and development.

(d) Where the nature of the child's handicap or the number of handicapped children in the program necessitates added care, staff and equipment shall be available to cover these requirements.

4.8 Daily nutritional needs.

(a) Meals and snacks of a quantity to supplement food served at home shall be available to meet the daily nutritional needs of the child. Foods related to the cultural and ethnic background of the children in the program and locality shall be part of meal planning.

(b) The child care facility shall have access to nutritional information provided by a qualified nutritionist, dietitian, or other community resources approved by the department of health.

(c) To the extent possible, information provided by parents or guardians concerning the child's eating habits, food preferences, or special needs shall be considered in child care feeding schedules and menus. Children shall be encouraged but shall not be required to eat the food offered by the facility.

(d) In a facility providing meal service, the minimum meal components and food amounts required by the United States Department of Agriculture (USDA) child care food program shall be met. The facility shall offer and provide the following combination of meals and snacks for children in care:

(1) Two to four hours - - - - - - one snack;

(2) Four to eight hours - - - - - one snack or breakfast and lunch or supper;

(3) Eight hours or more - - - - one snack or breakfast and lunch or supper and one additional snack (unless the eight hours or more extend into the evening hours when the child may be asleep);

(4) When two snacks are required as in section 5.8 (3) above, at least one of those snacks shall include the provision and offering of milk or its calcium equivalent; and

(5) Local ethnic foods may be added or substituted for quantity (for allowable food reimbursement, facilities shall consult with the USDA).

(e) In a facility where parents or guardians are allowed to provide food (i.e. sack lunches or snacks) the facility, in addition to food the child brings, shall provide the minimum amounts required by the USDA child care food program by offering and providing children in care:
  (1) Four to eight hours - - - - morning snack or breakfast or afternoon snack;
  (2) Eight hours or more - - - morning snack or breakfast and afternoon snack (unless the eight hours or more extend into the evening hours when the child may be asleep);
  (3) When two snacks are required as in section 5.8 (e) (2) above, at least one of those snacks shall include the provision and offering of milk or its calcium equivalent; and
  (4) Local ethnic foods may be added or substituted for quantity (for allowable food reimbursement, facilities shall consult with the USDA).

(f) Children shall not be offered food to which they are allergic or, to which they object for religious reasons. Provision shall be made to secure such information from the parent or guardian and that the facility shall arrange for nutritious substitute foods.

(g) School aged children in after school care for two to four hours shall be offered a nutritious snack which may be provided by the facility or brought from home.

(h) Food shall not be used as a punishment or reward.

(i) A qualified nutrition consultant engaged by the center or provided by an appropriate community resource shall review the facility's food service annually.

4.9 Drinking water provisions.

(a) There shall be drinking fountains or another device or system whereby drinking water shall be readily accessible to all children. The Rules and Regulations Governing Schools and Child Care Facilities promulgated by the Department of Health pursuant to the Commonwealth Environmental Health and Sanitation Act of 2000 shall apply as well.

4.10 Integration of mental health concepts.

(a) Mental health aspects of each child's development shall be integrated into the program as follows:
  (1) At least one parent, guardian, foster parent, or social worker shall be interviewed by a designee prior to a child's admission to the facility. The personal interview shall be conducted to secure pertinent information on the child's overall development and behavior and to acquaint the parent or guardian with the facility's program and policies;
  (2) The facility shall provide its staff with annual orientation to state or other mental health services for children, or otherwise familiarize its staff with consultative and clinical services and programs for early identification of social, emotional, intellectual, and behavioral problems of children; and
  (3) The facility shall refer parents or guardians to sources of professional consultation in mental health upon the parents' or guardians' request or upon the recommendation of the facility's staff.

Section 5. Health Standards for Staff

5.1 Providers' health standards.

(a) Evidence that providers are free from health problems which would have a harmful effect on the children or would interfere with effective functioning shall be maintained at the child care facility as follows:

(1) The results of employment physical examinations and health permit of each person employed in the center and each volunteer who serves ten or more hours per week shall be on file at the facility;

(2) Written evidence that each member of a child care center staff or volunteer is free from communicable tuberculosis as a result of a negative tuberculin skin test or a satisfactory chest x-ray taken within six months before beginning child care shall be on file at the facility. The tests shall be repeated in compliance with the rules of the department of health;

(3) Each caregiver with an identified health problem shall provide the facility with a written statement from a physician that the caregiver is able to care for young children;

(4) The facility shall have provisions for substitution of staff who are too ill to function effectively or who present a serious health hazard to others in the facility;

(5) Group child care home caregivers providing care in a residence shall have on file with the department written evidence that each member of the household, even though the member may not be a caregiver, is free from communicable tuberculosis. Upon request of the department, additional reports with reference to the health of the other members of the household shall be made available to the department; and

(6) When volunteers provide direct care of ten hours or more per week, the volunteers shall be subject to the same requirements for health and personal habits as the provider.

5.2 Personal health habits of staff.

(a) The personal health habits of all providers shall not interfere with the protection of the health of the children as follows:

(b) The facility shall have written policies, which have been developed with the assistance of the facility's health consultant and which minimally require that:

(1) Staff with a fever, other symptoms of illness, or an altered physical or mental state, shall not be allowed to work;

(2) Staff with visible skin conditions, such as lesions, boils, or dermatitis, shall not prepare or serve food or handle utensils and feeding equipment;

(3) Staff's appearance shall reflect good grooming habits and personal hygiene, including clean and neat hair and nails, appropriate clothing, and good oral hygiene;
(4) Smoking shall not be allowed in the presence of the infants and toddlers, nor in any parts of the building, which are used for child care, during the hours of child care operation;
(5) Alcoholic beverages and detrimental drugs shall not be consumed or maintained at the facility during hours of operation; and
(6) Staff shall take appropriate measures to manage stress by maintaining good mental and physical health.

(c) In-service training shall be provided to staff on various aspects of personal health care and healthy lifestyle, such as care of head lice (ukus), impetigo, viral infections, risk factors, and stress management.
(d) Volunteers shall be subject to the same requirements for health and personal health habits as the care giving staff.

Section 6. Environmental Health Standards

6.1 Disaster plan for emergencies.

(a) Each facility shall have a disaster plan to cover emergencies such as fire, flood, or natural disaster. The plan shall include:

(1) A written plan which shall be approved by the fire inspector, the health consultant, or the red cross, and which shall be practiced at regular intervals;
(2) Posting the plan in a prominent place in the facility; and
(3) Installing an underwriters laboratory listed fire warning device or system in each facility. Written evidence that the device or system has been inspected and approved by a fire inspector shall be on file at the facility.

6.2 Accidental injury precautions.

(a) The facility shall ensure that the child care program staff minimize the risk of accidental injury in the following manner:

(1) Child care activities and premises shall take precautions not to expose children to situations which may be hazardous to the particular age or capacity of the child;
(2) The program shall help children to increase awareness of safety practices and accident hazards and to teach the children how to avoid such hazards; and
(3) Accident prevention practices and policies shall be available in writing. The practices and policies shall be reviewed annually and the staff shall become familiar with the policies and practices.

6.3 Environmental hazards.

(a) The indoor and outdoor premises of a child care facility shall be free of environmental hazards, shall be clean and comfortable, and shall provide for adequate space to meet the needs of the children as follows:

(1) The facility shall be protected against rodents and insects;
(2) The outdoor space shall be fenced or shall have natural barriers to deter children from getting into unsafe areas;
(3) There shall be no open drainage ditches, wells, or holes into which children may fall;
(4) Drainage shall be adequate to prevent stagnant pools of water from accumulating;
(5) Garbage and trash shall be stored in covered containers out of reach of the children and shall be removed frequently.
(6) Open fireplaces shall not be used. Floor heaters and all heating elements including hot water pipes shall be insulated or installed in a manner which makes the pipes inaccessible to children;
(7) Floor space shall be arranged to provide areas for active play, quiet rest, and individual activities;
(8) Furniture, equipment, and toys shall be sturdily constructed, without sharp edges, and shall present minimal hazards to children;
(9) Lead based paint shall not be used on surfaces accessible to children. Professional assistance shall be requested during routine inspections.
(10) Poisonous plants shall be out of reach of children on the premises;
(11) Pets, animals, and fowl shall be maintained in a safe and sanitary manner at all times; and
(12) If a lodging house, boarding house, or any other business conflicts with the regular operation of the child care facility, the lodging house, the boarding house, or other business shall not be conducted at the facility.

6.4 Water supply.

(a) The Rules and Regulations Governing Schools and Child Care Facilities promulgated by the Department of health pursuant to the Commonwealth Environmental Health and Sanitation Act of 2000 shall apply.

6.5 Toilet and lavatory facilities.

(a) The Rules and Regulations Governing Schools and Child Care Facilities promulgated by the Department of health pursuant to the Commonwealth Environmental Health and Sanitation Act of 2000 shall apply as well;
(b) If toilet training chairs are provided for use by children, the toilet training chairs shall be emptied promptly and sanitized after use;

(c) Lavatories shall be provided in quantities commensurate with toilet facilities. Hot water temperatures shall not exceed 100 degrees Fahrenheit, 38 degrees Celsius, at outlets accessible to children; and

(d) Toilet facilities shall be child sized, or safe, sturdy step stools shall be provided to allow standard sized toilets and lavatories to be used.

6.6 Food preparation.

(a) Food preparation shall be carried out in a kitchen with proper equipment and cleanup facilities required for the number of children in care as follows:

(1) All dishwashing shall be performed in a sanitary manner. A domestic dishwasher shall be acceptable, but if it is not available, the dishes shall be washed and rinsed in a sanitizing solution;

(2) In a facility caring for less than thirteen children, a family kitchen in good repair, separate from other rooms, shall be available;

(3) In a child care facility caring for thirteen or more children, where food is prepared on the premises, adequate sized equipment for the size of the program shall be available. An approved dishwasher or a three-compartment sink shall be used. Both the dishwasher and the three compartment sink shall require approval by the department of health;

(4) When food is prepared off the premises and is transported to the child care facility from a licensed preparation source, the foods shall be kept in a safe and sanitary condition;

(5) When single service utensils are used, the utensils shall be stored and handled in a sanitary manner and discarded after a single use; and

(6) Cooking utensils used in food preparation and service shall be cleaned stored in a sanitary manner.

6.7 Food Protection.

(a) Food protection shall be carried out as follows:

(1) Policies and practices shall be developed and carried out in a manner that insures that all food is protected from contamination during storage, preparation, and service; and

(2) Food protection policies shall comply with accepted practices of local sanitary codes and shall be adapted to fit the needs of the program except as indicated in these rules.

6.8 Cleaning of premises.

(a) All necessary cleaning equipment shall be available on the premises and a plan for regular cleaning shall be established to protect the health of the children and provider.

(b) Toys, tabletops, furniture, and other similar equipment used by children shall be washed daily. Plain soap and water shall be an adequate cleansing agent.

6.9 **Public beaches, swimming activities and wading pools.**

(a) When swimming or wading pools are part of the facility, equipment, or program, swimming pools shall be constructed, maintained, and operated in accordance with building and health rules.

(b) When swimming or wading activities are included in the child care program, the following safety practices shall be observed:

(1) A certified lifeguard, who may be the provider, shall be on duty at all times when swimming pools are in use;

(2) Wading pools less than twenty-four inches at the deepest part shall be exempt from the requirements of subsection (b)(1). However, children shall be personally attended by a responsible adult at all times;

(3) Wading pools exempt under subsection (b)(2) shall be emptied immediately after each use; and

(4) Legible safety rules for the use of all types of pools shall be posted in a conspicuous location and read and reviewed at regular intervals by the provider responsible for the care of children.

Section 7. Physical Facilities Standards

7.1 **Building codes and space requirements.**

(a) Child care facilities shall conform to the zoning, building, electrical, and plumbing codes of the county or political subdivision in which the facility is located and to state rules as may be applicable to the facility.

(b) The facility shall:

(1) Be located in a safe and sanitary area.

(2) Have a sunny exposure and be well lighted and ventilated; and

(3) Be located in a reasonably quiet area or employ suitable noise control devices to limit noise exterior to the child care operation.

(c) All buildings, building appurtenances, outdoor space, equipment, and all other parts of the facility shall be kept repaired, safe, and sanitary at all times.

(d) The space requirements, enclosed areas, and outdoor areas, of the facility shall be as follows:

Standards for Space Requirements

Enclosed Areas:

Daytime Care:

There shall be thirty-five square feet per child of unencumbered instructional or play area exclusive of bathrooms, kitchens, cupboard space, and hallways. The thirty-five square feet per child requirement shall be a general area definition of the square footage of the entire center, not describing the square footage of each classroom. Lanai area may be counted for not more than thirty per cent of required area.

Nighttime Care: In rooms used for sleeping, there shall be fifty square feet per child exclusive of lanai area.

Outdoor areas: Lanai area that has both a roof and finished flooring does not count for either enclosed or more than thirty per cent of outdoor space. The square footage for the outside areas shall be a general area requirement related to total child capacity and not limited or qualified by the number of children outside at any one time.

(1) 720 square feet for 6 children plus 70 square feet per child thereafter up through 10.
(2) 1,065 square feet for 11 children plus 65 square feet per child thereafter up through 30.
(3) 2,360 square feet for 31 children plus 60 square feet per child thereafter up through 50.
(4) 3,555 square feet for 51 children plus 55 square feet per child thereafter up through 100.
(5) 6,295 square feet for 101 children plus 45 square feet per child thereafter.

(e) The facility shall be equipped with toilets and lavatories as follows:

Number of children	Minimum Toilet(s)	Minimum Lavatory(ies)
1 - 12	1	1
13 - 30	2	2
31 - 45	3	3
46 - 60	4	4
61 - 75	5	5
76 - 90	6	6
91 - 105	7	7
106 - 120	8	8
121 - 135	9	9
136 - 150	10	10
151 - 165	11	11
166 - 180	12	12
181 - 195	13	13
196 - 210	14	14
211 - 225	15	15

Section 8. Program Modifications

8.1 Program modifications for drop-in care.

(a) All requirements set forth in this section shall be met by the facility.
(b) A child care center offering drop-in care shall be prepared to adjust its staffing to meet the program modifications which result when drop-in care is provided.

(c) Children receiving drop-in care shall be cared for in separate areas or groups.
(d) If a center serves both drop-in children and children who attend regularly, the grouping of the children and the program shall be planned so that the needs of both groups are met.
(e) The facility shall have the following information in writing:
  (1) **The ages of children accepted for drop-in care;**
  (2) The procedures for admittance and release of drop-in children; and
  (3) Arrangements for staffing and separate activities for drop-in children.

8.2 Program modifications for night care.

(a) A child care facility offering night care shall meet the requirements of this chapter in addition to the following requirements:
  (1) **In consultation with parents, special attention shall be given by the caregiver** to provide for a transition into night care;
  (2) A selection of toys for quiet activities shall be available;
  (3) Comfortable beds or cots, complete bedding and night clothes shall be available or supplied by the parents;
  (4) Beds shall be placed at least three feet apart;
  (5) Staff shall be available to assist children during eating and pre-bedtime hours and during the morning period when dressing. During sleeping hours, staff shall be within listening distance to provide for the needs of children and to respond to an emergency;
  (6) A child shall not sleep in a building detached from the main facility; and
  (7) Night care facilities shall include at least one shower, bathtub, or bathing facility for the children.

PART C. FAMILY CHILD CARE HOMES

Section 1. Administration Requirements

1.1 Number and age of children in care.

(a) A family child care home shall provide care for no more than six children at the same time.
(b) No more than two children under twenty-four (24) months of age shall be permitted in the family child care home at the same time. Should there be additional adult help in the home, there may be up to four children under twenty-four (24) months of age.
(c) Restrictions as to the number of children permitted shall be made in certain conditions as identified in Section 4.2: Staff-Child Ratio.

1.2 The following provider's children are not included in this total:

(a) Children six years of age or older; and
(b) Children under six years of age who are in school or attending a child care facility, such as a child care center, more than six hours per day.

1.3 **Statement of operation policies.**

(a) A family child care home shall have written operation policies. Family child care home policies shall include:
- (1) Ages of children accepted;
- (2) Maximum number of children permitted by certificate of child care licensing program;
- (3) Specific hours of day, night, holiday, and vacation operation;
- (4) Whether or not meals are served;
- (5) Fees and the plan for payment, including fees for different types of child care services and refund policy;
- (6) Policy and plan for emergency medical care;
- (7) Insurance coverage – provider shall inform parents or guardians in writing of its policy regarding liability insurance; should a facility, which has liability insurance coverage, cancel or terminate its coverage, it shall provide written notice to each parent or guardian of a child in its facility not later than five working days of the cancellation or termination of its coverage.
- (8) Transportation arrangements;
- (9) Parental permission for trips and related activities outside the facility;
- (10) Policy regarding admission or sick, moderately sick, or handicapped children; and
- (11) Other policies which may be required by the department.

(b) The provider shall review the policies with each parent or guardian at the time of enrollment of a child.

1.4 **Information on owner or operator**

(a) The name, address, and telephone number of the facility shall be provided to the Department.

(b) The name of any sponsoring agency shall be provided to the Department.

1.5 **Change in services.**

(a) A facility shall notify parents or guardians, Public School System and the Department of Community and Cultural Affairs of any changes in the child care services it provides. Notification of any changes in service shall be made no later than thirty days after the date of the change and shall be included in the facility's operating policies.

1.6 **Information and records on each child**

(a) Admission procedures shall require that sufficient information and instruction from the parents or guardians be furnished to enable the provider to make decisions or act on behalf of the child.

(b) Prior to admission of a child to a facility, the provider shall obtain the following information from the child's parents or guardians;

(1) The child's full legal name, birth date, current address, and preferred names;
(2) The name and home address of the parents or guardians who are legally responsible for the child;
(3) Telephone numbers or instructions as to how the parents or guardians may be reached during the hours the child is in the facility;
(4) Health information concerning the child, as required by Section 5.

(c) The information shall be maintained in writing and shall be updated as necessary

1.7 Disclosure of information on the child.

(a) Information pertaining to an individual child or parents or guardians of the child shall not be disclosed to persons other than the facility personnel unless the parents or guardians of the child grant written permission for the disclosure or an emergency arises.

1.8 Information and records on facility.

(a) Written information and records on the facility shall be maintained and made available to the Department. Current records and information, shall include:

(1) Roster of enrolled children; and
(2) Daily attendance record by names of children.

1.9 Transportation provisions.

(a) When transportation is provided by a facility, children shall be protected by adequate supervision and safety precautions as follows:

(1) The vehicle and driver providing transportation shall be in compliance with all relevant motor vehicle laws.
(2) No more than six children under the age of six years shall be transported when only one adult is in the vehicle;
(3) Children shall be instructed in safe transportation conduct as appropriate for age and stage of development; and
(4) All children under three years of age shall be in federally approved child safety seats. All other children and adults shall be secured by seat belts at all times when driving.
(5) Children shall not be allowed to ride in the back of pick-up trucks.

Section 2. Program Requirements

2.1 Program provisions.

(a) There shall be a provider or a responsible adult, designated by the provider, supervising the children at all times. The provider or responsible adult shall always be within sight or hearing distance to provide for the needs of the children and to respond to an emergency. The program shall also provide an environment and experiences that are aimed at promoting the individual child's physical, intellectual, emotional, and social well-being and growth. This shall be done in the following ways:

(1) Activities which promote physical development shall include:
   (a) Daily opportunities for running, climbing, and other vigorous and varied physical activities; and
   (b) Opportunities for children to learn about the health, and care of the their bodies, to include exercise, nutrition, and hygiene;

(2) Programs to promote intellectual development shall:
   (a) Provide that a variety of learning materials are introduced and are available to the children; and
   (b) Include first-hand experiences for children to learn about the world;

(3) Programs to promote emotional development shall provide that:
   (a) There are opportunities for individual self-expression;
   (b) Each child is recognized as an individual;
   (c) The child is afforded constructive guidance and the setting of clear-cut limits which foster the child's own ability to be self-disciplined;
   (d) Each child's personal privacy is respected;
   (e) Providers shall not use:
      (I) Physical punishment, or
      (II) Methods of influencing behavior which are frightening, humiliating, injurious, or damaging to the child's health or self-esteem; and
   (f) Providers respect each child's cultural, ethnic, and family background, as well as the child's primary language or dialect;

(4) Programs to promote social development shall provide that:
   (a) Children are guided in learning to get along with each other;
   (b) Providers interact with children in ways which promote mutual respect between adults and children; and
   (c) Providers behave in ways which help the children develop attitudes of respect for all other persons as individuals and develop an appreciation of ethnic and cultural diversity;

(5) The activities and experiences provided by the program shall be appropriate to the developmental level of the children;

(6) The program shall encourage the development of the children's special interests and abilities;

(7) The program shall provide a balance of active and quiet activities; and

(8) The program shall provide for the self-direction of the children by:
   (a) Affording children opportunities to choose activities according to personal desires and interests and to move from one activity to another;
   (b) Encouraging children to do things independently; and
   (c) Providing children opportunities to be involved in decision making about group and individual activities.

2.2 Communication with parents and guardians.

(a) Caregivers shall exchange information with parents or guardians about the children as follows:
   (1) Plans shall be made and followed with parents or guardians for any informations about each child; and
   (2) Caregivers shall relay concerns about the health, or behavior of the child to the parents or guardians promptly and directly.

2.3 Program materials and equipment.

(a) The amount and variety of materials and equipment available and the arrangement and use of the materials and equipment shall be appropriate to the ages of the children in care.

(b) The quantity of materials and equipment shall be sufficient to:
   (1) Avoid excessive competition between the children and to avoid long waits for use of the materials and equipment; and
   (2) Provide to the individual interests of the children.

(c) Protected areas where equipment and materials will be used with minimal interference or interruption shall be provided

(d) Materials shall be stored in orderly way, shall be kept in good repair, and shall be accessible to children. The materials shall be arranged to allow children to select, remove, and replace the materials either independently or with assistance.

(e) Grass, soft media, or other protective measures shall be used under swings, slides, jungle gyms, and other similar outdoor play equipment.

(f) Equipment for both indoor and outdoor play shall allow children to use small and large muscles for imaginative play and creative activities.

(g) Provision for individual storage of children's clothing and personal belongings shall be available.

(h) Storage space for play materials and equipment used by the children shall be made available.

(i) The following sleeping equipment shall be available:

(1) Individual bed, crib, cot, mat, or rug for each child who rests; and
(2) A clean sheet or cover to be used on the bed, crib, cot, mat, or rug for each child.

2.4 Transition to a new facility or school setting.

(a) Provision shall be made to assist the child in making the transition from the child care setting to a new child care, a kindergarten, or school setting.
(b) Provision shall be made for cooperation between the caregiver and parents, guardians, or kindergartens when information is requested which may assist a child to adjust to a new environment as allowed by section 2.6.

Section 3. Staffing Requirements

3.1 Staff training, experience, and personal qualifications.

(a) Each provider shall be qualified through training, experience, and personal qualities for the age group with which the person works.
(b) All providers other than volunteers assisting providers shall be at least eighteen years old.
(c) Written references from two of the following categories of persons shall be submitted to the Department with an application;
  (1) A neighbor or personal friend;
  (2) A person in a professional capacity such as a teacher, doctor, minister, or social worker;
  (3) The parent of any child who has previously been in the provider's care, if applicable.
(d) Applicants, employees and volunteers shall be of reputable and responsible character and shall not have a criminal history record, employment history, or background which poses a risk to children in care.
  (1) Conviction of a crime involving violence, alcohol or drug abuse, sex offense, offense involving children, and any other conviction, the circumstance of which indicate that the applicant or employee may pose a danger to children, are grounds for denial or revocation of a certificate of child care license or a reason to request termination of an employee under Section 1.3 (d);
  (2) The type of criminal offense, when it occurred, and evidence of rehabilitation shall be considered in determining whether the criminal history record poses a risk to the health, safety, or well-being of children in care;
  (3) An employment history indicating violence, alcohol or drug abuse, and any other violation of an employer's rule or policy, the circumstances of which indicate that the applicant or employee may pose a danger to children, may be grounds for denial or revocation of a certificate of child care license or a reason to request termination of an employee under Section 1.3 (d);

  (4) Background information which shows that the individual has been identified as and substantiated to be the perpetrator of child abuse or neglect may be a basis

for denial or revocation of a certificate of child care license or a reason to request termination of an employee under Section 1.3 (d).

3.2 Disclosure of information on the child.

(a) Information pertaining to an individual child or parents or guardians of the child shall not be disclosed to persons other than the facility staff, unless the parents or guardians of the child grant written permission for the disclosure or an emergency arises.

(d) The parents or guardians shall be informed in writing of the facility's policy regarding disclosure of information.

(c) The Office of the Attorney General may, by written request obtain disclosure of information required to be kept by these regulations when it appears that a violation of the criminal law may have occurred and such information may reasonably be needed to investigate such an allegation.

3.3 Staff-child ratio

(a) A family child care home shall provide care for no more than six children at the same time. The following provider's children are not included in this total:
- (1) Children six years of age or older, and
- (2) Children under six years of age who are in school or attending a child care facility, such as a child care center, more than six hours per day.

(b) No more than two children under eighteen months of age shall be permitted in the family child care home at the same time. Should there be additional adult help in the home, there may be up to four children under eighteen months of age.

(c) Restrictions as to the number of children permitted shall be made under the following conditions:
- (1) Space is unusually limited;
- (2) Provider has personal or physical limitations;
- (3) There is an unusually wide range of ages of the children; or
- (4) There are handicapped children requiring unusual amounts of special care.

(d) The provider shall provide the department with the name, address, and telephone number of at least two substitutes for the provider, such as another family child care provider, a neighbor, or a hired person, who will be called in an emergency or other times when the regular provider is unable to provide care. A background check shall be administered before hiring and assignments are done on all substitute.

Section 4. Health Standards for Children

4.1 Health consultation provisions.

(a) The facility shall make provision for health consultation to assist in developing health policies and keeping the policies current. The provider shall contact a local health resource for consultation in setting up and maintaining health standards.

4.2 Evidence of child's health.

(a) The child care facility shall require and obtain from the parent or guardian of each child entering child care a completed department of education form 14 or any comparable writing which shall include the following:
  (1) Child's record of immunizations;
  (2) Evidence of the child's good health; and
  (3) Signature of a physician or health agency, signed within one year prior to admission.

(b) School aged children in before or after school care only, who satisfy health requirements for enrollment in school, are not required to furnish the material specified in subsection (a) above.

4.3 Emergency care provisions.

(a) Every facility shall have the following provisions for emergency care of children requiring treatment at a hospital or clinic away from the child care setting and for care of children who become ill after arrival:
  (1) The provider shall obtain the name of a physician or nearest hospital or clinic where care can be provided to the child;
  (2) The provider shall obtain written permission from the parents or guardians to allow the child to receive emergency care;
  (3) An adult shall accompany a child to the source of emergency care. The adult shall stay with the child until the parent or parent's designee assumes responsibility for the child's care. The selection of the adult shall not compromise the supervision of the other children in the program; and
  (4) Physical arrangements for children who become ill after arrival at the facility shall be available for the care of the child until parents or guardians can be notified to provide alternative arrangements.

4.4 First aid and rescue breathing.

(a) There shall be at least one adult provider who is trained in observation of symptoms of illness and with a current certificate in first aid and rescue breathing. A current certificate means a certificate which is less than three years old.

(b) The provider may be trained through a community health aide program or a program developed or endorsed by the American red cross, department of public health, or nursing or medical agency in the community.

(c) A first aid kit shall be available in the child care setting at all times.

4.5 Admission of ill children.

(a) When health policies of the facility allow ill children to be admitted or to remain in the facility, medical consultation shall be available regarding special care and medication.

(b) When medication prescribed by a physician is administered at the facility:

(1) The medication shall be kept in the original container bearing the prescription label which shows a current date, the physician's directions for use, and the child's name; and

(2) Medication shall be kept out of the reach of the children and shall be returned to parents or guardians when no longer in use.

(c) When over the counter medication is recommended by the child or family's doctor, medication shall be administered at the facility as directed by the doctor or parent or guardian in writing.

(d) Both the provider and the parents or guardians shall be familiar with special policies of the facility relevant to ill children. Special policies regarding illnesses are to be explained to the parent or guardian at the time of enrollment of the child.

(e) The facility shall, in consultation with its health consultant, establish a re-admission policy for children who have been absent because of illness.

4.6 Admission of children with disabilities.

(a) When children with disabilities are admitted into a family child care home, the facility shall provide for the special needs of each child.

(b) The disabled child shall be admitted only after consultation with the child's source of health care, the parent or guardian, and the provider occurs. The consultation shall include written recommendations from the health source to cover the child's special needs or to define the child's capacities and limitations.

(c) If the child's health care source considers it advisable, the provider shall receive training related to the nature of the child's disability and the child's potential for growth and development.

(d) Where the nature of the child's disability or the number of disabled children in the program necessitates added care, additional adults and equipment shall be available to cover these requirements.

4.7 Daily nutritional needs.

(a) To the extent possible, information provided by parents or preferences, or special needs shall be considered in child care feeding schedules and menus. A child shall be encouraged but shall not be required to eat the food offered at the home.

(b) The home shall have access to nutritional information provided by a qualified nutritionist, dietitian, or other community resource approved by the department of health.

(c) In a home providing meal service, the minimum meal components and food amounts required by the United States Department of Agriculture (USDA) child care food program shall be met. The home shall offer and provide the following combination of meals and snacks for children in care:

(1) Two to four hours - - - - one snack;

(2) Four to eight hours - - - one snack or breakfast and lunch or supper;

(3) Eight hours or more - - -one snack or breakfast and lunch or supper and one additional snack (unless the eight hours or more extend into the evening hours when the child may be asleep);

(4) When two snacks are required as in (3) above, at least one of those snacks shall include the provision and offering of milk or its calcium equivalent; and

(5) Local ethnic foods may be added or substituted for quantity (for allowable food reimbursement, provider shall consult with the USDA).

(d) In a home where parents or guardians are allowed to provide food (i.e. sack lunches or snacks) the home, in addition to food the child brings, shall meet the minimum amounts required by the USDA child care food program by offering and providing children in care:

(1) Four to eight hours - - - morning snack or breakfast or afternoon snack;

(2) Eight hours or more - - morning snack or breakfast and afternoon snack. (unless the eight hours or more extend into the evening hours when the child may be asleep);

(3) When two snacks are required as in (2) above, at least one of those snacks shall include the provision and offering of milk or its calcium equivalent; and

(4) Local ethnic foods may be added or substituted for quantity (for allowable food reimbursement, facilities shall consult with the USDA).

(e) Children shall not be offered foods to which they are allergic or, for religious reasons. Provision shall be made to secure such information from the parent or guardians, and arrangement shall be made for nutritious substitute foods.

(f) Infants shall be personally attended while being fed.

(1) Infants unable to hold bottles shall have bottles held, not propped, by the caregiver.

(2) Parents or guardians may assume full responsibility for the infants' diet.

(g) School aged children in before or after school care for two or more hours shall be offered a nutritious snack which may be provided by the facility or brought from home.

(h) Food shall not be used as a punishment or reward.

4.8 Drinking water provisions.

(a) Water suitable for drinking shall be accessible to all children. The Rules and Regulations Governing Schools and Child Care Facilities promulgated by the Department of Health Services pursuant to the Commonwealth Environmental Health and Sanitation Act of 2000 shall also apply.

4.9 Integration of mental health concepts.

(a) Mental health aspects of each child's development shall be integrated into the program as follows:

(1) At least one parent and a guardian, shall be interviewed prior to a child's admission to the facility. The personal interview shall be conducted to secure pertinent information on the child's overall development and behavior and to acquaint the parent or guardian with the facility's program and policies;

(2) The facility shall provide its staff with annual orientation to state or other mental health services for children, or otherwise familiarize its staff with consultative and clinical services and programs for early identification of social, emotional, intellectual, and behavioral problems of children; and

(3) The facility shall refer parents or guardians to sources of professional consultation in mental health upon the parents' or guardians' request or upon the recommendation of the facility's staff.

Section 5. Health Standards for Provider and others in the Home

5.1 Hand Washing

(a) The facility shall have a written policy that specifies when hand washing is required for staff and children, defines hand washing procedure, and provides continuing monitoring to assure that the hand washing procedure is carried out.

(b) Hand washing policy for staff shall require that hand washing is done. Smoking should not be taking place on premises at all times.
- (1) Before eating, drinking, or smoking;
- (2) Before handling clean utensils or equipment;
- (3) Before handling food:
- (4) Before and after assisting or training the child in feeding and in toileting;
- (5) After going to the bathroom;
- (6) After contact with body secretions, i.e., blood, urine, faces, mucus, saliva, or drainage from wounds.
- (7) After handling soiled diapers, clothes, equipment, or menstrual pads;
- (8) After removing disposable gloves, and
- (9) After smoking.

(c) Infants and toddlers, who self-feed in any manner, shall have their hands washed with soap and water before and after eating and after toileting.

(d) Hand washing does not require hot water and may be done with cold water and plain soap and use of disposable paper towels for drying hands.

If bar soap is used, it shall be kept on racks that allow for water drainage. If liquid soap is used, the dispenser shall be replaced or cleaned, as necessary.

5.2 Provider's health standards.

(a) Evidence that providers are free from health problems which would have a harmful effect on the children or which would interfere with effective functioning shall be maintained at the child care home as follows:
- (1) The provider shall have a written report of a physical examination given within one year prior to beginning family child care which indicates the provider is in adequate physical health to care for children and a health permit issued by the Department of Public Health as required in the commonwealth Environmental Health and Sanitation Act of 2000;
- (2) Any other person living in the home shall have a written report of a physical examination on file which was obtained within one year prior to the provider beginning child care or prior to the person's occupancy in the home. For school aged children, this requirement is fulfilled by meeting the rules for school attendance;

(3) Written evidence that each adult in the home is free from communicable tuberculosis as a result of a negative tuberculin skin test or a satisfactory chest x-ray taken within two years before beginning child care shall be on file at the facility. The tests shall be repeated in compliance with Day Care Rules; and

(4) When volunteers provide direct child care of ten hours or more per week, the volunteers shall be subject to the same requirements for health and personal habits as the provider.

5.3 Personal health habits of provider.

(a) The personal health habits of all providers shall not interfere with the protection of the health of the children as follows:

(1) The use of medications other than over-the-counter medication is permitted only when authorized by a physician;

(2) The provider shall inform parents or guardians if any member of the household smokes; and

(3) Alcoholic beverages shall be stored out of the reach of children and shall not be consumed during hours of the facility's child care operation.

Section 6. Environmental Health Standards

6.1 Disaster plan for emergencies.

(a) Each facility shall have a disaster plan to cover emergencies such as fire, flood, or natural disaster and shall be posted on the wall for everyone to see. The plan shall include:

(1) An exit plan for disasters that is practiced at regular intervals;

(2) Informing parents or guardians of the plans at the time of enrollment; and

(3) Installing an underwriters laboratory listed fire warning device or system in each stairway or hall in the facility.

6.2 Accidental injury precautions.

(a) The provider shall ensure that the child care program and premises minimize the risk of accidental injury in the following manner;

(1) Ensuring that child care activities and premises do not expose children to situations which may be hazardous to the particular age or capacity of the child; and

(2) Helping increase the children's awareness of safety practices and accident hazards, and helping the children to learn how to avoid such hazards.

6.3 Environmental hazards.

(a) The premises, both indoor and outdoor, in which a child care program is carried out shall be free of environmental hazards, shall be clean and comfortable, and shall provide for adequate space to meet the needs of the children as follows:

(1) The provider shall control rodents and insects;
(2) The outdoor space shall be fenced or shall have natural barriers or other protective conditions to deter children from getting into unsafe areas;
(3) There shall be no open drainage ditches, wells, or holes into which children may fall;
(4) Drainage shall be adequate to prevent stagnant pools of water from accumulating;
(5) Garbage and trash shall be stored in covered containers out of reach of the children and shall be removed frequently enough to avoid creating a health hazard or nuisances;
(6) Poisons, drugs, harmful chemicals, and other dangerous articles such as cleaning fluid, matches, firearms, and tools shall be kept in a safe location, out of reach of children;
(7) All rooms used for child care shall be lighted and ventilated;
(8) Open fireplaces shall not be used. Floor heaters and all heating elements including hot water pipes shall be insulated or installed in a manner which makes the pipes inaccessible to children;
(9) Floor space shall be arranged to provide areas for active play, quiet rest, and individual activities;
(10) Furniture, equipment, and toys shall be sturdily constructed, without sharp edges, and shall present minimal hazards to children;
(11) Lead based paint shall not be used on surfaces accessible to children. Professional assistance shall be requested during routine inspections to ensure that lead based paint does not exist at all in the facility.
(12) Provision shall be made to eliminate the hazard of electrical outlets;
(13) Poisonous plants shall be kept out of the reach of children;
(14) Pets, animals, and fowl shall be maintained in a safe and sanitary manner at all times; and
(15) If a lodging house, boarding house, or other business conflicts with child care hours and responsibilities, the lodging house, the boarding house, or other business shall not be operated on the premises of the child care home.

6.4 Water supply.

(a) The Rules and Regulations Governing Schools and Child Care Facilities promulgated by the Department of Health pursuant to the Commonwealth Environmental Health and Sanitation Act of 2000 shall apply to this section.

6.5 Toilet and lavatory facilities

(a) The Rules and Regulations Governing Schools and Child Care Facilities promulgated by the Department of Health pursuant to the Commonwealth Environmental Health and Sanitation Act of 2000 shall apply.

(1) If toilet training chairs are provided for use by children, the toilet training chairs shall be emptied promptly and sanitized after use;
(2) Small children shall be assisted in washing to prevent accidental scalding;
(3) Safe, sturdy step stools shall be provided to allow the use of standard sized toilets and lavatories; and
(4) Children shall not share towels, toothbrushes, combs, and other necessary toilet articles.

6.6 Food preparation and protection.

(a) Food preparation and protection shall be carried out in a kitchen with proper equipment and cleanup facilities required for the number of children in care as follows:
(1) All food shall be protected from contamination during storage, preparation, and service; and
(2) All dishwashing shall be performed in a sanitary manner;
(3) An adequate number of eating and drinking utensils shall be available for each child;
(4) When single service utensils are used, the utensils shall be stored and handled in a sanitary manner and discarded after a single use; and
(5) Cooking utensils used in food preparation and service shall be cleaned and stored in sanitary manner.
(6) Food protection policies shall comply with accepted practices of local sanitary codes and shall be adapted to fit the needs of the program except as indicated in these rules.

6.7 Cleaning of premises.

(a) All necessary cleaning equipment shall be available on the premises and provisions shall be made for regular cleaning of the premises to protect the health of the children and provider.
(b) Storage of cleaning material shall be in a secured area which is inaccessible to the children.
(c) There shall be a plan for regular cleaning of toys, table tops, furniture, and other similar equipment used by the children.
(d) The Rules and Regulations Governing Schools and Child Care Facilities promulgated by the Department of Health pursuant to the Commonwealth Environmental Health and Sanitation Act of 2000 shall also apply.

6.8 Swimming Activities and wading pools.

(a) When swimming or wading pools are part of the facility, equipment, or program, the swimming pools shall be constructed, maintained, and operated in accordance with building and health rules.
(b) When swimming or wading activities are included in the child care program, the following safety practices shall be observed:

(1) A certified lifeguard, who may be the provider, shall be on duty at all times when swimming pools are in use;
(2) Wading pools less than twenty-four inches at the deepest part shall be exempt from the requirements of section 7.8. However, children shall be personally attended by a responsible adult at all times and the wading pools shall be emptied immediately after each use; and
(3) Legible safety rules for the use of all types of pools, excepting for wading pools, shall be posted in a conspicuous location and read and reviewed at regular intervals by the provider responsible for the care of the children.

Section 7. Physical Facility Standards

7.1 Building codes and space requirements.

(a) Child care facilities shall conform to the zoning, building, electrical, and plumbing codes of the county in which the facility is located, to state rules as may be applicable to the facility, and the following:
(1) The department shall be notified of changes or renovations in the home;
(2) Space requirements shall be as follows:
(a) For daytime care, there shall be a minimum of thirty-five square feet of indoor area per child, excluding bathrooms, closets, and hallways. Covered lanai area may be counted for not more than thirty per cent of the required area;
(b) For nighttime care, each room used for sleeping purposes for children in care shall have a minimum of fifty square feet per child, excluding kitchen, bathroom, closets, halls, and lanai area; and
(c) For outdoor space, there shall be easy accessibility to adequate outdoor space and in all cases, a minimum of one hundred fifty square feet. For children twelve months or older there shall be a minimum of seventy-five square feet per child; and
(3) All parts of the building, building appurtenances, outdoor space, equipment, and all other parts of the facility shall be kept repaired, safe, and sanitary at all times.

Section 8. Program Modifications

8.1 Program modifications for drop-in care.

(a) All requirements set forth in this chapter shall be met by the provider except for Section 1.1 and 5.2.
(b) A family child care home offering drop-in care shall be prepared to adjust its staffing to meet the program modifications which result when drop-in care is provided.
(c) Children receiving drop-in care shall be cared for in separate areas or groups.
(d) If a center serves both drop-in children and children who attend regularly, the grouping of the children and the program shall be planned so that the needs of both groups are met.

8.2 **Program modifications for night care.**

(a) A child care facility offering night care shall meet the requirements of this chapter in addition to the following requirements:
- (1) In consultation with parents, special attention shall be given to provide for a transition into night care;
- (2) Toys for quiet activities shall be available;
- (3) Comfortable beds or cots, complete with bedding, and night clothes shall be available or supplied by the parents;
- (4) The provider shall be available to assist children during eating and pre-bedtime hours and during the morning period when dressing. During sleeping hours, the provider shall always be within hearing distance to provide for the needs of children and to respond to an emergency;
- (5) A child shall not sleep in a building detached from the main facility; and
- (6) Night care facilities shall include at least one shower, bathtub, or bathing facility for young children.

PART D. INFANT AND TODDLER CHILD CARE CENTERS

Section 1. Administration Requirements

1.1 **Age of children in care.**

(a) An infant and toddler center shall provide care to children age six weeks and under 24 months.

1.2 **Statement of operation policies.**

(a) The facility shall have written operation policies which cover the following areas:
- (1) Admission requirements and enrollment procedures;
- (2) Ages of children accepted:
- (3) Maximum number of children permitted by license;
- (4) Specific hours of day, night, holiday, and vacation operation;
- (5) Type of child care services provided; e.g. daily routines, language, arts, math, children's progress, communication with parents, show & tell and educational field trips,
- (6) Whether the facility provides meals and snacks for the infant or toddler, or parents are to provide the meals and snacks;
- (7) Fees and the plan for payment, including fees for different types of services and refund policy;
- (8) Insurance coverage – each facility shall inform parents or guardians in writing of its policy regarding liability insurance; should a facility which has liability insurance coverage cancel or terminate its coverage, it shall provide written notice to the parent or guardian of each child in its facility no later than seven working days of the cancellation or termination of its coverage;

(9) Rules concerning personal belongings brought to the facility;
(10) Transportation arrangements and written parental permission for trips and related activities outside the facility, if applicable;
(11) Provisions which may be made for special needs of individual children;
(12) Policy and plan for emergency medical care;
(13) Admission and care of sick or children with disabilities;
(14) Statement of policy on administering medication;
(15) Statement of policy and procedures for provision and management of diapers and other infant and toddler supplies;
(16) Statement of procedures regarding sanitation practices;
(17) Statement of grievance procedures;
(18) Fund raising campaigns – children and staff shall not be exploited in activities which would be detrimental to the children or the program; and
(19) Other policies or procedures which may be required by the department.
a. Written policies and procedures shall be reviewed with each caregiver in the facility.
b. Written policies shall be made available for review by parents or guardians at the time of enrollment of the infant or toddler.
c. Written notification of changes in the services offered by the facility shall be provided to the Department, Public School System and to parents or guardians of the children enrolled in the facility at least four weeks prior to the effective date of change.

1.3 Information on owner or operator.

(a) The name, address, and telephone number of the facility shall be supplied to the Department.
(b) The name, business address, and business telephone number of the persons having authority over and responsibility for the overall administration and services shall be supplied to the Department.
(c) The name of the owner or sponsoring agency (privately owned, church, or agency owned, etc.) of the facility shall be supplied to the Department.

1.4 Change in services.

(a) A facility shall notify parents or guardians and the department of any changes in the day care services it provides as follows:
(1) Written notification of changes in the services offered by the facility shall be provided to the Department and to parents and guardians of children enrolled in the facility; and
(2) Notification of any changes in service shall be made no later than thirty days after the date of the change and shall be included in the facility's operating policies.

1.5 **Information and records on each child.**

(a) Admission procedures shall require that sufficient information and instruction from the parents or guardians be obtained to enable the caregiver to make decisions or act on behalf of the child.

(b) Prior to the admission of a child to a facility, the provider shall obtain in writing from the child's parents or guardians the following information:

(1) The child's full legal name, birth date, current address, and preferred names;

(2) The names and addresses of the parents or guardians who are legally responsible for the child;

(3) Telephone numbers or instructions as to how the parents or guardians may be reached during the hours the child is in the facility;

(4) The name, address, and telephone number of person who shall assume responsibility for the child if for some reason the parent or guardian cannot be reached immediately in an emergency;

(5) The names, addresses, and telephone numbers of persons authorized to take the child from the facility; and

(6) The immunization status and child history, as required (by CMC, Div. 2, Ch 1, S2101 thru S2107) shall be available on facility file and shall be updated periodically.

1.6 **Disclosure of information on the child.**

(a) Information pertaining to an individual child or parents or guardians of the child shall not be disclosed to persons other than the facility staff, unless the parents or guardians of the child grant written permission for the disclosure or an emergency arises.

(b) The parents or guardians shall be informed in writing of the facility's policy regarding disclosure of information.

(c) The Office of the Attorney General may, by written request obtain disclosure of information required to be kept by these regulations when it appears that a violation of the criminal law may have occurred and such information may reasonably be needed to investigate such an allegation.

1.7 **Information and records on facility.**

(a) Written information and records on the facility shall be maintained and made available to the department. The facility shall maintain current records and information including:

(1) Roster of enrolled children;

(2) Daily attendance records by names of children;

(3) Daily plan for feeding the children;

(4) Daily schedule of activities; and

(5) A list of staff members, including each staff member's position or title, training, experiences, health records, references, and employment checks.

1.8 **Transportation provisions.**

(a) Infant and toddlers transported in vehicles by center staff, either to and from the center or for center program activities, shall be secured by approved care seats or restraints. Facility shall also comply with the requirements as stated in section 4.

Section 2. Program Requirements

2.1 **Program provisions.**

(a) The program conducted in the facility shall provide for supervision of the infants and toddlers at all times and an environment and experiences which are developmentally appropriate and which promote the infant or toddler's physical, emotional, intellectual, and social well-physical, emotional, intellectual, and social well-being and the growth and integrity of the family unit.

(b) The director of the facility shall provide the department with a brief written description of the facility's program goals and activities, which shall include the following:

(1) Provisions for the promotion of physical development, which shall include:

(a) Varied, developmentally appropriate physical activities; and

(b) Opportunities for the infants and toddlers to learn about the health, development, and care of their bodies including exercise, safety, nutrition, and hygiene, as appropriate to their age (six weeks-24 months);

(2) Provisions for the promotion of emotional development, which shall include:

(a) Staff recognition of the special difficulties of infant and toddler separations and assistance to families, infants, and toddlers to make the transition from home to facility as gently as possible, such as a phased-in orientation process to allow infants and toddlers to experience limited amounts of time at the facility before becoming fully integrated;

(b) Assignment of each infant or toddler to a primary caregiver who shall be responsible for care the majority of the time;

(c) Prompt response by all caregivers to an infant or toddler's physical and emotional needs, i.e., feeding, diapering, holding, touching, and eye contact;

(d) Recognition and care of each infant or toddler as an individual with opportunities for individual choices, self-expression, and some personal privacy;

(e) Provision of constructive guidance and the setting of clearly defined limits which foster the infant or toddler's ability to be self-disciplined, as appropriate to their age and development;

(f) Prohibition of use of:

(g) Physical punishment; and

(h) Methods of influencing behavior which are frightening, humiliating, damaging, or injurious to the infant or toddler's health or self-esteem; and

(i) Respect for each infant or toddler's cultural, ethnic, and family background, as well as the child's primary language or dialect;

(3) Provisions for the promotion of intellectual development, which shall include:
   (a) Offering of frequent, but paced, personal, verbal, and physical interaction between caregiver and infant or toddler as part of the daily routine;
   (b) Availability of a variety of learning materials, which staff helps children to use; and
   (c) Hands-on experiences, including both familiar and new activities, to enable the infant or toddler to learn about themselves and the world; and

(4) Provisions for the promotion of social development, which shall include:
   (a) Caregiver behavior and interactions which emphasize and foster attitudes of mutual respect between adults and children and between children; and
   (b) Guidance to infants and toddlers to enable them to develop and work out ways of getting along with each other, including an appreciation of cultural and ethnic diversity, as appropriate to the infant or toddler's level of understanding.

(c) The program shall provide a balance of active and quiet activities and shall recognize the infants and toddlers' need for uninterrupted sleep.

(d) In drop-in centers, every effort shall be made to place an infant or toddler, who uses the center frequently, with the same caregiver.

(e) The program shall provide information on and access to parenting resources (i.e., bulletin boards, classes, resource libraries, handouts).

2.2 Communication between parents and caregivers.

(a) Centers shall obtain from the parent or guardian a description of the infant's or toddler's daily routine and behavior patterns prior to enrollment;

(b) Centers shall develop and follow a plan for regular contact with parents or guardians to exchange information about the infant's or toddler's needs and development; and

(c) Caregivers shall relay information and concerns about the health, development, or behavior of the infant or toddler, as well as positive experiences, directly to the parents or guardians on the day of the major change, symptom, or event.

2.3 Program materials and equipment.

(a) The amount and variety of materials and equipment available and the arrangement and use of the materials and equipment shall be developmentally appropriate to the infants and toddlers in care.

(b) The quantity of materials and equipment shall be sufficient to:
   (1) Avoid excessive competition among the children and long waits for use of the materials and equipment; and
   (2) Provide for a variety of experiences and appeal to the individual interests of the infants and toddlers.

(c) Protected areas where equipment and materials will be used with minimal interference or interruption shall be provided.

(d) Materials and equipment shall be kept clean and in good repair, stored in an orderly way, and arranged to allow children to select, remove, and replace the materials and equipment either independently or with assistance, as appropriate to their age and development.

(e) Grass, soft media, or other protective measures shall be used under swings, slides, jungle gyms, and other similar outdoor play equipment.

(f) Equipment for both indoor and outdoor play shall allow children to use small and large muscles for imaginative play and creative activities.

(g) The following shall be available:
  (1) Individual provisions for safe, undisturbed sleep such as, crib, cot, or mat;
  (2) Clean bedding for each infant and toddler;
  (3) High chairs, safety seats, or size-appropriate low seating for individual feeding;
  (4) Adequate padding for safe floor play;
  (5) Rocking or comfortable chair for infant and toddler feeding and comforting; and
  (6) Individual storage spaces for children's clothing and personal belongings.

2.4 Transition to a new facility.

(a) Facility shall have a written policy to assist the infant or toddler in making a transition from the child care setting to a new type of care by communicating what will happen at the infant's or toddler's level of awareness or understanding.

(b) Provision shall be made for cooperation between caregiver and parents or other caregivers, when information is requested to assist an infant or toddler to adjust to a new environment.

Section 3. Staffing Requirements

3.1 Staff training, experience, and personal qualifications.

(a) Each care giving staff shall be qualified through training, experience, and personal qualities for the age group with which the person works.

(b) Staff growth and development shall be encouraged. The director shall make information about workshops, seminars, training sessions, or other courses available to all staff and volunteers.

(c) Applicants, employees and volunteers shall be of reputable and responsible character and shall not have a criminal history record, employment history, or background, which poses a risk to the infants and toddlers in care.
  (1) Conviction of a crime involving children, violence, alcohol or drug abuse, sex offense, or any other offense, the circumstances of which indicate that the applicant or employee may pose a danger to children, is grounds for denial or revocation of a license or a reason to request termination of an employee.
  (2) Type of criminal offense, when it occurred, and evidence of rehabilitation shall be considered in determining whether the criminal history record poses a risk to the health, safety, or well being of children in care.

(3) An employment history indicating violence, alcohol or drug abuse, and any other violation of employer rule or policy, the circumstances of which indicate that the applicant or employee may pose a danger to children, may be grounds for denial or revocation of a license or a reason to request termination of an employee.

(d) The director of an infant and toddler center shall have:

(1) A bachelor's degree in early childhood education (ECE), child development (CD), or related field from an accredited college or university, including in all cases, thirty hours of course work in infant and toddler development from an accredited teacher training institute or program and twelve months full time experience working with children under thirty six months of age in a licensed group care setting; or

(2) Two years of college education in ECE or CD or related field, including in all cases, thirty hours of course work in infant and toddler development from an accredited teacher training institute or program, and, twenty four months full time experience working with children under thirty six months of age in a licensed group care setting.

(e) A lead caregiver shall have:

(1) A bachelor's degree in ECE or CD or related fields, e.g., maternal-child health nursing, or human development, and, twelve months full time experience working with children under thirty six months of age in a licensed group care setting, and, twelve credits approved ECE or CD training courses (may be part of the bachelor's degree) including thirty hours course work in infant and toddler development from and accredited teacher training institute or program; or

(2) A high school diploma, or its equivalent and credential in child development associate program, and, twenty four months full time experience working with children under five years of age in a licensed group care setting of which twelve months shall have been with children under thirty six months of age, and, twelve credits approved ECE or CD training courses, including thirty hours of course work in infant toddler development from an accredited teacher training institute or program; or

(3) Two years of college, preferably in ECE or CD or related fields, and, twenty four months full time experience working with children under five years of age in a licensed group care setting of which twelve months shall have been with children under thirty six months of age, twelve credits approved ECE or CD training courses including thirty hour course work in infant and toddler development from an accredited teacher training institute.

(f) A caregiver shall have:

(1) A high school diploma or its equivalent, and, twelve months full time experience working with children under thirty six months of age in a licensed group care setting, and, twelve credits approved ECE or CD training courses including thirty hours of course work in infant and toddler development from an accredited teacher training institute or program; or

(2) A high school diploma or its equivalent, and, twenty four months of full time experience working with children under thirty six months of age in a licensed group care setting, and, thirty hours of course work in infant and toddler development from an accredited teacher training institute or program; or

(3) No high school diploma, and, thirty six months full time experience working with children under thirty six months of age in a licensed group setting, and, thirty hours of course work in infant and toddler development from an accredited teacher training institute or program.

(g) A child care aide shall have:

(1) A high school vocational child-care training course; or

(2) An orientation training in the center.

(h) A twelve month non-renewable waiver may be granted to new hires, rehires, and current staff in director, lead caregiver, or caregiver positions, who meet all other requirements except the thirty hours course work in infant and toddler development from an accredited teacher training institute or program, to complete this required course work while concurrently serving in the capacity of the facility's director, leader caregiver, or caregiver.

(i) All staff members required to complete the thirty hours of course work in infant and toddler development from an accredited teacher training institute or program, as stipulated in subsections (d) through (f), shall, within two years of completion of this course work, obtain fifteen additional hours of course work in infant and toddler development from an accredited teacher training institute or program.

(j) The age requirements for staff shall be as follows:

(1) Child care aide, volunteer, or maintenance personnel shall be at least eighteen years old, in order to be counted in the staff-child ratio.

(k) Volunteers shall:

(1) Participate in an orientation to the program; or

(2) Be a participant in a high school program which includes training in infant and toddler care; and

(3) Meet the requirements of regular staff members to be counted in the staff child ratio.

(l) Temporary hires shall meet qualifications of positions for which hired.

(m) Substitutes for lead caregivers and caregivers shall be at least eighteen years of age and shall have participated in an orientation program of the facility, and the curriculum, lesson plans, and daily activities assigned to the substitute shall be closely supervised by the center's director.

(n) Substitutes for director shall meet the qualifications of a caregiver and shall have worked in the facility for at least six months.

(o) Substitutes for aides shall meet the qualifications of an aide.

(p) Substitutes may be granted an extension to serve in the same position for more than ten consecutive days upon consultation with and approval of the department.

3.2 <u>Staff-child ratio and group size.</u>

(a) The staff-child ratio and group size shall be met and maintained by the facility during all hours of operation.

(b) The staff-child ratio shall be in writing and shall be available to the department.

(c) The staff member shall be on site and shall be regularly assigned to a particular group of children to be included in the staff-child ratio.

(d) The director may serve as a caregiver, and shall not be included in the staff-child ratio, only when total infant and toddler facility size does not exceed sixteen. In an infant and toddler program with more than sixteen children, the director may serve, as a caregiver shall not be included in the staff-child ratio.

(1) Exception may be made and the director may be included in the staff-child ratio in cases of emergency or in special situations. In any case this inclusion in the staff-child ratio may not exceed ten hours per week.

(2) Exception may be made and the director of only those facilities which operate full day may be included in the staff-child ratio during the first hour and the last hour of the regular operational day.

(e) Custodians, cooks, and bus drivers shall not be counted in the staff-child ratio when performing regular duties.

(f) The following staff-child ratios and group size shall be used in infant and toddler Programs:

		Maximum Group Size Permitted			
	Ages of children	6	8	10	12
(1)	6 wk – 12 mos.	1:3	1:4		
(2)	12 mo. – 24 mos.	1:3	1:4	1:5	1:6
(3)	18 mo. – 36 mos.	1:3	1:4	1:5	1:6

(g) Group size refers to the specific number of children assigned to specific staff who occupy an individual classroom or well-defined physical space within a larger room; when groups are assigned space within a larger room, there shall be room dividers to ensure that children stay within their assigned group area and to keep the noise level down.

(h) The ratios and group sizes in the table above shall apply, as stated, only to homogenous age groups.

(i) Multi-age grouping is both permissible and desirable; however, the following requirements and restrictions apply;

(1) Children who are between the ages of six weeks to eighteen months can be grouped together; when this occurs, the ratio and group size shall be those required for the youngest child in the group according to the table above; or

(2) Children who are between the ages of six months to thirty six months can be grouped together; when this occurs, the ratio and group size shall be those required for the youngest child in the group according to the table above; or

(3) In multi-age groups, the ratio and group size shall not exceed the ratio and group size for that of one age group higher than the youngest child in the group, and two thirds of the children must be in the oldest age group.

(j) Under no circumstances shall there be more than two children under three months of age in any group.

(k) Children with disabilities shall be admitted. The quality of care of the entire group shall continue and reasonable attempts shall be made to meet their needs.

3.3 Staffing patterns.

(a) There shall always be a minimum of two caregiver staff in the center when children are in care.

(b) When only one staff is required to supervise the children, as based on the staff-child ratio, the second caregiver shall be readily accessible and available to the caregiver who is supervising the children.

(c) For every group, there shall always be one staff who meets the qualifications of a lead caregiver or caregiver.

(d) When the group size requires three staff, there shall minimally be one staff who meets the qualifications of a lead caregiver and one who meets the qualifications of a caregiver.

(e) These staffing patterns shall be maintained at all times, excepting for the first hour and the last hour of the operational day when a caregiver can act in the position of a lead caregiver.

Section 4. Health Standards for Infants and Toddlers

4.1 Health policies and consultation provisions.

(a) All programs shall have one of the following provisions for health consultation to assist in developing health policies and in keeping them current:

(1) The facility shall have on file written evidence that an arrangement has been made with a physician in private practice to provide consultation;

(2) The facility has made a contractual arrangement with a private physician or non-profit health organization in the community to provide health care to the infants and toddlers in the program;

(3) There is already a procedure existing in the community for the provision of health consultation service, and arrangements have been made for the use of this service; or

(4) The infant and toddler program has a health advisory group that may serve in such a capacity.

4.2 Evidence of child's health.

(a) The child care facility shall obtain from the parent(s) or guardian(s), a health record of the child that complies with the provisions of this Section. Which relate to the school entry examination requirements for tuberculosis clearance, immunization, and physical examination.

(1) Written evidence of a physical clearance obtained within two months of admission to the facility;

(2) Written evidence that the infant or toddler has received a tuberculin test indicating that the infant or toddler is free from tuberculosis in a communicable form; and

(3) Initial and continuous written evidence that immunizations are current; or

(4) A written statement from a licensed physician certifying that the physical condition of the infant or toddler is such that immunizations would endanger the infant or toddler's life or health; or

(5) A written statement from a parent or guardian requesting exemption from the required immunizations on the grounds that such immunizations conflict with the parent or guardian's bona fide religious tenets and practices.

(b) The facility shall have in writing:

(1) The name, address, and telephone number of a physician or health resource that shall be called in case of emergency; and

(2) Permission of the parent or guardian to call the physician or health resource, or another source of care if the parent or guardian cannot be reached in the case of a health emergency.

(c) The records of the child in the program shall include pertinent information about health status, developmental progress, and any special needs and efforts necessary to meet these needs.

4.3 Emergency care provisions

(a) Every center shall have provisions for emergency care of an infant or toddler requiring treatment and for care of children who become ill after arrival, as follows:

(1) The responsible individual in the child care center, i.e. director, caregiver or health-trained staff, has obtained the name of the nearest hospital or clinic where such care may be provided and has obtained written permission from each parent or guardian to provide emergency care to the infant or toddler at the hospital or clinic; or

(2) The facility's health consultant has made arrangements for emergency coverage, and written permission from each parent or guardian for use of this alternative emergency coverage for their infant or toddler shall be on file at the facility.

(3) If health care is provided in the child care facility, the facility shall have on file a written permission from each parent or guardian covering all aspects of health care which is provided at the facility.

(b) An adult shall accompany the infant or toddler to the source of emergency care. The adult shall stay with the infant or toddler until the parent or parent's designee assumes responsibility for the child' care. The selection of the adult shall not compromise the supervision of the other infants and toddlers in the program.

(c) Physical arrangements for infants and toddlers, who become ill after arrival at the facility, shall be available for their care until parents or guardians can be notified to provide alternative arrangements.

4.4 First aid and rescue breathing.

(a) At all times during the operational day when children are in care, there shall be at least one adult caregiver present, who has been instructed in the observation of symptoms of illness in infants and toddlers and who has a current (less than three years old), certificate in first aid.

(b) A first aid kit, as defined by the facility's health consultant for their facility, shall be available at the facility at all times. Guidelines for a first aid kit, as developed by the state Department of Health Services, to assist a child care facility in assembling a first aid kit.

(c) There shall be at least on adult care-giver with a current certificate in first aid at the facility when children are present.

4.5 Admission of ill infants and toddlers.

(a) Acutely ill infants and toddlers shall not be permitted to attend child care programs. Acutely ill is defined as temperature above 99 degrees (auxiliary) 100 degrees (oral), and 101 degrees (rectal) and other symptoms, such as vomiting, diarrhea, undiagnosed general rash, contagious disease, severe cough, or difficulty in breathing.

(b) When health policies of the facility allow ill infants or toddlers to be admitted to, or to remain in the facility, medical consultation shall be available regarding special care and medication.

(c) When medication prescribed by a physician is administered in the facility:

(1) **The medication shall be kept in the original container bearing the prescription** label, which shows the infant's or toddler's name, a current date, and the physician's directions for use;

(2) Medication shall be stored:

(a) In a refrigerator, if refrigeration is required; medication shall be separated from food by being enclosed in a covered container; or

(b) In a cool, dry, dark, and secured enclosure, which is inaccessible to the infants and toddlers, if refrigeration is not required.

(3) Medication shall be returned to parents or guardians when no longer in use; and

(4) There shall be an authorization signed by the parent or guardian for the facility staff to administer medication.

(d) When over the counter medication is recommended by the infant's or toddler's doctor, parent, or guardian, medication shall be administered at the facility as directed in writing by the doctor, parent, or guardian.

(e) Both the care giving staff and the parents or guardians shall be familiar with policies of the facility relevant to ill infants and toddler.

(f) The facility shall, in consultation with its health consultant, establish a re-admission policy for children who have been absent because of illness.

4.6 Admission of infants and toddlers with disabilities.

(a) When infants and toddlers with disabilities are admitted to a facility, the facility shall provide for the special needs of each infant or toddler.

(b) The disabled infant or toddler shall be admitted upon consultation between the infant's or toddler's source of health care and the program's health consultant. The consultation shall include written recommendations to cover the child's special needs or to define the child's participation in the program.

(c) If the infant(s)or toddler(s) health care source considers it advisable, the staff of the program shall receive training related to the nature of the child's disability before the infant or toddler is admitted to the facility.

(d) Where the nature of the infant(s) or toddler(s) disability or the number of disabled children in the program necessitates added care, staff and equipment shall be available to cover these requirements.

4.7 Daily nutritional needs.

(a) Meals and snacks of a quantity to complement food served at home shall be provided by the parent, guardian, or facility to meet the daily nutritional needs of the infant or toddler.

(b) In a facility providing meal service, the facility shall ensure that the minimum meal components and food amounts as required by the United States Department of Agriculture (USDA) Child Care Food Program.

(c) In a facility, where parents or guardians are allowed to provide food for their own child (i.e., formula or other foods for meals or snacks), the facility, in addition to food the child brings, shall provide the minimum amounts required by the USDA Child Care Food Program, by offering and providing children in care:
  (1) Four to eight hours – morning snack or breakfast or afternoon snack;
  (2) Eight hours or more – morning snack or breakfast and afternoon snack, unless the eight hours or more extend into the evening hours when the children may be asleep;

(d) For children twelve to thirty-six months of age, when two snacks are required, at least one of the snacks shall include the provision and offering of milk (or the individual child's formula) or its calcium equivalent.

(e) Infants and toddlers shall not be offered foods to which they are allergic or, for religious reasons. Provisions shall be made to secure such information from the parent(s) or guardian(s) and agreement shall be made for nutritious substitute foods.

(f) Signs of food sensitivity or allergy shall be reported to the parent or guardian on the day this has been observed.

(g) Infants and toddlers shall be encouraged but shall not be required to eat the food offered by the facility, as follows:
  (1) Caregiver shall be alert to and consider individual infant and toddler cues in determining amounts of food provided;
  (2) When solid foods are introduced, they shall be carefully selected and added one at a time with a few days span between each new addition; and
  (3) Food textures shall be adjusted to accommodate the individual child's chewing ability, as well as preferences.

(h) Infants and toddlers shall not be offered foods which pose safety hazard e.g. hot dogs, coin sized foods, grapes, etc.

(i) Food shall not be used as a punishment or reward.

(j) Infants and toddlers shall be personally attended while being fed.
  (1) Infants being bottle fed shall have bottle held by the caregiver, not propped; and
  (2) Parents or guardians may assume full responsibility for the infant's or toddler's diet.

(k) The facility's food service shall be approved and reviewed annually by a qualified nutrition consultant engaged by the facility or by the Department of Health Services.

(l) The facility shall have access to nutritional information provided by a qualified nutritionist, dietitian, or other community resources approved by the department of health.

(m) The facility shall make special handling for those children who may be getting breastfeeding.

4.8 Drinking water provisions.

(a) Drinking water shall be offered to infants and toddlers throughout the day in sanitized bottles and cups.

4.9 Integration of mental health concepts.

(a) Mental health aspects of infant and toddler development shall be integrated into the program as follows:

(1) At least one parent, guardian, foster parent, or social worker shall be interviewed prior to an infant's or toddler's admission to the facility. The personal interview shall be conducted to secure pertinent information on the infant's or toddler's overall development and behavior and to acquaint the parent or guardian with the facility's program and policies;

(2) The facility shall provide its staff with annual orientation to state or other mental health services for infants and toddlers, or otherwise familiarize its staff with consultative and clinical services and programs for early identification of social, emotional, intellectual, and behavioral problems of infants and toddlers; and

(3) The facility shall refer parents or guardians to sources of professional consultation in mental health upon the parents' or guardians' request or upon the recommendation of the facility's staff.

Section 5. Health Standards for Staff

5.1 Staff health standards.

(a) Evidence that staff is free from health problems, which would have a harmful effect on the infants and toddlers or which would interfere with effective functioning, shall be available at the facility as follows:

(1) The facility shall have on file the results of an employment physical examination for each person employed in the facility and each volunteer who serves ten or more hours per week. These examinations shall have been taken within a year of beginning employment or volunteer service.

(2) Written evidence that each employed staff and volunteer of an infant and toddler child care facility is free from communicable tuberculosis as a result of a negative tuberculin skin test or a satisfactory chest x-ray taken within six months before beginning child care employment shall be on file at the facility. The tests shall be repeated in compliance with administrative rules of the department health; and

(3) Each caregiving staff with an identified health problem shall provide the facility with a written statement from a physician that the caregiving staff is able to care for infants and toddlers.

(b) The facility shall have provisions for substitution of staff that is too ill to function effectively or who presents a serious health hazard to others in the facility.

5.2 Personal health habits of staff.

(a) The facility shall have written policies, which have been developed with the assistance of the facility's health consultant and which minimally require that:

(1) Staff with a fever, other symptoms of illness, or an altered physical or mental state, shall not be allowed to work;

(2) Staff with visible skin conditions, such as lesions, boils, or dermatitis, shall not prepare or serve food or handle utensils and feeding equipment;

(3) Staff's appearance shall reflect good grooming habits and personal hygiene, including clean and neat hair and nails, appropriate clothing, and good oral hygiene;

(4) Smoking shall not be allowed in the presence of the infants and toddlers, nor in any parts of the building, which are used for child care, during the hours of child care operation;

(5) Alcoholic beverages and detrimental drugs shall not be consumed or maintained at the facility during hours of operation; and

(6) Staff shall take appropriate measures to manage stress by maintaining good mental and physical health.

(b) In-service training shall be provided to staff on various aspects of personal health care and healthy lifestyle, such as care of head lice (ukus), impetigo, viral infections, risk factors, and stress management.

(c) Volunteers shall be subject to the same requirements for health and personal health habits as the caregiving staff.

Section 6. Sanitation Standards

6.1 Handling of diapers, training pants, linen, and toys.

(a) Diapers, training pants, gloves and linen shall be handled in the following manner:

(1) When disposable diapers are used, soiled diapers shall be placed in a plastic bag or a plastic lined receptacle;

(2) When cloth diapers or training pants are used, diapers or training pants soiled with stool shall not be washed at the center; after the stool has been emptied into the toilet, using disposable plastic gloves, the diaper or training pants shall be put in a sealed plastic bag to be picked up by the child's parent or guardian at the end of the day;

(3) When dealing with blood, sanitary/disposable gloves shall be worn at all times when administering aide to a child.

(4) Sheets, diapers, and training pants soiled with blood, body fluids, or waste shall be handled as little as possible to prevent contamination of the area and of the staff handling the linen; and

(5) Soiled sheets, diapers, and training pants, which are transported to a laundry area outside of the facility, shall be placed in plastic bags while being transported from the child care facility to the laundry.

(b) Toys shall be provided and handled in the following ways:

(1) Each of the designated groups shall be provided with developmentally appropriate toys;

(2) Toys shall not be shared between different groups of children, such as between infants and toddlers;

(3) Only washable toys shall be used for infants and toddlers in diapers or training pants; and

(4) Toys shall be washed or sanitized daily.

6.2 Hand Washing.

(a) The facility shall have a written policy that specifies when handwashing is required for staff and children, defines handwashing procedure, and provides continuing monitoring to assure that the handwashing procedure is carried out.

(b) Handwashing policy for staff shall require that handwashing is done, smoking should not be taking place on premises at all times.

(1) Before eating, drinking, or smoking;

(2) Before handling clean utensils or equipment;

(3) Before handling food:

(4) Before and after assisting or training the child in feeding and in toileting;

(5) After going to the bathroom;

(6) After contact with body secretions, i.e., blood, urine, faces, mucus, saliva, or drainage from wounds;

(7) After handling soiled diapers, clothes, equipment, or menstrual pads;

(8) After removing disposable gloves, and

(9) After smoking.

(c) Infants and toddlers, who self-feed in any manner, shall have their hands washed with soap and water before and after eating and after toileting.

(d) Handwashing does not require hot water and may be done with cold water and plain soap and use of disposable paper towels for drying hands.

(1) If bar soap is used, it shall be kept on racks that allow for water drainage. If liquid soap is used, the dispenser shall be replaced or cleaned, as necessary.

6.3 **Housekeeping.**

(a) Facilities shall have written policies for the routine cleaning and maintenance of the facility. These policies shall specify the type of disinfectant and cleaning agent used, method for cleaning, schedule for cleaning, storage of cleaning material and utensils, disposal of soiled items or spilled body fluids, and cleaning of equipment.

(b) Storage of cleaning material shall be in a secured area which is inaccessible to the infants and toddlers.

Section 7. Environmental Health Standards

7.1 **Disaster plan for emergencies.**

(a) Each facility shall have a disaster plan to cover emergencies such as fire, flood, or natural disaster. The plan shall include:

(1) A written plan which shall be approved by the fire inspector, the health consultant, or the red cross, and which shall be practiced at regular intervals;
(2) Posting the plan in a prominent place in the facility; and
(3) Installing an underwriters laboratory listed fire warning device or system in each facility. Written evidence that the device or system has been inspected and approved by a fire inspector shall be on file at the facility.

7.2 **Accidental injury precautions.**

(a) The provider shall ensure that the child care program staff minimize the risk of accidental injury in the following manner;
(1) Ensuring that child care activities and premises do not expose children to situations which may be hazardous to the particular age or capacity of the child; and
(2) Helping increase the children's awareness of safety practices and accident hazards, and helping the children to learn how to avoid such hazards.

7.3 **Environmental hazards.**

(a) The premises, both indoor and outdoor, in which a child care program is carried out shall be free of environmental hazards, shall be clean and comfortable, and shall provide for adequate space to meet the needs of the children as follows:
(1) The provider shall control rodents and insects;
(2) The outdoor space shall be fenced or shall have natural barriers or other protective conditions to deter children from getting into unsafe areas;
(3) There shall be no open drainage ditches, wells, or holes into which children may fall;
(4) Drainage shall be adequate to prevent stagnant pools of water from accumulating;

(5) Garbage and trash shall be stored in covered containers out of reach of the children and shall be removed frequently enough to avoid creating a health hazard or nuisances;
(6) Poisons, drugs, harmful chemicals, and other dangerous articles such as cleaning fluid, matches, firearms, and tools shall be kept in a safe location, out of reach of children;
(7) All rooms used for child care shall be lighted and ventilated;
(8) Open fireplaces shall not be used. Floor heaters and all heating elements including hot water pipes shall be insulated or installed in a manner which makes the pipes inaccessible to children;
(9) Floor space shall be arranged to provide areas for active play, quiet rest, and individual activities;
(10) Furniture, equipment, and toys shall be sturdily constructed, without sharp edges, and shall present minimal hazards to children;
(11) Lead based paint shall not be used on surfaces accessible to children. Professional assistance shall be requested during routine inspections to ensure that lead paint does not exist at all in the facility.
(12) Provision shall be made to eliminate the hazard of electrical outlets;
(13) Poisonous plants shall be kept out of the reach of children; and
(14) Pets, animals, and fowl shall be maintained in a safe and sanitary manner at all times.

7.4 **Water supply.**

(a) The Rules and Regulations Governing Schools and Child Care Facilities promulgated by the Department of Health pursuant to the Commonwealth Environmental Health and Sanitation Act of 2000 shall apply to this section.

7.5 **Toilet and lavatory facilities**

(a) The Rules and Regulations Governing Schools and Child Care Facilities promulgated by the Department of Health pursuant to the Commonwealth Environmental Health and Sanitation Act of 2000 shall apply.

(1) If toilet training chairs are provided for use by children, the toilet training chairs shall be emptied promptly and sanitized after use;
(2) Small children shall be assisted in washing to prevent accidental scalding;
(3) Safe, sturdy step stools shall be provided to allow the use of standard sized toilets and lavatories; and
(4) Children shall not share towels, toothbrushes, combs, and other necessary toilet articles.

7.6 **Food preparation and protection.**

(a) Food preparation and protection shall be carried out in a kitchen with proper equipment and cleanup facilities required for the number of children in care as follows:

(1) All food shall be protected from contamination during storage, preparation, and service; and
(2) All dishwashing shall be performed in a sanitary manner;
(3) An adequate number of eating and drinking utensils shall be available for each child;
(4) When single service utensils are used, the utensils shall be stored and handled in a sanitary manner and discarded after a single use; and
(5) Cooking utensils used in food preparation and service shall be cleaned and stored in sanitary manner.

(b) Food protection policies shall comply with accepted practices of local sanitary codes and shall be adapted to fit the needs of the program except as indicated in these rules.

(c) Refrigeration shall be available for infant and toddler programs.

Section 8. Physical Facility Standards

8.1 <u>Building codes and space requirements</u>.

(a) Child care facilities shall conform to the zoning, building, electrical, plumbing, and fire codes of the county or political subdivision in which the facility is located and to state the rules as maybe applicable to the facility.

(b) The facility shall:
(1) Be located in a safe and reasonably quiet area or employ suitable noise control devices to limit exterior noises to the child care operation;
(2) Have a sunny exposure and be well lighted and ventilated; and
(3) Keep all buildings, building appurtenances, outdoor space, equipment, and all other parts of the facility repaired, safe, and sanitary at all times.

(c) The program areas specifically designated for infants and toddlers, both indoors and outdoors, shall be separated by permanent structural walls, fences or other barriers in order to:
(1) Protect the younger children from traffic and high activity levels of older age groups;
(2) Minimize congestion and noise pollution; and
(3) Avoid staff specifically assigned to infant and toddler care from being pulled from infant and toddler programs and into other areas at any time.

(d) The space requirements for enclosed areas are as follows:
(1) For daytime care:
(a) There shall be thirty-five square feet per child of unencumbered instructional or play area exclusive of bathrooms, kitchens, cupboard space, hallways, and spaces consumed by cribs and playpens;
(b) The thirty-five square feet per child requirement can be based on the general square footage area of the entire center, not necessarily based on the square footage of each classroom; and

(c) Lanai area, which has both a roof and finished flooring, may be counted for up to thirty per-cent (30%) of the required enclosed area; and

(2) For nighttime care, there shall be fifty square feet per child, exclusive of lanai area, in rooms which are used for sleeping.

(e) The space requirements for outdoor areas are as follows:

(1) **The center shall maintain, or have access to, an outdoor play area of at least seventy-five square feet for each child using the outdoor area at any one time; and**

Lanai area, when not included in the required enclosed area space, may be counted for up to thirty per-cent (30%) of the required outdoor space.

(f) The facility shall be equipped with toilets and lavatories as follows:

Number of Children	Minimum Toilets	Minimum Lavatory(ies)
1 – 12	1	1
13 - 30	2	2
31 - 45	3	3
46 - 60	4	4
61 - 75	5	5

Section 9. Program Modifications

9.1 Program Modifications for drop in care

(a) All requirements set forth in this chapter shall be met by the provider except for Section 1.1 and 5.2. The infant and toddler child care does offer drop-in care and shall be prepared to adjust its staffing to meet the program modifications which result when drop-in care is provided.

(b) Infants and toddlers child care centers does offer drop-in care and shall be prepared to adjust its staffing to meet the program modifications which result when drop-in care is provided.

(c) Infants and toddlers receiving drop-in care shall be cared for in separate areas or groups from the other infants and toddlers who attend the program regularly.

(d) If a facility serves both drop-in children and children who attend regularly, the grouping of the children and the program shall be planned so that the needs of both groups are met.

9.2 Program Modifications for night care

(a) A child care facility offering night care shall meet the requirements of this chapter and the following additional requirements:

(1) In consultation with parents, special attention shall be given by the caregiver to provide for a transition into night care;

(2) A selection of developmentally appropriate toys for quiet activities shall be available;
(3) Comfortable cribs, beds or cots, complete bedding and night clothes shall be available or supplied by the parents;
(4) Cribs or beds shall be placed at least three feet apart;
(5) Staff shall be available to assist the infants and toddlers, as required by their age and developmental level, during eating and pre-bedtime hours and during the morning period when dressing.
(6) During sleeping hours, staff shall be within hearing distance to provide for the needs of infants and toddlers and to respond immediately in emergency;
(7) An infant or toddler shall not sleep in a building detached from the main facility; and
(8) Night care facilities shall include at least one shower, bathtub, or bathing facility for the infants and toddlers.

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NOTICE AND CERTIFICATION OF ADOPTION OF USED OIL MANAGEMENT RULES AND REGULATIONS

I, John I. Castro, Jr., Director of the Division of Environmental Quality, which is promulgating the Used Oil Management Rules and Regulations proposed on January 14, 2003 and published in the Commonwealth Register Vol. 25, No. 01 on January 31, 2003 at pages 19962 to 19999, by signature below, hereby certify that as published such Rules are true, complete, and correct copy of the Used Oil Management Rules and Regulations previously proposed by the Division, which after the expiration of appropriate time for public comment, have been adopted with some modification at Sections 5.2, 5.4, 5.5, 7.1, 7.2, 8.1, 9.1, 9.2, 9.3, 9.4, 9.5, 9.6, 9.7, 10.1, 14.1, and 14.2. By signature below, I hereby certify that the Used Oil Management Rules and Regulations attached hereto and published herewith, are a true, correct and complete copy of the Used Oil Management Rules and Regulations adopted by the Division of Environmental Quality. I further request and direct that this Certification of Adoption and the accompanying Public Notice be published in the Commonwealth Register.

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

Executed this 12th day of Aug., 2003, Saipan, Commonwealth of the Northern Mariana Islands.

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

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Commonwealth of the Northern Mariana Islands
Used Oil Management Regulations

Title 2	**Natural Resources**
Division 3	The Environment
Chapter 1	Environmental Protection Act (Pursuant to PL 3-23)* Environmental Amendment Act (PL 11-103) **
Article 2*	Implementation of Environmental Programs § 3121 Issuance of Regulation § 3122 Environmental Programs
Article 3**	Enforcement of Environmental Protection
Rule	Used Oil Management Regulations

Rules

Section 1	General Provision and Authority
Section 2	Purpose
Section 3	Definitions
Section 4	Applicability
Section 5	Prohibitions
Section 6	Used Oil Generator Notification Requirements
Section 7	Used Oil Storage and Spill Prevention Requirement
Section 8	Used Oil Operation Permit Requirement

SECTION 1 – GENERAL PROVISION AND AUTHORITY

1.1 These regulations are promulgated by the Division of Environmental Quality pursuant to 2 CMC §§ 3101 to 3134 (Commonwealth Environmental Protection Act (CEPA), 1982, PL 3-23) and the Commonwealth Environmental Amendments Act (CEAA), 1999, PL 11-103.

1.2 The provisions and requirements of the Federal Standards for the Management of Used Oil, 40 Code of Federal Regulations (CFR) Part 279 (2002), and as hereafter amended, are hereby adopted by reference. (See Appendix A for 40 CFR Part 279 outline). All persons subject to the requirements of Commonwealth Environmental Protection Act, as amended, and these regulations shall comply with the provisions of 40 CFR Part 279 except as otherwise provided by these regulations. [Full copy of the 40 CFR Part 279 can be obtained at the DEQ. Copying fee required.].

1.3 The provisions and requirements of the Federal Oil Pollution Prevention Regulations, 40 Code of Federal Regulations (CFR) Part 112 (2002), and as hereafter amended, are hereby adopted by reference. (See Appendix B for 40 CFR Part 112 outline). All persons subject to the requirements of Commonwealth Environmental Protection Act as amended, and these regulations shall comply with the provisions of 40 CFR Part 112 except as otherwise provided by these regulations. [Full copy of the 40 CFR Part 112 can be obtained at the DEQ. Copying fee is required.].

SECTION 2 – PURPOSE

2.1 The purpose of these regulations is to establish and ensure safe and proper management practice in the handling of the used oil from the initial point of generation to the final disposal action and to ensure the protection of the public health and welfare and the prevention of environmental contamination in the Commonwealth of the Northern Mariana Islands.

SECTION 3 – DEFINITIONS

The definitions set forth in 40 CFR Part 279.1 of the Federal Standard for the Management of Used Oil, as amended are hereby adopted by reference. In addition, the words and terms defined below have the meanings ascribed to them as follows:

3.1 "The Act" – Means the Commonwealth Environmental Protection Act (P.L. 3-23) and the Commonwealth Environmental Amendments Act (P.L. 11-103), codified at Title 2, Division 3, Chapter 1 of the Commonwealth Code, as amended (2 CMC § 3101 et seq.).

3.2 Active Area – Means the area of the facility over which any transportation, storage, or processing of the used oil occurs.

3.3 Unlined Ground Surface – Means any ground surface not covered by an impervious structure such as a concrete floor so as to prevent used oil being released from contaminating the ground surface and subsurface and possibly the groundwater.

3.4 DEQ – Means the Division of Environmental Quality, within the Office of the Governor.

3.5 Director – Means the Director of the Division of Environmental Quality.

3.6 Do-It-Yourself (DIY) Generators – Means any 'household do-it-yourselfer used oil generators' as defined in 40 CFR § 279.1, other than a commercial used oil generator.

3.7 Operator – Means the person who owns a facility or part of a facility that manages used oil.

3.8 Commercial Generators – Means generators with a valid business license whose business activities or operation involves the generation of used oil on a routine basis. Also includes non-household facilities that generate used oil on a regular basis.

3.9 Commercial Transporter – Means transporters with a valid business license whose business activities or operation involves the transportation of used oil from DIY and commercial generators, on a routine basis, to a collection center or aggregation point.

3.10 Person – Means any individual, firm, partnership, association, company, public or private corporation, and any entity or agency of the Commonwealth Government or the United States of America.

3.11 Recycling means –

(A) Preparing used oil for reuse as a petroleum product by re-refining, reclaiming, or other means;

(B) Using used oil as a lubricant or petroleum product instead of using petroleum product made from new oil; or

(C) Burning used oil for energy recovery.

3.12 Re-refining – Means applying processes (other than crude oil refining) to material composed primarily of used oil to produce high-quality base stocks for petroleum products. Process includes: settling, filtering, catalytic conversion, fractional/vacuum distillation, hydro treating or polishing.

3.13 Secondary Containment – Means dikes, berms, retaining walls, floors, and/or equivalent made of a material(s) that is sufficiently impervious to contain used oil. These structures must contain all potential spills of used oil from containers or tanks, plus run-on water, until removal of the spill.

3.14 Sufficiently impervious – Means capable of containing all spills of used oil from containers or tanks until removal of the spill.

3.15 Used Oil Management Facility – Means a facility that generates, collects, stores, burns for disposal, or processes to recycle used oil. Do it yourself (DIY) generators are not used oil management facilities.

3.16 Used Oil Handler – Means any person involved in the following activities, which constitute handling of used oil: transportation, burning, processing, collection, re-refining, and other like activities, except the used oil DIY generators.

SECTION 4 – APPLICABILITY

4.1 The provision of 40 CFR Part 279, Subpart B, "Applicability," of the Federal Standard for the Management of Used Oil, as amended, is hereby adopted by reference. In addition to the applicability and exemption provisions set forth in Subpart B, the following provisions shall apply:

A) The requirements under these regulations apply to any facility that handle the storage, transportation, collection/aggregation, disposal, and processing of used oil.

B) Used oil determined to be a hazardous waste shall be managed & disposed of in compliance with the requirements of the CNMI Hazardous Waste Material Regulations and applicable federal regulations

C) The requirements of these regulations apply to any person, including Do-it-yourself generators, who generate and/or store 55 gallons or more of used oil over any time period.

SECTION 5 – PROHIBITIONS

The provision of 40 CFR § 279.12, "Prohibitions" of the Federal Standard for the Management of Used Oil, as amended, are hereby adopted by reference. In addition to the prohibitions set forth in § 279.12, the following provisions apply:

5.1 No person shall collect, market, burn, transport, recycle, process, store, use, discharge, or dispose of used oil in any manner that may pose a threat to public health or welfare or the environment.

5.2 Used oil shall not be stored in containers on any unlined ground surface or pits other than one with a sufficiently impervious secondary containment system, as required by this regulation.

A) Containers containing used oil shall only be stored on its proper upright or standing position.

B) Containers containing used oil shall not be stored over each other or double stacked.

5.3 Used oil shall not be stored in any underground storage tank system.

5.4 No used oil shall be transported off-site from the generator's facility without first testing the used oil to make a hazardous waste determination. Preliminary testing to make a hazardous waste determination may be done using an EPA approved field test kit (e.g. Dexsil Clor-D-Tech Kit).

A) Used oil bound for overseas transportation to a recycling center or disposal facility must be further analyzed for PCB contamination, halogenated compound contamination, and in accordance with 40 CFR § 279.11, using appropriate EPA approved method for used oil analysis.

B) The laboratory that will conduct the used oil analysis must be certified to conduct such analysis by the appropriate state regulatory agency of the state at which the laboratory is located. In addition, the laboratory must analyze the used oil using appropriate EPA approved method for used oil analysis.

5.5 Used oil determined to contain hazardous waste constituents shall not be disposed of by burning on-site. Used oil determined to be a hazardous waste must be managed in accordance with the applicable CNMI and federal regulations.

5.6 A person commits a violation if the person:

A) discharges used oil into a sewer, drainage system, septic tank, surface water or ground water, watercourse, or marine water,

B) puts used oil in waste that is to be disposed of at any sanitary landfill or directly disposes of used oil on land;

C) transports, treats, stores, disposes of, recycles, markets, burns, processes, re-refines used oil within the CNMI:

1. without first complying with the requirements of this regulation and other local appropriate, relevant, and applicable regulations; and/ or

2. in violation of rules for the management of used oil under 40 CFR Part 279; as adopted by reference;.

3. applies used oil to roads or land for dust suppression, weed abatement, or other similar uses;

4. violates an order of the division to cease and desist any activity prohibited by this section or any rule applicable to a prohibited activity; or

5. makes any false representation in any document used for regulatory/enforcement compliance.

SECTION 6 - USED GENERATOR NOTIFICATION REQUIREMENTS

6.1 The provisions of 40 CFR Part 279, Subpart C, "Standard for Used Oil Generators," of the Federal Standard for the Management of Used Oil, as amended, are hereby adopted by reference. In addition to the standard set forth in Subpart C, the following notification requirements apply:

A) Any person who generates 55 gallons of used oil or more at any one time shall notify DEQ within 15 days of the used oil generation. The notification process is completed by completing the form provided by DEQ. Repeat notification is not necessary. Information required will include name, physical address, telephone, volume of used oil, type of containment and description of storage facility, physical location of used oil, and rate of used oil generation. Generator shall notify DEQ within 15 days on the final disposition of his/her used oil.

SECTION 7 – USED OIL STORAGE & SPILL PREVENTION REQUIREMENTS:

In addition to the provision of 40 CFR Part 279 regarding used oil storage and spill prevention requirements, the following shall apply:

7.1 Used oil management facilities, which store 55 gallons or more of used oil, shall comply with the following provisions.

A) Used oil shall only be contained and stored in aboveground storage tanks (AST) or single drum containers in good condition (no severe rusting, apparent structural defects, or deterioration, not leaking), and in accordance with industry standards and good engineering practice.

B) Used oil AST or containers must have a clearly visible written label or marking that states "USED OIL ONLY" on its side(s) so as to prevent mixing of the used oil particularly with a hazardous substance.

C) All used oil containers and/or above ground storage tanks must be constructed so that a secondary means of containment is provided. The secondary containment system must have a 110% volume capacity to hold the maximum amount of used oil allowed for storage plus 10% allowance capacity for precipitation. The system must be sufficiently impervious to spills to prevent any used oil released into the containment system from migrating out of the system onto the soil, surface water, or groundwater. The secondary containment system must also have:

1. A structure to protect the used oil containers from rain and solar impact.

2. Signage placed around the perimeter of the secondary containment system indicating "Used Oil Storage Area."

D) The facility must have an Oil Spill Prevention and Response Plan to address spill incidents at the active area.

E) In any given year, after the effective date of these regulations, used oil generators shall only have a maximum of 275 gallons (or five 55-gallon drums) of used oil safely and properly stored at their facility's active area. This requirement exempts permitted used oil collection center, aggregation points, recycling centers, commercial disposal facilities, and commercial transporters. Only on a case-by-case basis may a generator be allowed to store more than 275 gallons of used oil at its facility based on justifiable reasons and authorization by the Director of the DEQ.

F) A record of inventory (to include the time a 55-gallon drum of used oil is generated and any thereafter, analytical data for hazardous waste determination, the time and date the facility disposes of the used oil, and the name of the company or firm who collects the used oil for disposal), must be kept on file for at least a 3 year period.

G) Any non-household activity which involves the generation of used oil shall be conducted over surfaces which are sufficiently impervious to prevent used oil spills from migrating to groundwater, surface water, or present a threat to human health and the environment.

H) Any person transferring used oil from one container to another shall conduct the transfer in a manner that does not cause or minimizes spills. Such transfer must be conducted on a sufficiently impervious surface. Used oil shall be managed in a manner that prevents spills and release to the environment in accordance with these regulations and standard industry best management practice, at all times.

7.2 In addition, anyone who stores 1,320 gallons, or has the capacity to store more than 1,320 gallons of used oil, or if DEQ determines that any volume of used oil under 1,320 gallons has the potential to impact wetlands, navigable waters of the United states or adjoining shorelines, shall comply with the Federal Oil Pollution Prevention regulations under 40 CFR Part 112. (See Appendix B)

SECTION 8 – USED OIL OPERATION PERMIT REQUIREMENTS:

8.1 Permits: Any person who transport, collect or aggregate, process, or burn for disposal, used oil, shall first apply for a permit to operate at the DEQ Office, prior to operation of such activity. Such person may be exempted from the permit requirement under CNMI Solid Waste Management Rules and Regulations.

A) Submission of the initial permit application shall be accompanied with a facility vicinity map (showing public access road, nearby public water wells, and residential areas), and a facility site map (showing facility building structures, and used oil active area). For commercial used oil operation, company business license shall be included with the permit application.

1. Transportation Operation: A copy of the vehicle registration for the vehicle(s) used in the transportation operation must be submitted with the permit application.

2. Burning Operation: Burner unit specification and analytical data results from the manufacture, showing test performance of the unit, must be submitted with the permit application.

a. Burner Unit Registration Fee: Each unit burner must be registered with DEQ before it can be operated to burn used oil. A fifty-dollar ($50.00), non-refundable, registration fee is required.

i. At any time a registered burner unit is replaced with the same unit, with exact model and performance specifications, the unit shall be registered without registration fee.

ii. At any time a registered burner unit is replaced with a different unit, with different model and performance specifications, the unit shall be registered with registration fee.

B) DEQ shall have 21 calendar days to review the completed permit application. Any deficiency determined in the permit application, DEQ should notify the applicant within 14 days after receipt of the application.

C) Used oil operation permits shall be renewed, with fees, on an annual basis. Failure to renew the operation permit violates this section of the regulation.

8.2 Fees: Used Oil Operation Permit fees shall be in accordance with the following fee table. Payment of fees is required at the time of submitting each permit application, and is non-refundable. Fees shall be paid by check, and made payable to DEQ.

USED OIL OPERATION PERMIT FEE TABLE

OPERATION PERMIT FEES:

OPERATION	APPLICATION TYPE	INITIAL PERMIT FEE	ANNUAL RENEWAL FEE
BURN FOR DISPOSAL	COMMERCIAL	$500	$300
	ON-SITE	$250	$125
TRANSPORTATION	COMMERCIAL	$500	$300
COLLECTION/ AGGREGATION	COMMERCIAL	$500	$300

SECTION 9 – USED OIL BURNING OPERATION REQUIREMENT

9.1 A used oil management facility that intends to conduct on-site burning of non-hazardous used oil must first obtain a used oil operation permit from DEQ before start of operation. Request for the operation permit includes: a letter of intent, manufacture burner unit specification, manufacture performance test results, testing and burning plan, spill prevention/response plan and a completed used oil unit burner registration form from DEQ. The Director or his designee shall determine whether a used oil management facility conducting on-site burning of non-hazardous used oil is exempt from obtaining a solid waste management permit under the CNMI Solid Waste Management Rules and Regulations.

9.2 Burner Unit permitted for the first time must undergo a performance test run to demonstrate and verify its performance as specified by the manufacture specification and manufacture performance test results.

A) The performance test run must be conducted with the DEQ present to witness the performance of the burner unit.

B) The performance test run shall be conducted each year the permit is renewed for the burner unit.

9.3 It is prohibited to burn or dispose of used oil that has been determined to be a hazardous waste, at any used oil management facility or other solid waste facility. Any used oil management facility engaged in the on-site burning of used oil as the means of disposal, must routinely test the used oil to determine if it is a hazardous waste and comply with 40 CFR Part 279.81(b). The test results must demonstrate compliance with 40 CFR 279.11, used oil specification, by showing no allowable level is exceeded. In addition, the used oil must also be analyzed for PCB contamination using appropriate EPA approved method. As in §5.4(B), the laboratory to conduct the used oil analysis must be certified by the state regulatory agency to conduct such analysis.

A) A site-specific used oil-testing plan must be submitted to DEQ for approval. The testing plan should be based on the facility's used oil generation rate and burning operation schedule.

B) Sampling guidance on the collection of representative samples for routine testing of used oil before burning for disposal may be available from DEQ.

C) Upon adequate showing by the facility that it does not handle used oil determined to be a hazardous waste, the Director may modify testing requirements or exempt a used oil facility permitted to conduct on-site burning of used oil from the testing requirement.

9.4 Any used oil burner unit permitted to dispose of used oil on-site by combustion must have: (1) control of combustion air to maintain adequate temperature for efficient combustion, (2) containment of combustion reaction in an enclosed device to provide sufficient residents time and mixing for complete combustion, and (3) control of the emission of the combustion products.

9.5 Used oil management facility burning used oil pursuant to an on-site burning application shall not receive used oil from other generators for disposal other than from Do-It-Yourself (DIY) generators.

9.6 A record of the burning operation shall include: hazardous waste test results prior to burning, volume burned, and date and time of burning operation, and shall be maintained for at least 3 years.

9.7 RESERVED [air emission permit requirement]

SECTION 10 – USED OIL TRANSPORTATION REQUIREMENT

10.1 Used oil transporters subject to regulation under this section are required to apply for a used oil operation permit at the DEQ Office, which must indicate the intended used oil transportation activities. The permit must first be obtained before any transportation activities are conducted. The provisions of 40 CFR Part 279, Subpart E, "Standard for Used Oil Transporter and Transfer Facilities," of the Federal Standards for the Management of Used Oil, as amended, are hereby adopted by reference. In addition, the following provisions shall apply:

A) Ground Transportation (Public and Private Roads)

1. Commercial used oil transporters must have a DEQ operation permit and EPA Used Oil Transporter ID number (pursuant with 40 CFR § 279.42) in order to be able to transport used oil on public roads within the CNMI.

2. Other than DIY generators, used oil transported on public and private roads by commercial generators must use company vehicles to transport the used oil.

3. The allowable volume of used oil to be transported on public and private roads using a regular size pickup truck (e.g. Toyota 4x4 truck or similar capacity trucks) shall not exceed one 55-gallons steel drum or a total volume of 55 gallons from individual containers.

4. Vehicles transporting used oil on public and private roads must have the containers securely fastened to prevent free movement and to prevent spills while the vehicle is moving on the road.

5. Spill Response

   a. Vehicles transporting used oil on public and private roads must have onboard the vehicle spill response equipment/material (e.g. absorbent pads) to be used during accidental spills to minimize spill migration.
   b. Any spills that occur while transporting used oil on public and private roads must be reported to DEQ immediately.

B) Overseas Transportation

Used oil transporters shipping used oil overseas must comply with the Federal DOT (Hazardous Material Transportation ACT, HMTA) regulation, 49 CFR Parts 171 to 190 and the DEQ Hazardous Material Management Regulations.

DEQ and the local US Coast Guard representative must be notified 30 days prior to the used oil leaving the CNMI seaport for proper container inspection.

1. As in Section 10.1A(1), Used Oil Transporters must have a used oil operation permit and EPA Used Oil Transporter ID (pursuant with 40 CFR § 279.42) in order to be able to transport used oil overseas.

2. As in Section 5.4A, Used Oil analysis must be conducted and data results provided to DEQ before the used oil is allowed to be shipped off-island.

3. Used Oil Transporters must complete a DEQ used oil manifest for each shipment of used oil. DEQ must be provided the completed manifest before shipment can take place.

4. DEQ must be notified in writing 30 days in advance before a shipment of used oil leaves the CNMI seaport. The notification letter must include a consent letter from the facility or company receiving the used oil shipment for recycling or disposal.

5. Used oil transporters must maintain all used oil shipping records for at least 3 years.

SECTION 11 – USED OIL COLLECTION CENTERS AND AGGREGATION POINT STANDARD

11.1 The provisions of 40 CFR Part 279, Subpart D, "Standard for Used Oil Collection Centers and Aggregation Points," of the Federal Standard for the Management of Used Oil, as amended, are hereby adopted by reference.

SECTION 12 – USED OIL PROCESSORS AND RE-REFINERS STANDARD

12.1 The provisions of the 40 CFR Part 279, Subpart F, Standard for Used Oil Processors and Re-refiners," of the Federal Standard for the Management of Used Oil, as amended, are hereby adopted by reference.

SECTION 13 – USED OIL FUEL MARKETERS STANDARD

13.1 The provisions of 40 CFR Part 279, Subpart H, "Standard for Used Oil Fuel Marketer," of the Federal Standard for the Management of Used Oil, as amended, are hereby adopted by reference.

SECTION 14 – REMEDIATION REQUIREMENTS

14.1 Used oil management facility must have in place a spill response plan ready to implement on site in the event of a used oil spill. In the case where a used oil spill is not immediately addressed by a facility and, as a result, has caused

contamination to the soil, groundwater, and surface water, the facility must prepare and submit to DEQ the following requirements:

A) Site Investigation Plan (SIP): The SIP must clearly describe how the facility plans to conduct its investigation to characterize the contaminated area in order to determine and implement the appropriate cleanup action. The SIP must include a Sampling and Analysis Plan (SAP), which describes the appropriate sampling approach and analysis methods selected to address the various media (soil, groundwater, surface water, etc) impacted by the used oil spill. The SIP must be submitted to DEQ for its review within 15 days after the discovery of a contaminated site. DEQ will have 15 days to review the plan and submit any comments before implementation.

1. The SAP must include the name of the laboratory company, physical address, phone number, a laboratory certification number issued by the state regulatory agency, name of the certifying state regulatory agency, physical address, and phone number;

2. The SAP must also include a Quality Assurance and Quality Control (QA/QC) Plan.

B) After a successful implementation of the SIP, the facility shall have 15 days to prepare and submit to DEQ a Remedial Action Plan (RAP), which describes how the site will be effectively cleaned up. The plan must also include a verification-sampling plan to validate that the remedial action goals and objectives of the cleanup are successfully achieved. DEQ will have 15 days to review the RAP for comments before implementation.

1. The RAP must also include a Quality Assurance and Quality Control (QA/QC) Plan for the verification sample data results.

2. Upon successful implementation of the RAP for the cleanup, the facility shall prepare, and submit to DEQ for review and approval, a closure report justifying the completion of the cleanup and deeming the site clean. DEQ shall provide a written response to the facility on the closure report 15 days after the date of submittal.

C) Sampling and Analysis Plan:

1) Sampling and analysis plan shall be prepared for all sampling activities, including verification sampling, which are part of the investigation and remedial actions unless otherwise directed by the Director and except for emergency. The level of detail required in a sampling and analysis plan may vary with the scope and purpose of the sampling activity. Sampling and analysis plan shall be submitted to DEQ for review and approval.

2) The sampling and analysis plan shall specify procedures which ensure that the sample collection, handling, and analysis will result in data of sufficient quality to plan and evaluate remedial actions at the site. Additionally, information necessary to ensure proper planning and implementation of sampling activities shall be included. Reference to standard protocols or procedures manuals may be used provided the information referenced is readily available to DEQ.

C) All remediation documents must be maintained for at least three years.

14.2 In addition to clean up under this regulation, the DEQ may determine that remedial action may be necessary under other relevant, applicable and appropriate laws and regulations.

SECTION 15 – POLYCHLORINATED BIPHENYLS (PCB)

15.1 Per 40 CFR 279.11 (Table 1), the rule for burning of used oil containing PCBs shall be as in 40 CFR 761.20(e).

SECTION 16 – PUBLIC PARTICIPATION

Reserved

SECTION 17 – ENFORCEMENT AUTHORITY AND PROCEDURES

17.1 The Director of DEQ is authorized to impose the following penalties and remedies for violation of the CNMI Used Oil Management Regulations.

A) Enforcement and Remedies: The Director shall enforce the Act, these regulations, and any permit or order issued hereunder, pursuant to and in accordance with the authority in 2 CMC § 3131, as amended.

B) Civil Penalties: The Director may assess civil penalties in accordance with 2 CMC § 3131, as amended.

C) Criminal Penalties: Any person, who knowingly and willfully commits any act in violation of the Act, these regulations, or any permit issued thereunder, may be subject to criminal penalties as set forth in 2 CMC § 3131(c), as amended.

D) The Director may suspend, modify, or revoke any permit, license, registration or certification issued by DEQ for violation of the Acts, these regulations and any permit or license issued pursuant to these regulations.

17.2 Procedures for Issuance of Orders

A. In accordance with 2 CMC § 3131, if the Director has reason to believe a violation of the provisions of the Act, these regulations, and/or the terms of any permit issued pursuant to the Act and these regulations has occurred or is occurring, the Director may issue any necessary order to enforce the Act, regulations and/or permit terms. Such order shall be signed by the Director or his authorized representative and shall provide notice of the facts constituting the violation, penalties that may be imposed, corrective actions and/or mitigating measures required, and timeframe in which to take corrective action and/or mitigating measures.

B. If any person subject to an order issued pursuant to 17.2.A fails to comply with the order, the Director may issue an Administrative Order or other such order imposing penalties as provided by 2 CMC § 3131(c). The Order shall state the facts constituting the violation, the sections of the Act, regulations or permit involved, the proposed penalty including any permit suspension, revocation, or modification, and monetary penalties including any penalty for cost of corrective action taken by the Division. The Order shall also provide notice of the opportunity to request a hearing. Such Order shall be personally served or served by certified mail, return receipt, on persons subject to the penalties in the Order.

C. Any person subject to an Order imposing penalties pursuant to 17.2.B, may request, in writing, a hearing before the Director or his/her designee. Request for a hearing shall be served upon the Division within seven (7) calendar days from the date the Order is received. Failure to request a hearing within seven (7) calendar days shall constitute a waiver of the right to a hearing and the Division may take the necessary action to enforce the Order.

D. Persons subject to orders issued pursuant to the Act and these regulations may also request an informal Settlement Conference. An informal Settlement Conference shall not affect the person's obligation to file a timely request for hearing. If a settlement is reached the parties shall forward a proposed consent order for the approval of the Director.

E. Procedures for hearings shall be conducted in accordance with the Administrative Procedures Act (APA), 1 CMC § 9101, et seq., and as follows:

1) The Director shall serve notice of the hearing in accordance with APA § 9109(a) at least ten (10) calendar days before the scheduled hearing date.

2) The alleged violator or "respondent" shall submit a written response to the Order at least five (5) calendar days before the hearing. The response shall clearly and directly admit, deny, or explain all the factual allegations contained in the Order. Where respondent has no knowledge of a particular factual allegation and so states, the allegation is deemed denied. The respondent shall also state (1) the circumstances or arguments which are alleged to constitute the grounds for defense, and (2) the facts which

respondent intends to place at issue. Failure to admit, deny, or explain any material factual allegation contained in the Order may be deemed an admission of the allegation.

3) The Director or his designee will preside over the hearing. The Officer presiding at the hearing shall control the taking of testimony and evidence and shall cause to be made an audio, audio-video, or stenographic record of the hearing. The type of record made shall be at the discretion of the Presiding Officer. Evidence presented at the hearing need not conform with the prescribed rules of evidence, but may be limited by the Presiding Officer in any manner she/he reasonably determines to be just and efficient and promote the ends of justice. In accordance with 1 CMC § 9109, a party may present his/her case by oral or documentary evidence and may be represented by counsel at the hearing.

4) The Officer presiding at the hearing shall issue a written decision within twenty-one (21) calendar days of the close of the enforcement hearing. The decision shall include written findings of fact and conclusions of law. The standard of proof for such a hearing and decisions shall be the preponderance of the evidence.

5) Except as provided in 17.2.E (6), the decision of the Director or Presiding Officer shall be final. In accordance with the APA, 1 CMC § 9112. an appeal from the final decision shall be to the Commonwealth Superior Court within thirty (30) calendar days following issuance of the final agency decision.

6) If the Presiding Officer is not the Director or other Division official, the decision may be appealed to, or may be reviewed on motion, by the Director in accordance with the APA, 1 CMC § 9110. A written notice of appeal or motion for review shall be submitted to the Division within seven (7) calendar days of the date the decision is issued. Appeal or review by the Director shall be in accordance with the procedures set forth in 1 CMC § 9110 pursuant to a schedule agreed upon by the parties and the Director. The decision of the Director following review or appeal shall be considered final agency action for purposes of judicial review. In the event there is no appeal or motion for review of the original decision of the Presiding Officer, the Presiding Officer's decision shall be considered final agency action as of the date issued for purposes of judicial review. An appeal from the final decision shall be to the Commonwealth Superior Court within thirty (30) calendar days following the date the final decision is issued.

7) For filing deadline purposes, counting of the days shall start on the day after issuance or receipt (whichever is specified) of an order or decision. If any filing date falls on a Saturday, Sunday, or Commonwealth holiday, the filing deadline shall be extended to the next working day.

SECTION 18 – SEVERABILITY

18.1 Should any provision of these regulations or its application to any person or circumstance be declared unconstitutional or invalid by a court of competent jurisdiction, the remaining portion of the regulations and/ or the application of the affected provision to other persons or circumstance shall not be affected thereby.

SECTION 19 – EFFECTIVE DATE

19.1 These regulations will take effect 10 days after notice of adoption is published in the Commonwealth Register. All used oil management facilities are required to be in compliance with these regulations within six-month period after the effective date of these regulations.

APPENDIX A

40 CFR PART 279

STANDARD FOR THE MANAGEMENT OF USED OIL

Electronic Code of Federal Regulations
e-CFR™

THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED AUGUST 7, 2003

40 CFR
Protection of Environment
CHAPTER I
ENVIRONMENTAL PROTECTION AGENCY (CONTINUED)

SUBCHAPTER I -- SOLID WASTES (CONTINUED)

PART 279 -- STANDARDS FOR THE MANAGEMENT OF USED OIL

Subpart A -- Definitions

Sec.

Subpart B -- Applicability

Subpart C -- Standards for Used Oil Generators

Subpart D -- Standards for Used Oil Collection Centers and Aggregation Points

Subpart E -- Standards for Used Oil Transporter and Transfer Facilities

Subpart F -- Standards for Used Oil Processors and Re-Refiners

Subpart G -- Standards for Used Oil Burners Who Burn Off-Specification Used Oil for Energy Recovery

Subpart H -- Standards for Used Oil Fuel Marketers

Subpart I -- Standards for Use as a Dust Suppressant and Disposal of Used Oil

Authority: Sections 1006, 2002(a), 3001 through 3007, 3010, 3014, and 7004 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6905, 6912(a), 6921 through 6927, 6930, 6934, and 6974); and sections 101(37) and 114(c) of CERCLA (42 U.S.C. 9601(37) and 9614(c)).

Source: 57 FR 41612, Sept. 10, 1992, unless otherwise noted.

APPENDIX B

40 CFR PART 112

OIL POLLUTION PREVENTION
(SPILL PREVENTION, CONTROL, AND COUNTERMEASURES)

Electronic Code of Federal Regulations
e-CFR™

THIS DATA CURRENT AS OF THE FEDERAL REGISTER DATED AUGUST 7, 2003

40 CFR
Protection of Environment
CHAPTER I
ENVIRONMENTAL PROTECTION AGENCY (CONTINUED)

SUBCHAPTER D -- WATER PROGRAMS

PART 112 -- OIL POLLUTION PREVENTION

Sec.

Authority: 33 U.S.C. 1251 *et seq.*; 33 U.S.C. 2720; E.O. 12777 (October 18, 1991), 3 CFR, 1991 Comp., p. 351.

Source: 38 FR 34165, Dec. 11, 1973, unless otherwise noted.

Editorial Note: Nomenclature changes to part 112 appear at 65 FR 40798, June 30, 2000.

Subpart A -- Applicability, Definitions, and General Requirements for All Facilities and All Types of Oils

Source: 67 FR 47140, July 17, 2002, unless otherwise noted.

PUBLIC NOTICE

NOTICE OF ADOPTION OF THE PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS GOVERNING THE GROUP HEALTH INSURANCE PROGRAM

NOTICE IS HEREBY GIVEN that the Board of Trustees of the NMI Retirement Fund, in accordance with the authority vested in it pursuant to Public Law 10-19, adopts, as final, the proposed amendments to the Rules and Regulations Governing the Group Health Insurance Program. These amended Regulations were originally published in the July 15, 2003 Commonwealth Register, Volume 25, Number 6, at pages 20632 to 20648. Comments were received in response to the publication of the proposed amendments, and after considering these comments, modifications were made to reflect these changes. Accordingly, the revised Regulations are reprinted here in full. Copies of the Rules and Regulations Governing the Group Health Insurance Program may be obtained at any of the NMI Retirement Fund offices on Saipan, Tinian and Rota, as well as the Group Health and Life Insurance Trust Fund Office, located on the second floor of the Retirement Fund Building, Capitol Hill, Saipan.

Date: 8/7/03

JOSEPH C. REYES
Chairman, Board of Trustees, NMIRF

Filed by: Date: 08-18-03

BERNADITA B. DELA CRUZ
Secretary/Commonwealth Register

Received by: Date: 8/19/03

THOMAS A. TEBUTEB
Special Assistant for Administration

Certification by Office of the Attorney General

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 CNMI Office of the Attorney General.

Date: 8/15/03

CLYDE LEMONS
Acting Attorney General

CERTIFICATION OF ADOPTION OF THE PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS GOVERNING THE GROUP HEALTH INSURANCE PROGRAM

I, Joseph C. Reyes, the Chairman of the Board of Trustees of the NMI Retirement Fund which is promulgating these amended Regulations, published in the July 15, 2003 Commonwealth Register, Volume 25, Number 6, at pages 20632 to 20648, by signature below, hereby certify that the Regulations as modified and published herein, are a true, complete, and correct copy of the Regulations now adopted by the Board of Trustees. I further request and direct that this Certification be published in the Commonwealth Register and then be attached by both the Office of the Registrar of Corporations and by the Office of the Governor to the Rules and Regulations.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on the 7th day of August, 2003 at Saipan, Commonwealth of the Northern Mariana Islands.

JOSEPH C. REYES
Chairman, Board of Trustees, NMIRF

Filed by: _____ Date: 08-18-03
BERNADITA B. DELA CRUZ
Secretary/Commonwealth Register

Received by: _____ Date: 8/19/03
THOMAS A. TEBUTEB
Special Assistant for Administration

Certification by Office of the Attorney General

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 CNMI Office of the Attorney General.

_____ Date: 8/15/03
CLYDE LEMONS
Acting Attorney General

GROUP HEALTH AND LIFE INSURANCE PROGRAM

Plan Document

NORTHERN MARIANA ISLANDS RETIREMENT FUND
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

August 07, 2003

TABLE OF CONTENTS

ARTICLE 1 – INTRODUCTION

The Government of the Commonwealth of the Northern Mariana Islands provides its eligible Employees, Retirees and their eligible family members with an optional group health insurance Plan. The purpose of the Plan is to provide financial assistance to Enrollees to help them pay for necessary health care. Public Law 10-19 transferred the administrative functions of the Plan, existing inventory and staff to the NMI Retirement Fund effective June 21, 1996. This Plan Document sets forth the terms and conditions of the Government's Program beginning on the Effective Date of these regulations.

The Program is underwritten exclusively by the CNMI Government and is administered by the Board of Trustees of the NMI Retirement Fund and the NMI Retirement Fund's Administrator. The Program's Covered Benefits, eligibility and enrollment requirements, and administrative procedures are governed by this Plan Document.

These Rules and Regulations govern the Program and repeal Parts I, II, III, IV, V, VI, VII and IX of the Rules and Regulations published in the Commonwealth Register, Volume 19, Number 2, on February 15, 1997, and adopted by the Notice and Certification of Adoption appearing in the Commonwealth Register, Volume 19, Number 5, on May 15, 1997. To the extent that they are not inconsistent with the provisions of Public Law 8-31, the Program, and these Rules and Regulations, shall apply to all Retirees who are covered by the provisions of Public Law 8-31.

The CNMI Legislature has the right to modify or terminate the Program at any time. The Board has the right to modify or amend the Program at any time, with notice and in compliance with 1 CMC 9101-9115, the Administrative Procedure Act. However, no such modification or amendment by the Board will adversely affect any claim for any benefit that was incurred before the Effective Date of such modification or termination.

Questions about enrollment, benefits or claims and all Application Forms, Enrollment Change Forms, Claims Forms and correspondence should be directed to the Administrator, CNMI Group Health Insurance Program, NMI Retirement Fund, 1st Floor, Retirement Fund Building, Capitol Hill, P.O. Box 501247, Saipan, MP 96950-1247, telephone (670) 664-8026, fax (670) 664-8074.

Joseph C. Reyes
Chairman, Board of Trustees
NMI Retirement Fund

Karl T. Reyes
Administrator
NMI Retirement Fund

ARTICLE 2 – DEFINITIONS

Where a word or phrase used in this Plan Document has a meaning specifically defined by this Article, it appears italicized and with its first letter or letters in capitalized form.

2.01. **"Act"** means Public Law 10-19, An Act to Transfer the Administration of the Government Health Insurance Programs to the Northern Mariana Islands Retirement Fund, which was enacted into law effective June 21, 1996, and all subsequent amendments.

2.02. **"Administrator"** means the Administrator of the NMI Retirement Fund or his or her designee. If the Fund has contracted with a Third Party Administrator to provide Services under the Plan, the term "Administrator" may, at times, refer to the Third Party Administrator.

2.03. **"Allowable Expense"** means any expense which the Board or Administrator determines to be reasonable and appropriate for administering the Program and for providing Covered Benefits in accordance with this Plan Document.

2.04. **"Annual Maximum"** means the dollar limitation on the total amount that the Program will pay for all Covered Benefits provided to any Enrollee in any Plan Year.

2.05. **"Application Form"** means the form prescribed by the Administrator and required to be submitted to the Administrator by any person wishing to enroll himself or herself and/or his or her Dependents in the Program.

2.06. **"Board"** means the Board of Trustees of the NMI Retirement Fund.

2.07. **"Child"** means a Subscriber's unmarried

a. natural Child;

b. legally adopted Child or Child placed for adoption;

c. stepchild living with the Subscriber in a normal parent/Child relationship; or

d. Child under his or her court-appointed legal guardianship;

so long as such Child is under the age of 18 and primarily supported by the Subscriber. However, coverage may be available for a Child over 18 years if the Child meets the exception in Article 3, Section 3.02. If a court of competent jurisdiction has ordered that the Subscriber provide health insurance coverage for such Child, the Child need not be primarily supported by the Subscriber.

2.08. **"Claim Form"** means the form prescribed by the Administrator, or any Third Party Administrator contracted by the Program, and required to be submitted to the Program or Third Party Administrator for payment of Covered Benefits.

2.09. **"Coinsurance"** means the percentage of the cost of Covered Benefits that must be paid by either the Enrollee or the Program.

2.10. **"Contribution"** means the share of the Premium required to be paid by the Government or the Subscriber.

2.11. **"Co-payment"** means the specified portion or percentage of the Eligible Charge that an Enrollee must pay to the Provider of Services.

2.12. **"Covered Benefits"** means the health care Services covered under the Program.

2.13. **"Dependent"** means a Subscriber's

a. Spouse;

b. Eligible Child(ren).

2.14. **"Disease"** means an alteration in the state of the body or of some of its organs, interrupting or disturbing the performance of the vital functions, and causing or threatening pain and weakness. Other common terms for Disease and which may be considered to be a Disease are malady, affliction, illness, sickness and disorder.

2.15. **"Dispense" or "Fill"** means the counting, measuring, compounding, pouring, packaging and labeling required to prepare a Drug for either direct or indirect delivery to a patient when authorized by a valid Prescription from a licensed practitioner.

2.16. **"Doctor"** means a duly licensed Doctor of Medicine (M.D.), Medical Officer (M.O.), or Doctor of Osteopathy (D.O.). Doctors of Optometry (O.D.) and Podiatry (D.P.M.) will also be considered a Doctor for purposes of the Plan, but only for the provision of Services as stated to be allowed to be performed by the appropriate licensing board or agency in the location in which the Service is performed, and only for the provision of Services covered under the Plan. A Doctor of Dentistry (D.D.M. or D.D.S.) is also considered a Doctor for purposes of the dental work and oral surgery covered by the Program. Types of practitioners not specifically mentioned in this paragraph are not considered Doctors for purposes of the Program.

2.17. **"Drug" or "Medication"** means articles recognized in the official United States Pharmacopoeia, the official Homeopathic Pharmacopoeia of the United States, or official national Formula, or any supplement to any of them, being and labeled in accordance with the Federal Drug Administration requirements; or articles and devices intended for use in the diagnosis, cure, mitigation, treatment or

prevention of Diseases in humans; or articles intended for use as a component of any article specified in this definition; or controlled substances as defined in the Rules and Regulations of the CNMI Medical Profession Licensing Board.

2.18. **"Effective Date"** means the date on which a person is accepted as a Subscriber, as established and recorded by the Administrator, and is the date, subject to all applicable waiting periods provided under this Plan, on which such Subscriber's eligibility for benefits under this Plan begins.

2.19. **"Eligible Charge"** means the charge described in Article 11, Section 11.10 below and is the charge used to calculate the Plan's benefit payment for most covered Services.

2.20. **"Emergency"** means the sudden and unexpected onset of a severe medical condition that, if not treated immediately, would be, in the opinion of a Doctor, life-threatening or result in a permanent disability; for example, a heart attack, severe hemorrhaging, poisoning, loss of consciousness or respiration, and convulsions are considered Emergencies.

2.21. **"Employee"** means a person who is receiving salary or wages from the Government and who is (a) employed by the Government and regularly scheduled to work 20 or more hours per week, or (b) an elected or appointed Government official. However, as to any period, the term "Employee" will not include any individual who, during such period, is classified or treated by the Government as an independent contractor, a consultant, a leased Employee, or an Employee of an employment agency or any entity other than the Government, even if such individual is subsequently determined to have been a common law Employee of the Government during such period. This definition also excludes any individual who serves on a Government board or commission, but is not otherwise a Government Employee, and any individual employed by the Government in violation of applicable law. Nothing in this definition will be construed to affect Retirees who are authorized by law to draw their retirement benefits while working for the Government in a non-Employee classification. This definition is effective as of the Plan's original Effective Date.

2.22. **"Enrollee"** means any Employee, Retiree, Survivor, or Dependent whose enrollment in the Program has been approved by the Administrator and for whom all Premium payments are current, unless otherwise required by law or specifically approved by the Administrator if the failure to make Premium payments was no fault of the Subscriber.

2.23. **"Enrollment Change Form"** means the form prescribed by the Administrator and required to be submitted to the Administrator by any person wishing to change his or her benefit or enrollment option or to add or delete coverage of Dependents.

2.24. **"Experimental"** means any Experimental, investigational or unproven Service which is considered by the HCFA Medicare Coverage Issues Manual to be not

reasonable and necessary and, therefore, not approved for payment under U.S. Medicare.

2.25. **"Fiscal Year"** means any October 1 through the following September 30.

2.26. **"Formulary"** means a listing of Prescription Drugs and Medications that are covered under the Plan and for which the Plan will either pay the appropriate portion of Coinsurance or for which the Plan will reimburse the Enrollee the appropriate portion of Coinsurance. Providers that are legally permitted and authorized to Dispense Medications will be reimbursed for Medications prescribed from the Formulary, based upon the rate established by the Plan's Pharmacy Benefit Manager.

2.27. **"Fund"** means the NMI Retirement Fund.

2.28. **"Generic"** means a Drug or Medication prescribed by a Doctor that contains the chemical name for the Drug, and is usually a lower cost equivalent to a Name-Brand Drug or Medication. The active ingredient in the Generic Drug is the same as the active ingredient in the equivalent Name-Brand Drug, even though the exact formula for the two Drugs may not be identical.

2.29. **"GHLI Trust Fund"** means the CNMI Government Group Health and Life Insurance Trust Fund. The GHLI Trust Fund shall be segregated from other funds and held in trust and administered by the Administrator under the fiduciary supervision of the Board.

2.30. **"Government"** means the CNMI Government, its departments, agencies, instrumentalities, public corporations, municipal governments, and other CNMI Government entities and autonomous agencies.

2.31. **"Hospital"** means any inpatient acute care institution which

a. is not other than incidentally, a nursing home, rest home, or Skilled Nursing Facility; and

b. is primarily engaged in providing facilities for surgery and for medical diagnosis and treatment of Injured or ill persons by or under the supervision of Doctors; and

c. has registered nurses always on duty; and

d. is certified or licensed as a Hospital by the proper governmental authority.

2.32. **"Injury"** means a wound or physical trauma resulting from an external force (such as a blow, collision, or impact) that is of sufficient magnitude to require the Services of a Physician within a reasonable time. Subjective symptoms that occur spontaneously or from trivial movement or exercise and that are physiological, pathological, toxic, or infective in origin are not to be considered the result of external force and therefore shall not be considered an Injury. The

fact that an ailment or condition may not fit this definition of "Injury" does not necessarily mean that the ailment or condition is not covered under the Plan.

2.33. **"Lifetime Maximum"** means the dollar limitation on the total amount that the Program will pay for all Covered Benefits provided to an Enrollee during the Enrollee's lifetime.

2.34. **"Medical Director"** means a medical Doctor, medical officer, and other medical professional employed by the Plan or its Third Party Administrator, if any, to review claims and determine medical necessity of Services.

2.35. **"Medically Necessary"** means, with respect to each Service, that the Service meets all of the tests listed below. The fact that a Doctor prescribes, orders, recommends or approves a Service does not, of itself, make it Medically Necessary.

a. **Health-Related.** The Service is provided for the diagnosis or treatment of an Injury, illness, Disease, ailment or condition, including pregnancy, and birth and congenital defects.

b. **Appropriate.** The Service is (i) appropriate for the symptoms, (ii) consistent with the diagnosis, (iii) in accordance with generally accepted medical practice and professionally recognized standards in the geographic location where Services are provided, and (iv) expected to result in a meaningful and substantial improvement in the Subscriber's condition.

c. **Adequate.** The Service does not exceed the supply, level of Service or amount of Service needed to provide safe and appropriate care.

d. **Not for Convenience.** The Service is not provided mainly for the convenience or desire of the Enrollee, Enrollee's family, Enrollee's Provider, or other person or entity.

e. **Not Experimental.** The Service is not Experimental.

f. As further described in Article 11, Section 11.09 of this Plan Document.

2.36. **"Mental or Nervous Disorders"** include the following conditions: neurosis, psychoneurosis, psychopathy, psychosis, and emotional disorders of every kind, irrespective of cause, except substance abuse and/or dependency.

2.37. **"Name-Brand"** means any Drug or Medication prescribed by a Doctor that contains a specific copyrighted name assigned to it by the Drug's manufacturer. There may or may not be a Generic equivalent for Name-Brand Medications.

2.38. **"Non-Formulary Brand"** means any Drug or Medication prescribed by a Doctor that contains a specific copyrighted name assigned to it by the Drug's

manufacturer, that is not contained in the Plan's Formulary, or as specified in this Plan.

2.39. **"Non-Participating or Non-Preferred Provider"** means a Provider of Services who, when rendering a Service covered by the Plan to an Enrollee, does not have an agreement with the Plan or the Plan's Third Party Administrator, if any, to collect a specified amount.

2.40. **"Off-island"** means a location other than the Commonwealth of the Northern Mariana Islands. For example an Off-island Hospital or Provider refers to a Hospital or medical Provider located outside the CNMI, such as a Provider located in Guam, Hawaii or the U.S. mainland.

2.41. **"On-island"** means a location in the Commonwealth of the Northern Mariana Islands. For example, an On-island Provider or Hospital refers to a Provider or facility located within the CNMI, such as the Commonwealth Health Center.

2.42. **"Open Season"** means that period of time, designated by the Administrator, during which Employees may apply for enrollment in the Program for themselves and their Dependents and during which Subscribers may apply to change their benefit and enrollment options in the Program. Generally, an Open Season will be held in November each year.

2.43. **"Out-Of-Pocket Maximum"** means the total dollar amount of Eligible Charges that must be paid by the Subscriber for his or her family in a Plan Year toward eligible medical expenses. The Out-Of-Pocket maximum only applies to Eligible Charges and the Subscriber must still pay for any non-Eligible Charges in addition to the Out-Of-Pocket maximum.

2.44. **"Participating or Preferred Provider"** means a Provider of Services who, when rendering a Service covered by this Plan to an Enrollee, agrees with the Plan or the Plan's Third Party Administrator or Pharmacy Benefit Manager, if any, to collect not more than (a) a specified amount paid by the Plan and (b) the Enrollee's Co-payment or Coinsurance as specified in this Plan.

2.45. **"Pharmacist"** means one who is registered, certified or licensed by the appropriate licensing and regulatory authority in the jurisdiction in which the Services is being performed, and who legally may compound and Dispense Medications, following Prescriptions issued by a duly licensed Doctor or Physician, or other authorized medical practitioner; and one who legally weighs, measures and mixes Drugs and/or other medicinal compounds, and Fills bottles or capsules with correct quantities and compositions or the preparation; and one who legally Dispenses Prescription Medications and advises self-diagnosing and self-medicating patients, or provides information on potential Drug interactions, potential adverse Drug reactions, and elements of patient's history which might bear on prescribing decisions when in an advisory capacity to a Physician; or as otherwise described and defined in the CNMI Medical Profession Licensing Board Rules and Regulations.

2.46. **"Pharmacy"** means a location properly licensed by the CNMI Medical Profession Licensing Board or the appropriate licensing and regulatory authority in the jurisdiction in which the facility is located, where Prescription Drugs are legally stored or possessed and Dispensed or sold at retail, or displayed for sale at retail, or where Prescriptions are compounded or Dispensed.

2.47. **"Pharmacy Benefit Manager (PBM)"** means a company or firm that provides Prescription benefit management Services including, but not limited to, Formulary development and management, Prescription pre-authorization, Prescription utilization review, Prescription claims processing and payment, Prescription cost controls.

2.48. **"Physician"** See "Doctor", above.

2.49. **"Physician Assistant"** means a duly certified or licensed Physician Assistant, properly certified or licensed pursuant to the Rules and Regulations promulgated by the CNMI Medical Profession Licensing Board, or all criteria established in the jurisdiction in which the Physician Assistant is rendering services, including but not limited to certification requirements as established by the National Commission on Certification of Physician Assistants (NCCPA).

2.50. **"Plan"** means the Group Health Insurance Plan, which the Government offers to its Employees and Retirees and includes this Program and any and all Prior Programs. This term may be used interchangeably with the term "Program", as defined herein.

2.51. **"Plan Document"** means this CNMI Group Health Insurance Program Plan Document as amended by the Board from time to time. The term "Plan Document" includes any currently effective rules and regulations amending or interpreting this Plan Document, any supplements issued by the Program or Riders providing any supplemental coverage, if any.

2.52. **"Plan Year"** means the calendar year (January 1 through December 31), except that the "first" Plan Year will be the Effective Date of these regulations through the following December 31 in the year of first implementation of these regulations or any published revisions to these regulations. For a new Enrollee, the Plan Year begins when such Enrollee's coverage begins and continues through the following December 31.

2.53. **"Premium"** means the total amount of Contributions required to be paid into the GHLI Trust Fund for participation in the Program.

2.54. **"Prescription"** means a written order given individually for the person for whom prescribed or named, issued by a licensed Doctor, Physician, or other legally qualified medical practitioner, for a Drug or Medication, to be compounded, Filled, Dispensed or furnished by a legally qualified individual or Pharmacist. In addition, a Prescription may be for durable medical equipment. Prescription does not include Medications or Drugs for which a Prescription is not required or

that are lawfully obtainable without a Prescription, such as "over-the-counter" remedies.

2.55. **"Prior Program"** means any Government Employee group health insurance program in effect prior to the Effective Date of this Program.

2.56. **"Program"** means the CNMI Government Employee Group Health Insurance Program described in this Plan Document. This term may be used interchangeably with the term "Plan", as defined herein.

2.57. **"Provider"** means a Doctor, Physician, Physician Assistant, Hospital, Skilled Nursing Facility, Pharmacy, or any other duly licensed person, institution or other entity qualified to provide the relevant Covered Benefits under the Program.

2.58. **"Retiree"** means a former Employee who is receiving annuity payments through the Northern Mariana Islands Retirement Fund as a result of service, age or disability. The term "Retiree" does not include a Spouse or former Spouse of a Retiree receiving an annuity as a result of a domestic relations court order.

2.59. **"Services"** means health care treatments, procedures, supplies, equipment, and products, and includes Prescription Drugs.

2.60. **"Skilled Nursing Facility"** means a licensed institution, other than a Hospital, which is not, other than incidentally, a custodial care Provider, and which, at a minimum, provides the following:

a. inpatient medical care and treatment to convalescing patients;

b. full-time supervision by at least one Doctor or registered nurse;

c. 24-hour nursing care by licensed professional nurses; and

d. complete medical records for each patient.

2.61. **"Special Enrollment"** means the rights conferred on any person by the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

2.62. **"Spouse"** means an Employee's or Retiree's current

a. legal husband or wife from whom the Employee or Retiree is not legally separated; or

b. common-law husband or wife, provided the marriage is recognized as valid and lawful in the jurisdiction where it was made.

2.63. **"Subscriber"** means any Employee, Retiree or Survivor who is enrolled in the Program and in whose name the enrollment is registered.

2.64. **"Surgical Services"** means professional Services necessarily and directly performed by a Physician in the treatment of an Injury or illness requiring cutting; suturing; diagnostic and therapeutic endoscopic procedures; debridement of wounds including burns; surgical management or reduction of fractures and dislocations; orthopedic casting; manipulation of joints under general anesthesia; or destruction of localized surface lesions by chemotherapy (excluding silver nitrate), cryotherapy, or electrosurgery.

2.65. **"Survivor"** means the Spouse of a deceased Retiree who is receiving Survivor's annuity benefits under the laws governing the NMI Retirement Fund and who has not remarried.

2.66. **"Third Party Administrator"** means an individual or company with particular expertise in the administration of health plans, typically tasked with utilization review (examining claims to detect and/or determine eligibility, accuracy, fraud, double billings, diagnosis and treatment consistency), case management, claims processing, and claims payment, in addition to any other responsibilities contracted for by a health plan or insurance company.

ARTICLE 3 – ELIGIBILITY

3.01. **Employees Generally.** All Employees are eligible to apply to enroll themselves and their Dependents in the Program.

3.02. **Dependent Children.** Any Child of a Subscriber who meets the definition of "Child" as defined in Article 2, Section 2.07 and the definition of "Dependent" as defined in Article 2, Section 2.13, and who is 18 years of age or younger and unmarried is eligible for coverage under this Plan.

a. If a Child, upon reaching the age of 18 years, is incapable of self-sustaining employment because of mental retardation or physical handicap, is chiefly dependent upon the Subscriber for support and maintenance, and is unmarried, the Child shall be allowed continued coverage under this Plan so long as the Child continues to be so incapacitated, dependent, and unmarried. The Subscriber must furnish written evidence of such incapacity, dependency, and marital status to the Plan within 31 days of the Dependent's attaining the age of 18, and at any time thereafter upon request by the Plan but not more frequently than annually after the two year period following Child's attainment of the limiting age. The Child's coverage shall terminate when the Subscriber's coverage terminates or when the Child marries or is no longer incapacitated and dependent.

b. A dependent Child may remain eligible through age 24 provided said Dependent is unmarried, financially dependent upon the Subscriber, and is regularly attending an accredited educational institution as a "full-time" student, maintaining at least twelve (12) units, or the definition of full-time as used by the accredited learning institution, whichever is greater. Proof of enrollment by means of a letter from the Registrar's Office of the school and signed by the Registrar for the appropriate semester is required at the beginning of each semester. Coverage for the Dependent shall continue during semester breaks, or times when school is not in session, pursuant to the institution's official schedule. However, if the Dependent does not enroll in the next semester or session immediately following said break, coverage shall terminate as of the last official class day of the semester or session immediately prior to the break, or on the last official day of the session in which the Dependent was last enrolled.

c. A Child identified in a Qualified Medical Child Support Order as an eligible Dependent will be accepted upon submission of a certified copy of the Court Order.

3.03. **Notice of Enrollment Rights.** If you are declining enrollment for yourself or your Dependents (including your Spouse) because of other health insurance coverage, you may in the future be able to enroll yourself or your Dependents in this Program, provided that you request enrollment within 30 days after your other coverage ends. In addition, if you have a new Dependent as a result of

marriage, birth, adoption or placement for adoption, you may be able to enroll yourself and your Dependents, provided that you request enrollment within 30 days after the marriage, birth, adoption or placement for adoption.

3.04. **Retiring Employees.** An Employee who was enrolled in the Program on the day immediately preceding his or her date of retirement is eligible to continue enrollment in this Program for himself or herself, as a Retiree, and to continue the enrollment of any Dependents who were enrolled as of the last day of the Employee's employment.

3.05. **Retirees and Their Dependents in Prior Program.** A Retiree and his or her Dependents are eligible to enroll in the Program if they

a. were enrolled in a Prior Program on the Effective Date of this Program; and

b. had no break in coverage under the Prior Program between the Effective Date of this Program and the Effective Date of coverage under this Program.

3.06. **Retirees Not Enrolled in Government Plan.** A Retiree who is not enrolled in a CNMI Government Group Health Insurance Plan is eligible to apply for enrollment in this Program, provided he or she is enrolled 30 days from the Effective Date of his/her retirement. Enrollment will be effective on the day after the first annuity payment following approval.

3.07. **Spouse Enrolled in this Program on Death of Retiree.** A Spouse, upon becoming a Survivor, is eligible to continue enrollment in the Program for himself or herself and the deceased Subscriber's Dependents, provided such Survivor and Dependents were enrolled in the Program at the time of the Subscriber's death.

3.08. **Survivors and Dependents in Prior Program.** A Survivor who was enrolled in a Prior Program on the Effective Date of this Program, together with any of the deceased Retiree's Dependents, who were also enrolled in the Prior Program on that date, are eligible to enroll in this Program, provided they had no break in coverage under the Prior Program between the Effective Date of this Program and the proposed Effective Date of coverage under this Program.

3.09. **Survivors and Dependents Not Enrolled in Government Plan.** A Survivor of a deceased Retiree together with any of the Dependents of a deceased Retiree not enrolled in a CNMI Government Group Health Insurance Plan are eligible to enroll in this Program.

3.10. **Newly Acquired Dependents.** An Employee or a Retiree may apply to enroll his or her newly acquired Dependents. A Survivor may apply to enroll a newborn Child provided the newborn is a natural Child of the deceased Subscriber.

3.11. **Eligibility for Special Enrollment.** An Employee or a Retiree and his or her Dependents may be eligible for Special Enrollment under the provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

3.12. **Proof of Eligibility.** The Administrator may require such documentation as he or she deems necessary to verify the eligibility of any person. If satisfactory documentation is received by the deadline specified by the Administrator, the person will be considered eligible as of the date of application for enrollment or enrollment change, whichever is applicable. If satisfactory documentation is received after the specified deadline, the person will be eligible as of the date of receipt of the documentation.

3.13. **Eligibility of Disabled Child.** Sufficient medical and/or legal proof of total disability and dependence must be submitted to the Administrator within thirty (30) days of the Child's attainment of the limiting age and every year after that.

3.14. **No Guarantee of Enrollment.** Being eligible for enrollment does not guarantee that the application for enrollment will be approved. Employment by or retirement from the Government does not guarantee enrollment or continued enrollment. The enrollment requirements detailed in Article 4 must be met.

ARTICLE 4 – ENROLLMENT

4.01. **Enrollment Options and Categories.**

A. Options for coverage available under the Plan are as follows:

1. High Option – 80/20 coverage. The Plan pays 80% of Eligible Charges, and the Enrollee pays 20%.

2. Low Option – 70/30 coverage. The Plan pays 70% of Eligible Charges and the Enrollee pays 30%.

B. Categories of coverage.

1. Available category and option selections:

a. Self Only, High Option

b. Self Plus One, High Option

c. Self Plus Four, High Option

d. Self Plus Five Plus, High Option

e. Self Only, Low Option

f. Self Plus One, Low Option

g. Self Plus Four, Low Option

h. Self Plus Five Plus, Low Option

2. Category explanations:

a. **"Self Only"** refers to the Subscriber only. Only one Enrollee may be covered under this category of the Plan.

b. **"Self Plus One"** refers to a Subscriber with one (1) Dependent. The Dependent may be a Spouse or eligible Child, but a maximum of two (2) total Enrollees (including the Subscriber) may be covered under this category of the Plan.

c. **"Self Plus Four"** refers to a Subscriber with up to four (4) Dependents. The Dependents may be a Spouse and eligible Children or all eligible Children, but a maximum of five (5) total Enrollees (including the Subscriber) may be covered under this category of the Plan.

d. **"Self Plus Five Plus"** refers to a Subscriber with five (5) or more Dependents. The Dependents may be a Spouse and eligible Children or all eligible Children, but this category must be selected in order to cover six (6) or more Enrollees (including the Subscriber) in the Plan.

3. Category Examples:

Self Only	Employee only	1 total Enrollee
Self Plus One	Employee + Spouse **OR** Employee + eligible Child	2 total Enrollees **OR** 2 total Enrollees
Self Plus Four	Employee + Spouse + up to 3 eligible Children **OR** Employee + up to 4 eligible Children	Up to 5 total Enrollees **OR** Up to 5 total Enrollees
Self Plus Five Plus	Employee + Spouse + 4 or more eligible Children **OR** Employee + 5 or more eligible Children	No limit to the number of eligible Enrollees **OR** No limit to the number of eligible Enrollees

4.02. **Forms.** A person wishing to enroll himself or herself and/or his or her Dependents in the Program must file an Application Form with the Administrator. A Subscriber wishing to change his or her enrollment or that of his or her Dependents must file an Enrollment Change Form with the Administrator. Both forms are available from the Fund and any other office designated by the Administrator.

4.03. **New Employee Enrollment Period and Effective Date of Coverage.** A new Employee may apply, for himself or herself and his or her Dependents, to enroll in the Program within 30 days after his or her date of hire. Enrollment will be effective as of the first day of the pay period following approval of the application. However, no waiting period will be imposed if prohibited by law, such as the

Uniformed Services Employment and Reemployment Rights Act of 1993 and the Family and Medical Leave Act of 1993.

4.04. **Other Employee Enrollment Period and Effective Date of Coverage.** Employees and their Dependents who are already enrolled in a Prior Program on the original Effective Date of this Plan are automatically enrolled in this Program. All other Employees who are not new Employees may only apply to enroll during an Open Season unless they are entitled to Special Enrollment under the Health Insurance Portability and Accountability Act of 1996. If an Employee applies to enroll during an Open Season, such enrollment will be effective as of the date specified by the Administrator unless the Employee is entitled to Special Enrollment under the Health Insurance Portability and Accountability Act of 1996. If an Employee is so entitled, then the Health Insurance Portability and Accountability Act of 1996's Special Enrollment rules will apply.

4.05. **Special Enrollment Periods Following Loss of Other Coverage / Employees and Their Dependents.** An Employee who is eligible for Special Enrollment under the Health Insurance Portability and Accountability Act of 1996 is required to request enrollment, by filing a written Application Form with the Administrator, for himself or herself and/or his or her Dependents not later than 30 days after the exhaustion of COBRA coverage, termination of other coverage as a result of the loss of eligibility for the other coverage or following the termination of employer Contributions toward that other coverage. Enrollment in this Program is effective not later than the first day of the first calendar month beginning after the date the completed request for enrollment is received.

4.06. **Rules for Persons Retiring from Government Employment.** Enrollment in the Program may be continued for an Employee who retires from Government employment and who was an Enrollee in the Program on the day before his or her date of retirement, by filing an Application Form prescribed by the Administrator whether to continue or discontinue enrollment for both Retiree and his/her Dependents and acknowledging that he or she understands the consequences as specified in this Article for discontinuing enrollment. The Retiree's election to continue enrollment shall be effective to continue enrollment of his/her Dependents enrolled as of the date of the Retiree's dates of retirement.

4.07. **Rules for Retirees and Their Dependents in Prior Program.** A Retiree whose last day of Government employment was before the Effective Date of this Program, and who has been covered under a Prior Program continuously since the Effective Date of this Program, may enroll himself or herself in this Program and may also enroll his or her Dependents, provided such Dependents were enrolled in the Prior Program on the day before the proposed date of enrollment in this Program. Application may be made at any time by filing an approved Application Form with the Administrator. Enrollment will be effective on the day after the first annuity payment date following approval. However, if such Retiree later terminates his or her enrollment from this Program, he or she will never be allowed to re-enroll unless he or she otherwise becomes eligible.

4.08. **Rules for Retirees Not Enrolled in Government Plan.** A Retiree not enrolled in a CNMI Government Group Health Insurance Plan may elect to enroll himself or herself and any of his or her Dependents, provided the Retiree applies for enrollment within 30 days from the Effective Date of his/her retirement. Enrollment will be effective on the day after the first annuity payment date following approval.

4.09. **Rules for Survivors and Dependents of Deceased Retirees.** A Survivor may elect to enroll or to continue enrollment for himself or herself and any of the former Subscriber's Dependents, provided the Survivor applies for enrollment within 30 days following (a) the date the Administrator approves the Survivor's application for Survivor annuity benefits or (b) the original Effective Date of this Plan Document. Enrollment will be effective on the day after the first annuity payment date following approval. A Survivor may apply to enroll any newly acquired Dependent only if such Dependent is a Child of the Subscriber.

4.10. **Rules That Apply When New Spouse Acquired.** An Employee or a Retiree enrolled in the Program who newly acquires a Spouse may apply to enroll such Spouse by filing an Enrollment Change Form within 30 days after the date of marriage. Enrollment of the Spouse will be effective as of the first day of the pay period following approval of the application. If such Spouse is not enrolled when first eligible, the Employee or Retiree may not apply to enroll the Spouse in the Program until an Open Season unless the Employee or Spouse is entitled to Special Enrollment under the Health Insurance Portability and Accountability Act of 1996. If an Employee is so entitled, then the Health Insurance Portability and Accountability Act of 1996's Special Enrollment rules will apply.

4.11. **Rules That Apply When New Child Acquired.** An Employee or a Retiree enrolled in the Program who newly acquires a Child may apply to enroll such Child by filing an Enrollment Change Form within 30 days after the Child is newly acquired. The Child's enrollment will be effective as of the date of birth or other acquisition, provided all past Contributions, from date of acquisition, are made at the time of application. If such Child is not enrolled when first eligible, the Employee or Retiree may not apply to enroll the Child in the Program until an Open Season unless the Employee or Child is entitled to Special Enrollment under the Health Insurance Portability and Accountability Act of 1996. If an Employee or Child is so entitled, then the Health Insurance Portability and Accountability Act of 1996's Special Enrollment rules will apply. This provision also applies to a newborn Child of a Survivor, provided the newborn is a natural Child of the deceased Subscriber.

4.12. **Special Enrollment Periods Due to Acquisition of Dependent / Employees, Retirees and Their Dependents.** An Employee, Retiree and/or their eligible Dependents who are eligible for Special Enrollment under the dependency rules of the Health Insurance Portability and Accountability Act of 1996 are required to request enrollment, by filing a written Application Form with the Administrator, not less than 30 days from the date of the marriage, birth, or adoption or placement for adoption. Such Special Enrollment period does not begin earlier than the date the Plan makes Dependent coverage generally available.

4.13. **Dependent Child Over Age 18.** Enrollment for a Dependent Child over age 18, whose medical insurance under another group plan is being continued beyond the termination date of coverage under that plan by an extension of benefits provision, will be postponed until the date such extended coverage terminates.

4.14. **Special Enrollment Under Qualified Medical Child Support Orders.** A Child identified in a Qualified Medical Child Support Order as an eligible Dependent will be accepted upon submission of a certified copy of the Court Order without regard to any Enrollment season restrictions.

4.15. **Medicare Part A / Mandatory Enrollment.** It is a condition of enrollment in the Program that if any Enrollee, including a Retiree, Spouse of a Retiree, or an Enrollee who has met Medicare's waiting period for End Stage Renal Disease (ESRD), is eligible for Medicare Part A at no cost, such Enrollee must enroll in Medicare Part A.

4.16. **Failure to Enroll.** A non-retiring Employee whose last day of Government employment was on or after the Effective Date of this Program, and who was not an Enrollee in the Program on such last day of employment, will not be allowed to enroll in the Program unless he or she otherwise becomes eligible.

4.17. **Voluntary Termination of Enrollment / Retirees.** If a Retiree continues enrollment in this Program pursuant to Article 3, Section 3.04 and later terminates the enrollment, or if a Retiree elects not to continue enrollment in this Program, such Retiree will not be allowed to re-enroll unless he or she otherwise becomes eligible.

4.18. **Voluntary Termination of Enrollment / Survivors.** If a Survivor continues enrollment in the Program pursuant to Article 3, Section 3.07 and later terminates the enrollment, or if a Survivor elects not to continue enrollment in this Program, such Survivor will not be allowed to re-enroll unless he or she otherwise becomes eligible.

4.19. **Election to Terminate / Form for Retirees and Survivors.** Any Retiree or Survivor wishing to terminate his or her enrollment may do so by signing a form prescribed by the Administrator acknowledging that he or she understand the consequences as specified in this Article 4.

4.20. **Identification Cards.** The Administrator, or Third Party Administrator, if any, will provide each Enrollee with one identification card. If an Enrollee requires additional cards, a charge of $10 per card will be made by the Administrator, or the Third Party Administrator, if any, who shall deposit the money into the GHLI Trust Fund. Enrollees must return all identification cards to the Administrator on termination of enrollment.

4.21. **Retroactive Enrollments and Termination.** Retroactive enrollments and terminations are not allowed unless specifically provided for in the Plan.

4.22. **Approval of Enrollment or Enrollment Change.** Notwithstanding any other section of this Plan Document, no enrollment or enrollment change will become effective without the approval of the Administrator. If the Administrator has not acted on an Application Form or Enrollment Change Form within 30 days of its receipt, the application for enrollment or enrollment change shall be deemed denied.

4.23. **No Guarantee of Enrollment.** Employment by or retirement from the Government does not guarantee enrollment or continued enrollment.

4.24. **Enrollment Denied.** The Administrator may deny an application for enrollment because the applicant is ineligible, has exhausted his or her Lifetime Maximum under the Plan, has filed fraudulent claims or other documents with the Program or Prior Program or for any other reason the Administrator deems in the best interest of the Program.

ARTICLE 5 – BENEFITS

5.01. **Basics.** Only Eligible Charges for Medically Necessary Covered Benefits may be reimbursed, subject to the limitations and maximums imposed by Article 7 of this Plan Document. A procedure or Service may meet the definition of Medically Necessary but not be a fully Covered Benefit because it is subject to the limitations or maximums imposed by Article 7 of this Plan Document. A procedure or Service may meet the definition of Medically Necessary in this Plan Document but not be a Covered Benefit because it is excluded from coverage by Article 8 of this Plan Document.

5.02. **Chart.** The chart below is a summary of the Plan's Covered Benefits. Enrollees should not rely only on this outline. Enrollees must review this entire Plan Document to fully understand the Covered Benefits including the limitations, maximums and exclusions that are detailed in Articles 6, 7 and 8 of this Plan Document.

SUMMARY OF COVERED BENEFITS

	HIGH OPTION PLAN		LOW OPTION PLAN	
Annual Maximum Per Enrollee (Plan Year is 1/1/xx-12/31/xx)	$100,000		$50,000	
Lifetime Maximum per Enrollee	$500,000		$250,000	
Out-Of-Pocket Maximums per Enrollee HIGH OPTION – 20% of the first $20,000 per Enrollee per year, then Plan pays 100% LOW OPTION – 30% of the first $20,000 per Enrollee per year, then Plan pays 100%	$4,000		$6,000	
Out-Of-Pocket Maximums per Family (by Coverage Category)	Self Only - $4,000 Self Plus One - $8,000 Self Plus Four - $12,000 Self Plus Five Plus - $16,000		Self Only - $6,000 Self Plus One - $12,000 Self Plus Four - $18,000 Self Plus Five Plus - $24,000	
FACILITY SERVICES	**ON-ISLAND**	**OFF-ISLAND**	**ON-ISLAND**	**OFF-ISLAND**
Hospital Room & Board: Including semi-private room and board	80% w/ Max: $300/day	80%	70% w/ Max: $250/day	70%
ICU Room & Board	80% w/ Max: $900/day	80%	70% w/ Max: $750/day	70%
Skilled Nursing Room & Board	80% w/ Max: $150/day	80%	70% w/ Max: $125/day	70%
	60 Day Max per Year		30 Day Max Per Year	
Other in-patient and out-patient hospital charges such as operating room, drugs, x-ray, laboratory, and medical supplies	80%		70%	
PRESCRIPTION DRUG SERVICES				
Prescription Drugs • ***All covered generic medications are preferred and covered at 20% coinsurance for participating Providers, 30% for non-participating Providers.*** • ***Non-formulary Brand medications require a 50% member coinsurance amount***	Enrollee pays the following for each medication prescribed: 20% coinsurance for generic, 20% coinsurance for name-brand plus the difference in cost between the generic and name-brand dispensed by a Participating Provider or 30% coinsurance for generic, 30% coinsurance for name-brand plus the difference in cost between the generic and name-brand dispensed by a Non-Participating Provider and		Enrollee pays the following for each medication prescribed: 20% coinsurance for generic, 20% coinsurance for name-brand plus the difference in cost between the generic and name-brand dispensed by a Participating Provider or 30% coinsurance for generic, , 30% coinsurance for name-brand plus the difference in cost between the generic and name-brand	

	50% coinsurance for non-formulary brand prescriptions dispensed by a Participating or Non-Participating Provider for a 30-day supply from a pharmacy or a 90-day supply from the Plan's mail order Rx service, or a pharmacy (pharmacy or Enrollee will be reimbursed at the mail order reimbursement rate). Certain medications may have a 30-day supply maximum and may not be eligible for the 90-day supply or available under the mail order program.		dispensed by a Non-Participating Provider and 50% coinsurance for non-formulary brand prescriptions dispensed by a Participating or Non-Participating Provider for a 30-day supply from a pharmacy or a 90-day supply from the Plan's mail order Rx service, or a pharmacy (pharmacy or Enrollee will be reimbursed at the mail order reimbursement rate). Certain medications may have a 30-day supply maximum and may not be eligible for the 90-day supply or available under the mail order program.	
COVERED SERVICES	**ON-ISLAND**	**OFF-ISLAND**	**ON-ISLAND**	**OFF-ISLAND**
Allergy Testing & Treatment – one series per calendar year	80%		70%	
Ambulance: Surface only	Max of $150 per trip	80%	Max of $150 per trip	70%
Annual Physical Exams: Including chest x-ray, BP check, cholesterol screening (>25yrs), mammogram, PAP smear, vision & hearing screening. Max. of $150 per enrollee per year.	80%		70%	
Birth Control / Contraception – Vasectomies, tubal ligations, and birth control devices.	80%		70%	
Blood and Blood Products	80%		70%	
Dental Work & Oral Surgery due to accident or injury only, including: fractures of jaw or facial bones, congenital anomalies, stones in salivary ducts, impacted teeth, problems with oro-facial muscle attachments, & other surgery on tissues of the mouth.	80%		70%	
Durable Medical Equipment: wheelchairs, crutches, walkers, suction machines, hospital beds, commodes, O_2, O_2 accessories, respirators and braces (e.g. leg, arm or back).	80%		70%	
Family Planning Services. Limited to one session per lifetime.	80%		70%	
Hearing Aids: one device per ear every 5 years, maximum allowable is $750 per device.	80%		70%	
Home Health Visits (Limited to 150 visits/year)	80%		70%	
IV therapy in the office and in the home	80%		70%	
Maternity Care: Including physician's care of mother before, during and after delivery (1 postpartum visit), physician's hospital care of mother and newborn)	80%		70%	
Mental Health Services: Inpatient: Includes Professional services related to inpatient care. Outpatient: Includes Professional services related to outpatient care.	80% ***Maximum of $1,000 per year***		70% ***Maximum of $1,000 per year***	
Newborn Nursery Services for days in which the mother & newborn are both confined. All other expenses, newborn must be enrolled within 30 days from birth.	80%		70%	
Organ Transplants: Cornea, Heart, Heart-Lung, Kidney, Kidney-Pancreas, Lung, Pancreas, Bone Marrow, as specified in Plan, and Liver, as specified in Plan.	80%		70%	
Physical Therapy / Occupational Therapy / Chiropractic Care. Maximum of $25 per visit & 15 visits per enrollee per year.	80%		70%	

Physician Office Visits.	80%	70%
Prosthetic Devices (other than dental).	80%	70%
Sleep Study: Maximum 2 per lifetime 1st Visit 2nd Visit	 80% 50%	 70% 50%
Smoking Cessation Counseling (one series per lifetime).	80%	70%
Speech Therapy.	80%	70%
Well Child Care up to age 5: Including routine immunizations & screenings for anemia, TB, hearing and vision problems.	80%	70%

EXCLUSIONS – NOT COVERED UNDER THE PLAN	
Abortions (elective)	Orthopedic Shoes, Insoles & other supportive devices
Acupuncture	Palliative Treatment
Air Ambulance	Personal comfort and convenience items
Air conditioners, humidifiers, de-humidifiers & purifiers	Physical Exam for obtaining or continuing employment, insurance, gov't. licensing, or sports
Biofeedback	Physical Therapy except as specified above
Chiropractic Care except where specified above	Private Duty Nursing
Circumcision, routine or ritual	Rehabilitation therapy except as specified in Plan
Consultation with Provider via phone, fax or e-mail	Rest Cures
Contact lenses, eyeglasses, and refractive surgery	Rest Homes, sanitariums, & other non-hospitals or non-SNF
Cosmetic Surgery and other cosmetic services	Reversal of Voluntary Sterilization
Custodial, Domiciliary and Convalescent Care, including nutritional supplements	Substance Abuse professional and facility services
Dental work or oral surgery, including endodontic (root canal) & periodontic services	Suicide Attempts & related injuries
Donor Services	Services for an injury or illness resulting from natural disaster or act of War
Drugs and Medicines for which a prescription is not required under U.S. federal law	Services for an injury sustained, either as driver or passenger, from racing or speed testing a motor vehicle
Exercise Equipment, vitamins, steroids and muscle stimulation devices	Services for an injury sustained because of a criminal act including DUI
Experimental or investigative services	Services for an intentionally self-induced illness or self-inflicted injury, while the Enrollee was sane or insane
Fertility / Infertility Services	Services or supplies for treatment or diagnosis of Temporomandibular Joint (TMJ) disorders or other conditions involving joints or muscles related to TMJ.
Foot reflexology except as related to diabetic conditions	Services rendered by an immediate relative or member of the Enrollee's household.
Gastric Bypass	Sexual dysfunction services
Growth Hormone Therapy	Telephone calls by doctors
Heat Lamp Treatments (except as related to Maternity Services)	Training for custodial care or self-care
Hospice Care	Transportation of remains of deceased
Implants, supplies and drugs for cosmetic purposes	Transportation other than ground ambulance service
Liposuction	Transsexual services
Living Expenses	Treatment of baldness and hair loss
Massage Treatments	Tuberculosis
Maternity Care for non-Spouse Dependent	Weight Control Programs or drugs, food products, supplements or services for weight reduction, even if prescribed by a physician
Military Service-Connected Injuries or disabilities	Workers' Compensation related services
Occupational Therapy except where specified above	

All services are subject to "Medical Necessity" and in most cases MUST be ordered by a licensed Physician.

5.03. **Inpatient Hospital Room and Board Benefits.**

A. **Allowable Charges.** Subject to the definitions, limitations, maximums and exclusions of the Program, Eligible Charges for the following Hospital room and board charges are Allowable Expenses:

1. Room and board at the average semi-private rates, including meals, special diets and general nursing care.

2. Charges made by the Hospital as a condition of occupancy, such as those for identification bracelets and medical records.

3. Intermediate care unit, isolation unit, and intensive care or coronary care unit. Must be equipped and operated according to generally recognized Hospital standards acceptable to the Plan.

B. **Private Room Benefits.** Regardless of the reason a private room is used, the difference between its cost and the cost of the Hospital's average semi-private accommodation is not an Allowable Expense. If the Hospital has private rooms only, the Program will pay the average semi-private room rate based on the charges of a comparable Hospital in the same or a similar geographic area up to the maximum Hospital room and board Allowable Expense.

C. Except where otherwise stated, benefits are subject to the Plan's Schedule of Benefits. If Services are rendered by a Non-Participating Provider, the Enrollee also owes any difference between actual and Eligible Charges.

5.04. **Other Benefits.** Subject to the definitions, limitations, maximums and exclusions of the Program, Eligible Charges for the following Services, in or out of a Hospital, are Allowable Expenses:

1. **Hospital Services.**

a. Services (other than room and board) furnished by the Hospital for treatment in the Hospital or its outpatient department, such as Drugs, medicines, laboratory work, use of operating and recovery rooms, surgical supplies, Hospital anesthesia Services and supplies, dressings, oxygen, antibiotics, Hospital blood transfusion Services, and diagnostic and therapy benefits for which the Hospital charges on its own behalf.

2. **Surgical and Medical Services.**

a. **Surgical Services.** Except where otherwise stated, benefits are subject to the Plan's Schedule of Benefits for Surgical Services required for the diagnosis or treatment of an Enrollee's illness, Disease, condition or Injury. If Services are rendered by a Non-

Participating Provider, the Enrollee also owes any difference between actual and Eligible Charges.

Non-Cutting Surgical Services. For Surgical Services that do not require cutting, benefits are subject to the Plan's Schedule of Benefits on the same basis as surgical benefits above. If Services are rendered by a Non-Participating Provider, the Enrollee also owes any difference between actual and Eligible Charges.

b. **Professional Services.** Professional Services of Doctors such as surgery, consultations and home, office and Hospital visits.

Physician Assistants. Professional Services of Physician Assistants, to the extent permitted by law and the Medical Profession Licensing Board, or similar licensing board or agency for medical professionals in the jurisdiction in which the Service is being rendered.

Registered Nurses. Professional Services of registered nurses, diagnostic x-rays and laboratory tests, electrocardiograms, basal metabolism readings, electroencephalograms, and other Medically Necessary tests that reveal need for treatment or are made because of definite symptoms of Diseases or Injury.

c. **Anesthesiology.** When an attending Physician requires anesthesiology Services for a hospitalized patient, other than those provided by the Hospital, that benefit is subject to the Plan's Schedule of Benefits. If Services are rendered by a Non-Participating Provider, the Enrollee also owes any difference between actual and Eligible Charges.

Anesthetic, oxygen, intravenous injections and solutions, blood (and blood derivatives) not donated or replaced, and administration of these.

d. **X-Ray.** X-ray, radium and radioactive isotope therapy, including materials and the Services of a technician.

e. **Surgical Items.** Surgical dressings, splints, casts and other devices used for reduction of fractures and dislocations.

f. **Prosthetic Devices.** Prosthetic devices, other than dental, which replace all or part of an internal body organ, including replacement of such devices.

g. **Durable Medical Equipment.** Rental or purchase, as decided by the Administrator, for the initial provision or replacement of the following standard durable medical equipment:

i. wheelchairs;

ii. crutches/walkers, braces, trusses, casts, splints;

iii. suction machines;

iv. Hospital beds/commodes;

v. oxygen and oxygen accessories;

vi. respirators;

vii. hearing aids (one device per ear every five (5) years);

viii. cardiac pacemakers;

ix. artificial limbs, eyes, and hips, and similar non-Experimental appliances;

x. iron lung, artificial kidney machine, pulmonary resuscitator and similar special medical equipment;

xi. muscle stimulators/regenerators.

All such appliances and/or durable medical equipment must be for Services covered under this Plan and must be ordered by the attending Physician. However, the Administrator or Medical Director must agree that the ordered item is Medically Necessary for the treatment of the Enrollee's illness or Injury. The Plan will not pay for any convenience items.

h. **Ambulance Service.** In Emergencies only, professional surface ambulance Service to the first Hospital where the Enrollee is treated and from that Hospital to another Hospital if Medically Necessary Services are not available at the first Hospital.

i. **Sterilization Services.** Tubal ligations.

j. **Reconstructive Surgery.** The Plan will pay benefits for reconstructive surgery only when it is required to restore, reconstruct and correct any bodily function that was lost, impaired, or damaged as a result of an illness or Injury. Reconstructive surgery for congenital anomalies (i.e., defects present from birth) are payable only when the defect severely impairs or impedes normal, essential bodily functions.

k. **Mental Health Services.** Services of a licensed psychiatrist or psychologist for treatment of mental, psychoneurotic or personality disorders. If Services are provided by a psychologist, such

Services must be in accordance with a referral and specific instructions as to treatment type and duration by a Doctor of Medicine (M.D.).

Inpatient mental health Services for room and board and other inpatient diagnostic and laboratory Services shall be covered by the Plan on the same basis as other inpatient Hospital and medical and surgical benefits and subject to the same limitations, except as otherwise stated herein.

i. The Plan shall pay eligible and covered charges for up to thirty (30) calendar days of eligible facility charges per year per Enrollee.

ii. Each day of inpatient Hospital or facility charges, or equivalent Services exchanged therefore, shall count against the 365 days per calendar year maximum inpatient Hospital benefits allowed under the Plan.

iii. All Co-payments for any Services are the responsibility of the Enrollee. If Services are rendered or provided by a Non-Participating Provider, the Enrollee owes any difference between the actual charges and Eligible Charges.

iv. Each day of inpatient Hospital Services may be exchanged for two (2) days of non-Hospital residential Services, two (2) days of partial hospitalization, or two (2) days of day treatment Services in a Qualified Treatment Facility, provided that such exchange Services include not less than four (4) hours of treatment per day. Each day of inpatient Services may also be exchanged for two (2) outpatient visits, provided the Enrollee's condition is strictly that hospitalization would become imminent if the outpatient Services were interrupted and the outpatient Services would reasonably preclude hospitalization. The Plan shall not, however, pay more for two (2) days of exchange Services than if the Services had been provided through one (1) day of Hospital inpatient Services.

v. A Qualified Treatment Facility is an inpatient or outpatient facility for the treatment of mental illness that has been accredited as such by the Joint Commission on Accreditation of Health Care Organizations (JCAHO), or the Commission on Accreditation of Rehabilitation Facilities and, if the facility is residential, has been licensed as a special treatment facility by the proper governmental authority in the locale or jurisdiction in which the facility is located.

3. **Outpatient Services.**

a. **Physical Therapy and Chiropractic.** Services of licensed physical therapists or licensed chiropractors for administration of physical therapy in accordance with a referral and specific instructions as to treatment type and duration by a Doctor of Medicine (M.D.) with a maximum of 15 visits at a maximum of $25 per visit, per Enrollee per Plan Year. Any person employed by the Commonwealth Health Center, the Rota Health Center or the Tinian Health Center as a physical therapist will be considered a licensed physical therapist.

b. **Durable Medical Equipment / Items.** Braces, such as leg, arm, back and neck braces, and artificial body parts, such as legs, arms and eyes, including replacements, if required, because of a change in the Enrollee's physical condition. All such appliances and/or durable medical equipment must be for Services covered under this Plan and must be ordered by the attending Physician. However, the Administrator or Medical Director must agree that the ordered item is Medically Necessary for the treatment of the Enrollee's illness or Injury. The Plan will not pay for any convenience items.

c. **Prescriptions.** Drugs and medicines which may be purchased only with a Doctor's Prescription and as described in the Plan's Formulary. Any Prescription Drug or Medication that is excluded, or not contained, in the Plan's Formulary shall not be covered under the Plan. Non-Formulary Prescriptions shall be covered at a different rate than Generic or lower cost Name-Brand Prescriptions. Beginning with the partial Plan Year commencing in April 2003, and every Plan Year thereafter, a Non-Formulary Prescription is any Medication not listed on the Plan's Formulary. Any such Medication will require the Enrollee to pay 50% Coinsurance of the cost of the Prescribed Medication, as outlined in the Chart in Article 5, Section 5.02 of this Plan Document.

d. **Birth Control/Contraception.** Vasectomies, tubal ligations, and Prescription contraceptives.

e. **Home Health Care.** Services of home health agencies licensed as such by the applicable jurisdiction or approved by the Administrator.

Subject to any limitations listed in this Plan and the Plan's Schedule of Benefits, an Enrollee is entitled to a maximum of 150 home health care visits per Plan Year. If Services are rendered by a Non-Participating Provider, the Enrollee also owes any difference between actual and Eligible Charges.

i. The attending Physician must certify in writing that the Enrollee:

1. is homebound due to an Injury or illness;

2. requires part-time skilled health Services; and

3. would require inpatient Hospital and Skilled Nursing Facility care if there were no home health care visits. The Federal Medicare definition of homebound shall apply.

ii. If an Enrollee requires home health care visits for more than 30 days, the Physician must re-certify that additional visits are required and must provide a continuing plan of treatment at the end of each such 30-day period of care.

Iii. Visits must be provided by a qualified home health agency.

iv. No payment will be made for home health care Services furnished primarily to assist the Enrollee with personal, family, or domestic needs, such as general household Services, meal preparations, shopping, bathing, or dressing.

f. **Mental Health Care.** Subject to the limitations and maximums as otherwise provided in the Plan (See Article 7), Services of a licensed psychiatrist or psychologist for treatment of mental, psychoneurotic or personality disorders. If Services are provided by a psychologist, such Services must be in accordance with a referral and specific instructions as to treatment type and duration by a Doctor of Medicine (M.D.).

Enrollee owes any Co-payments or Coinsurance as set forth in the Plan's Schedule of Benefits for covered outpatient facility, Physician, psychologist, clinical social worker or registered nursing Services. If Services are provided by a Non-Participating Provider, the Enrollee also owes any difference between the actual and Eligible Charges.

4. **Dental Work and Oral Surgery Services.**

Subject to the provisions of this Plan and the Plan's Schedule of Benefits, an Enrollee is entitled to limited benefits for oral surgery as listed below. For the purposes of this Article, a dentist means a Doctor of Dentistry (D.D.M.) or Dental Surgery (D.D.S.) who is appropriately licensed to practice by the proper government authority and who renders Services within the lawful scope of such license.

a. Dental work, including dental materials (such as fillings, crowns and false teeth) and oral surgery, for the following treatments, as a result of an accident or Injury:

i. prompt Emergency repair of accidental Injury to sound, natural teeth;

ii. reduction of fractures of the jaw or facial bones as a result of accidental Injury;

iii. surgical correction of congenital anomalies;

iv. removal of stones from salivary ducts;

v. excision of impacted teeth that are not completely erupted, bony cysts of the jaw, torus palatinus, leukoplakia, or malignant oral tissue;

vi. freeing of oro-facial muscle attachments; and

vii. other surgery on tissues of the mouth, other than the gums, when not performed in connection with the extraction or repair of teeth.

b. In connection with all other dental work and oral surgery, the only Covered Benefits are for Hospital room and board as specified in Article 5, Section 5.03.A. Benefits as provided in this Article for oral Surgical Services performed by a dentist shall be payable only when the dentist is performing Emergency or Surgical Services that could also be performed by a Physician (M.D. or D.O.). Hospital inpatient benefits as provided in Article 5 are available for dental Services only when a Physician certifies in writing that the Enrollee has a separate medical condition that makes hospitalization necessary for the Enrollee to safely receive dental Services or that the oral surgery itself requires hospitalization.

5. **Licensed Practical Nurses' Services.**

a. **Licensed Practical Nurse Service.** Licensed practical nursing Services are covered if:

i. the relevant Hospital uses licensed practical nurses; or

ii. the attending Doctor has prescribed nursing Service, including Services of licensed practical nurses.

iii. The Administrator may determine that licensed practical nurses are covered in other cases, such as when the attending Doctor certifies in writing (i) that Services of a registered nurse were Medically Necessary but unobtainable, (ii) the names of the licensed practical nurses

employed, and (iii) the time period for which the Services were prescribed.

6. **Maternity Services.**

a. **Prenatal Care.** Standard prenatal care, as recommended by The American College of Obstetricians and Gynecologists, and the ensuing childbirth or miscarriage, and any medical conditions relating thereto. Diagnostic tests related to the unborn Child are eligible for payment or reimbursement only when Medically Necessary and ordered by a Doctor or Physician.

b. **Midwife Services.** Services by a nurse-midwife will be eligible for coverage on the same basis as Physician coverage. To be eligible for coverage, however, the Services must be rendered by a certified nurse-midwife who is properly licensed, is certified by the American College of Nurse-Midwives, and is formally associated with a Physician for purposes of supervision and consultation.

c. **Birthing Centers.** Hospital benefits described in this Plan Document are also available for Services of a properly licensed birthing center approved by the Plan when such birthing center is used instead of regular Hospital facilities for childbirth. Benefits for birthing center Services are in lieu of payment for inpatient Hospital Services.

d. **Hospital Stays.** In connection with childbirth, mothers and newborn Children are entitled to Hospital and/or birthing center stays up to forty-eight (48) hours following vaginal delivery and ninety-six (96) hours following cesarean section. Extension of stays beyond those periods requires prior Plan review to determine medical necessity or appropriateness.

e. **Post Partum Care.** One routine post partum Doctor visit, per delivery is provided under the Plan.

f. **Newborn Child.** Nursery charges for days in which the mother and newborn are both confined are considered Hospital room and board expenses of the mother and not expenses of the newborn. All other expenses of the newborn will be considered his or her own and will only be considered Covered Benefits if such newborn meets the definition of Child and is enrolled by the Subscriber pursuant to Article 4, and if such charges are for Hospital and Doctor Services provided in connection with routine newborn or nursery care. If properly enrolled pursuant to Article 4, all benefits provided elsewhere in this Plan are available to the newborn Child from the date of birth including medical Services for premature birth, illness, Injury, Disease or birth defect.

g. **Child of Non-Spouse Dependent.** A newborn Child of a non-Spouse Dependent is not an Enrollee unless such Child meets the definition of Child and is enrolled by the Subscriber pursuant to Article 4.

7. **Preventive Care Services.**

a. **Annual Physical Check-Up.** One (1) annual physical exam, except as excluded in Article 8, including, but not necessarily limited to one:

i. blood pressure check;

ii. chest x-ray;

iii. cholesterol screening for Enrollees over 25 years of age;

iv. mammogram in accordance with the American Cancer Society's recommended schedule;

v. PAP smear;

vi. vision screening; or

vii. hearing screening.

b. **Family Planning.** One (1) family planning counseling session, per lifetime.

c. **Childbirth.** Pre-natal care and one (1) post partum visit per delivery.

d. **Smoking Cessation.** One (1) counseling session on smoking cessation per Enrollee, per lifetime.

e. **Well-Child Care.** Well-Child care program through age five (5), including immunizations for DPT, typhoid, cholera, polio, small pox, mumps, measles, rubella, hepatitis, influenza, whooping cough, typhus, tetanus, chicken pox and any other immunizations required by the laws of the jurisdiction in which the Child is domiciled, and screening for anemia, tuberculosis, and hearing and vision problems.

Subject to the Plan's Schedule of Benefits, covered well-Child care visits are limited to three (3) routine well-baby visits during the first twelve (12) months of a Child's life, two (2) visits during the second (next) twelve (12) months, and one (1) annual visit during ages three (3), four (4) and five (5).

8. **Skilled Nursing Facility Services.** An Enrollee, confined in a Skilled Nursing Facility, shall be eligible for the same room and board and general nursing care benefits as if confined in a Hospital, if:

   a. the Enrollee was admitted upon the authorization of a Doctor;

   b. the Enrollee is attended by a Doctor while confined; and

   c. the Enrollee's confinement in the Skilled Nursing Facility is not primarily for comfort, convenience, rest cure or domiciliary care.

   d. an Enrollee remains in such facility more than 30 days, the attending Physician must submit to the Administrator an evaluation report concerning the Enrollee at the end of each such 30-day period of confinement.

9. **Cancer Treatment Services.** Chemotherapy and other U.S. Federal government approved cancer treatments.

10. **Diabetes Related Services.** Dialysis and supplies.

11. **Birth Control Services.** Prescription contraceptives and birth control devices.

12. **Transplant Services.**

   a. **Recipient Services.** Subject to compliance with each of the conditions set forth below, the following transplants are eligible for benefits:

      i. cornea;

      ii. heart;

      iii. heart-lung;

      iv. kidney;

      v. kidney-pancreas;

      vi. lung;

      vii. pancreas;

      viii. bone marrow, excluding high does chemotherapy with bone marrow transplants or peripheral stem cell infusion for epithelial ovarian cancer, primary intrinsic tumors of the brain; or

ix. liver, excluding liver transplants for metastatic malignancies to the liver or transplants necessitated by or related to substance abuse and Hepatitis B antigen or core antibody positive.

All other transplants, including artificial or animal organ transplants, are not eligible for benefits under the Plan.

Transplant Evaluations. No benefits will be paid in connection with any covered transplant evaluation(s) without prior approval from the Administrator. Transplant evaluation means those procedures, including laboratory and diagnostic tests, consultations, and psychological evaluations, which a Hospital or facility uses in evaluation a potential transplant candidate.

Transplant Conditions and Approval. No benefits will be paid in connection with any covered transplant Services without the prior approval of the Administrator. No transplant benefits will be approved unless each of the following conditions are met:

i. Both the Enrollee and the specific transplant must meet the "Medical Necessity" criteria set forth in Article 2, Section 2.39;

ii. The transplant must be performed at a transplant facility that is under contract with the Plan or the Plan's Third Party Administrator for that type of transplant and the contracted transplant facility has accepted the Enrollee as a transplant candidate; and

iii. Any transplant that is classified as "Experimental" or "investigative" in the circumstance presented, or as not proven to be safe and effective, will not be covered.

13. **Speech Therapy Services.** Speech therapy Services from a speech therapist holding a Certificate in Clinical Competence from the American Speech and Hearing Association, or equivalent association or agency in the location the Service is being rendered. Speech therapy Services must be ordered by a Doctor or Physician under an individual treatment plan, must be Medically Necessary to restore an Enrollee's speech or hearing function which was lost or impaired due to illness or Injury, and must be reasonably expected to improve the patient's condition through short-term care. (Long-term maintenance programs are NOT covered under the Plan). Speech therapy for Children with developmental learning disabilities (development delay) is not a Covered Benefit.

14. **Allergy Testing and Treatment.** Allergy testing is limited to one series of tests per calendar year. Allergy treatment and Medication is covered on the same basis as other medical conditions under the Plan.

15. **Blood and Blood Products.** Blood and blood products (except when donated) and blood bank Service charges are a Covered Benefit under the Plan, on the same basis as other medical care, if the blood being administered into the Enrollee is done so as part of a Medically Necessary procedure. Any additional charges for autologous blood (reserved for the Enrollee who donated the blood) are excluded as a benefit.

16. **Sleep Disorder Treatment.** Subject to the limitations and maximums as otherwise provided in the Plan (see Article 7), Services of a licensed, certified, registered or Plan approved sleep center, clinic, Hospital unit or facility for the diagnosis and treatment of sleep disorders are a Covered Benefit, only if referred by a duly licensed Physician.

    For purposes of this provision of the Plan, a sleep disorder shall be defined as any disorder that affects, disrupts or involves sleep, including, but not necessarily limited to chronic snoring, insomnia, sleep apnea, obstructive sleep apnea, sleep disordered breathing (SDB), restless leg syndrome, and sleepwalking.

ARTICLE 6 – COINSURANCE AND CO-PAYMENTS

6.01. The office visit Coinsurance must be paid by the Enrollee for each visit, including preventive care visits, made to or by a Doctor, physical therapist, chiropractor, psychologist, home health agency or other Provider while the Enrollee is not confined in a Hospital as an inpatient. The Coinsurance does not cover any ancillary costs that may be associated with such office visit, such as Prescription Drugs, diagnostic tests or x-rays.

6.02. The Prescription Drug Co-payment must be paid by the Enrollee for each Prescription Filled or refilled. Such Co-payment will cover a maximum of a one-month supply of the Prescription Drug if Filled at a Pharmacy and a ninety-day supply if ordered from the Plan's mail order Prescription Service. If more than one Prescription Drug is needed, a separate Co-payment will apply to each Prescription Drug. If the Prescription is for more than a one-month supply, and Filled at a Pharmacy, an additional Co-payment will apply to each additional month or part thereof.

6.03. Except as otherwise specifically provided in Article 7, Enrollees in the "High Option Plan" must pay a Coinsurance amount of 20% of Eligible Charges for all Covered Benefits specified in Article 5, Section 5.02.

6.04. Except as otherwise specifically provided in Article 7, Enrollees in the "Low Option Plan" must pay a Coinsurance amount of 30% of Eligible Charges for all Covered Benefits specified in Article 5, Section 5.02.

6.05. The Enrollee (and not the Program) is responsible for paying the Provider the amount of any Co-payments, Coinsurance, charges that exceed Eligible Charges, charges that exceed maximum amounts payable by the Program, and charges for non-Covered Benefits.

6.06. If an Enrollee is officially referred by the CHC Medical Referral Committee for Services outside the CNMI, the Enrollee must pay the Provider any Coinsurance or other amount due from the Enrollee under the Program. The Enrollee may then seek reimbursement from the CNMI Medical Referral Program.

6.07. Notwithstanding any other provision of this Plan Document, the Subscriber has ultimate responsibility for paying any amounts required by the Program for himself or herself and all of his or her enrolled Dependents.

ARTICLE 7 – LIMITATIONS AND MAXIMUMS

7.01. **Inpatient Limitations.**

A. **On-island Hospital Room and Board.** The "High Option Plan" limits to $300 per day, and the "Low Option Plan" limits to $250 per day, the maximum amounts the Program will pay for room and board and general nursing care while an Enrollee is confined in an On-island Hospital, unless the Enrollee is confined in a Hospital intensive care unit.

B. **On-island Intensive Care Room and Board.** The "High Option Plan" limits to $900 per day, and the "Low Option Plan" limits to $750 per day, the maximum amounts the Program will pay for room and board and general nursing care while an Enrollee is confined in an On-island Hospital intensive care unit.

C. **On-island Skilled Nursing Facility Room and Board.** The "High Option Plan" limits to $150 per day for 60 days, and the "Low Option Plan" limits to $125 per day for 30 days, the maximum amounts the Program will pay for room and board and general nursing care while an Enrollee is confined in an On-island Skilled Nursing Facility.

7.02. **Physical Exam Limitation.** The maximum amount the Program will pay for physical exams is limited to $150 per Enrollee per Plan Year.

7.03. **Physical and Occupational Therapy and Chiropractic Limitations.** The Program will pay the maximum amount of $25 per physical and occupational therapy visit or chiropractic visit for a maximum of 15 such visits per Enrollee per Plan Year.

7.04. **Surface Ambulance Limitation.** The maximum amount the Program will pay for any surface ambulance trip is $150 for ambulance service provided in the CNMI, and 80% of Eligible Charge in a location other than the CNMI.

7.05 **Home Health Limitation.** The maximum number of home health visits covered per Enrollee per Plan Year is limited to 150 visits.

7.06 **Mental Health Limitations.** Both the High Option Plan and Low Option Plan have a limit of $1000.00 per Enrollee per Plan Year as the maximum amount the Program will pay for Doctors' and/or psychologists' Services in connection with inpatient or outpatient treatment of Mental or Nervous Disorders. No mental health Services shall be eligible for reimbursement hereunder unless

i. the Enrollee has a Nervous or Mental Disorder classified as such in the current (at the time of diagnosis) version of the Diagnostic and Statistical Manual of the American Psychiatric Association; and

ii. the Services are provided under an individualized treatment plan approved by a Physician, psychologist, clinical social worker or advanced practice registered nurse.

iii. Epilepsy, senility, mental retardation or other developmental disabilities do not in and of themselves constitute a Mental Disorder.

7.07. **Sleep Disorder Limitations.** Upon Physician referral, the Plan will pay for a maximum of two (2), one-night visits, lifetime, per Enrollee, to a licensed and/or approved sleep center, for diagnosis and/or treatment of a sleep disorder.

A. The High Option Plan will cover the first such visit at eighty percent (80%), with the Enrollee paying the twenty percent (20%) Coinsurance.

B. The Low Option Plan will cover the first such visit at seventy percent (70%), with the Enrollee paying the thirty percent (30%) Coinsurance.

C. Both the High Option Plan and the Low Option Plan will cover fifty percent (50%) of a second visit, with the Enrollee paying fifty percent (50%) Coinsurance for the second visit.

D. The maximum dollar benefit the Plan will pay in any case is $2,000.00, per Enrollee, per visit.

7.08. **Family Out-Of-Pocket Maximums.**

A. The family Out-Of-Pocket Maximum is the total aggregate maximum amount that a Subscriber must pay in Allowable Expenses for Covered Benefits, specified in Article 5, Section 5.02, incurred during a Plan Year for all Enrollees in that Subscriber's family unit combined. Once a family's Out-Of-Pocket Maximum is reached, all Enrollees in such family will be considered to have reached their Coinsurance maximum, and the Program will pay 100% of Allowable Expenses for Covered Benefits, specified in Article 5, Section 5.02, up to the Annual and Lifetime Maximums.

B. For Enrollees in the "High Option Plan", the family Out-Of-Pocket Maximums per category are defined in Article 5, Section 5.02.

C. For Enrollees in the "Low Option Plan", the family Out-Of-Pocket Maximums per category are defined in Article 5, Section 5.02.

7.09. **Annual Maximums.**

The total benefits provided to an Enrollee under this Plan shall not, under any circumstances, exceed $50,000 or $100,000, Annually, depending on the Option chosen. The maximum shall apply to any and all benefits provided an Enrollee in the aggregate during the Plan Year under this Plan, whether such Enrollee

derives such benefits as an Enrollee or as a Dependent or whether there is any interruption in the continuity of his or her coverage under this Plan.

A. Under the "High Option Plan", the Annual Maximum that the Program will pay per Enrollee for all Covered Benefits, specified in Article 5, Sections 5.04.1 through 11 (combined), incurred during a Plan Year is $100,000.

B. Under the "Low Option Plan", the Annual Maximum that the Program will pay per Enrollee for all Covered Benefits, specified in Article 5, Sections 5.04.1 through 11 (combined), incurred during a Plan Year is $50,000.

C. Once the Program has paid out the total amount of the Annual Maximum for an Enrollee, the Enrollee will not be entitled to coverage under the Program for the remainder of that Plan Year.

7.10. **Lifetime Maximums.**

The total benefits provided to an Enrollee under this Plan shall not exceed $250,000 or $500,000, Lifetime, depending on the Option chosen. The maximum shall apply to any and all benefits provided an Enrollee in the aggregate during his or her lifetime under this Plan, whether such Enrollee derives such benefits as an Enrollee or as a Dependent or whether there is any interruption in the continuity of his or her coverage under this Plan.

A. Under the "High Option Plan", the Lifetime Maximum that the Program will pay is $500,000 per Enrollee for all Covered Benefits, specified in Article 5, Sections 5.04.1 through 11 (combined), incurred during the Enrollee's lifetime.

B. Under the "Low Option Plan", the Lifetime Maximum that the Program will pay is $250,000 per Enrollee for all Covered Benefits, specified in Article 5, Sections 5.04.1 through 11 (combined), incurred during the Enrollee's lifetime.

C. If an Enrollee terminates the Program and later re-enrolls, his or her Lifetime Maximum will be that amount remaining as of the last day the Enrollee was enrolled in the Program, including all reductions for payments of Covered Benefits, specified in Article 5, Section 5.02 under Facility Services, Prescription Drug Services and for Physician office visits under Covered Services (combined), which were incurred prior to the date of termination and paid either before or after such date.

D. Once the Program has paid out the total amount of the Lifetime Maximum for an Enrollee, the Enrollee will not under any circumstances be entitled to coverage or indemnification under the Program for the remainder of his or her life.

7.11. **Full-Time Student Coverage Limitation.** A statement or certification is required from the Registrar's Office or school representative stating that the Dependent is

enrolled for a minimum of twelve (12) semester units. Certifications must be submitted no later than thirty (30) days after commencement of such semester. Coverage for the Dependent shall continue during semester breaks, or times when school is not in session, pursuant to the institution's official schedule. However, if the Dependent does not enroll in the next semester or session immediately following said break, coverage shall terminate as of the last official class day of the semester or session immediately prior to the break, on the last official day of the session in which the Dependent was last enrolled.

ARTICLE 8 – EXCLUSIONS

8.01. The limitations and exclusions provided under this Article shall be in addition to any limitations and exclusions provided elsewhere in this Plan.

A. The Plan will not pay benefits for any Services when the Enrollee is entitled to receive disability benefits or compensation (or forfeits his or her rights thereto) under any Workers' Compensation or Employer's Liability Law for Injury or illness. In the event the Enrollee formally appeals the denial of a claim for Workers' Compensation, the Enrollee shall notify the Administrator of such appeal. The Plan will then provide benefits under this Plan, but such benefits shall be considered an advance or loan to the Enrollee. If the claim is declared eligible for benefits under Workers' Compensation or Employer's Liability Law or if the Enrollee reaches a compromise settlement of the Workers' Compensation claim, the Enrollee agrees to repay the advance or loan the Plan has the Right of Subrogation.

B. The Plan will not pay benefits for any Services:

1. When Services for an Injury or illness are provided without charge to the Enrollee by any federal, state, territorial, municipal, or other government instrumentality or agency; or

2. When Services for an Injury or illness would have been provided without charge or collection but for the fact that the person is an Enrollee under this Plan.

C. The Plan will not pay any benefits, to the extent that such benefits are payable, by reason of any false statement or other misrepresentation made in an application for membership or in any claims for benefits. If the Plan pays such benefits before learning of any false statement, the Subscriber agrees to reimburse the Plan for such payment.

D. The Plan is not an insurer against nor liable for the negligence or other wrongful act or omission of any Provider, Provider's Employee, or other person or for any act or omission of any Enrollee.

E. The Plan does not guarantee the availability or quality of or undertake to provide any Services of any third party including the availability of Preferred or Participating Providers.

F. The Plan will not pay benefits for Services required in the treatment of an Injury or illness that results from an act of war or armed aggression, whether or not a state of war legally exists, or that occurs during a period of active duty of any armed force of any state or nation.

G. The following charges and Services are not Covered Benefits under the Program. ***The fact that a Service may be Medically Necessary or that a Doctor may prescribe, recommend or approve a Service does not, of itself, make the charge for such Service an Allowable Expense under the Program, even though the Service is not specifically listed as an exclusion.***

1. **Charges.**

   a. The portion of any charge that exceeds the Eligible Charge or the Allowable Expense for the Service provided.

   b. The portion of any charge that exceeds the maximum amount payable by the Program.

   c. The portion of any charge that exceeds the charge that would have been made if the Enrollee had no insurance or were not enrolled in the Program.

2. **Services.**

   a. Any Drugs, medicines, or supplies available without a Doctor's Prescription, or "over-the-counter" items, even if prescribed by a Doctor.

   b. Any inpatient Service provided by an institution that is not a Hospital or Skilled Nursing Facility.

   c. Any Service not recommended and approved by a Doctor who is practicing within the scope of his or her license.

   d. Any Service for which the Enrollee has no legal obligation to pay.

   e. Any Service for which the government of the jurisdiction in which the Service was provided prohibits payment.

   f. Any Service rendered because of occupational Disease or Injury for which benefits are payable under Workers' Compensation or similar laws or voluntary workers' compensation programs, if proper claim were made.

   g. Any Service rendered because of war, or an act of war, occurring after the Effective Date of the Enrollee's coverage in the Program.

   h. Any Service rendered by an immediate relative or member of the Enrollee's household. (The term "immediate relative" refers to the Enrollee's Spouse, parent, Child or sibling

whether by blood, marriage or adoption). This exclusion does not apply to the charges made by a Provider that employs such relative or household member.

i. Any Service rendered by a practitioner who is not a Doctor, except as otherwise specifically provided in the Plan Document.

j. Any Service if a material statement made is false and would otherwise have rendered the Service ineligible.

k. Any Service not provided by, or directly supervised by, a Hospital or Doctor duly licensed to provide that Service in the jurisdiction where the Service was provided.

l. Any Service which is not Medically Necessary, except as otherwise specifically provided in the Plan Document.

m. Any Service, including Hospital, surgical, medical, laboratory, and x-ray Services, rendered in connection with an excluded Service.

n. Any Service for which no charge was made.

o. Any Service rendered or received while the individual was not enrolled in the Program.

p. Any Service for which the Enrollee has coverage through a public health program, CHAMPUS or other government or military program.

q. Any Services rendered to a Subscriber's dependent parent.

r. Any Service related to treatment for any complications as a result of previous cosmetic, Experimental, investigative Services or other Services not covered by the Plan, regardless of how long ago such Service or procedure was performed.

s. Abortions (elective).

t. Acupuncture.

u. Air ambulance.

v. Air conditioners, humidifiers, dehumidifiers and purifiers.

w. Biofeedback and similar forms of self-care or self-help training, and any other related diagnostic testing.

x. Chiropractic care, except as otherwise specifically provided in the Plan Document.

y. Circumcision, ritual. Routine circumcision rendered at the time of, or shortly after birth, in conjunction with maternity and Newborn Child.

z. Consultations with Doctors by telephone, facsimile, e-mail or any other form of electronic transmission, or a Doctor's stand-by or waiting time.

a1. Eye refractions, contact lenses, eyeglasses and refractive surgery, such as radial keratotomy or Lasik, to correct vision problems.

b1. Cosmetic surgery and all cosmetic Services.

c1. Custodial, domiciliary and convalescent care, including nutritional supplements and/or formulas used for nutritional supplement.

d1. Dental appliances.

e1. Dental care.

f1. Dental work or oral surgery, including endontic (root canal) and periodontic Services, except as otherwise specifically provided in the Plan Document.

g1. Dental Services, except for Services and surgical procedures as otherwise specifically provided in the Plan Document.

h1. Exercise equipment and other similar non-medical products or supplies. Vitamins, steroids, muscle-enhancing powders, muscle stimulation devices and other related items used solely for the purpose of exercise are also not covered, even if prescribed by a Doctor.

i1. Experimental Services, including any clinical visits, inpatient stays, Drugs, laboratory testing, x-rays, and other Services related to such Experimental Services.

j1. Fertility / infertility Services, including diagnosis or treatment of infertility, fertilization by artificial means, such as artificial insemination, in-vitro fertilization and embryo transplants, and any and all other Drugs or Services intended to induce pregnancy.

k1. Foot reflexology, or orthotics, except as related to specific diabetic conditions.

l1. Gastric bypass, stomach, or other organ stapling or reversal.

m1. Growth hormone therapy, except replacement therapy Services due to hypothalamic-pituitary axis damage caused by primary brain tumors, trauma, infection, or radiation therapy.

n1. Heat lamp treatments, except as provided in conjunction with covered maternity and delivery Services.

o1. Hospice care.

p1.. Implants, and any related Services, supplies and Drugs, sought for cosmetic purposes or to enhance or improve physical appearance.

q1. Liposuction.

r1. Living expenses.

s1. Massage treatments.

t1. Maternity Services for non-Spouse Dependent.

u1. Military service-connected disabilities for which the Enrollee is legally entitled to care from military medical facilities and for which military medical facilities are reasonably available to the Enrollee.

v1. Occupational therapy, except as otherwise specifically provided in the Plan Document.

w1. Orthopedic shoes, insoles and other similar external supportive devices for the feet.

x1. Other health and accidental insurance coverage and third party liability settlements.

y1. Palliative treatments.

z1. Personal comfort and convenience items, such as telephones, radios, televisions, and barber and beauty Services.

a2. Physical exams, when required for obtaining or continuing employment, insurance, schooling, Government licensing, or sporting activities.

b2. Physical therapy, except as otherwise specifically provided in the Plan Document.

c2. Private duty nursing.

d2. Rehabilitation therapy, except as otherwise specifically provided herein.

e2. Replacement of joints.

f2. Rest cures.

g2. Rest homes, sanitariums and other institutions that are not Hospitals or Skilled Nursing Facilities.

h2. Reversal of voluntary sterilization.

i2. Services rendered for Drugs, food substitute or supplement or any other product which is primarily for weight reduction even if it is prescribed by a Physician, including weight loss or weight control programs, Services and food products.

j2. Services of an Injury or illness resulting from the Enrollee's attempted suicide.

k2. Services for an Injury or illness resulting from major natural disaster or from act of war (whether or not a state of war legally exists).

l2. Services for an Injury sustained because of the Enrollee's participation, either as a driver or passenger, in racing, pace making or speed testing of any motor vehicle (including boats), whether such activity is formal and organized or informal and spontaneous.

m2. Services for an Injury sustained because of the Enrollee's commission of a criminal act including driving under the influence of alcohol or other controlled substance.

n2. Services for an intentionally self-induced illness or self-inflicted Injury, while the Enrollee was sane or insane.

o2. Services not Medically Necessary.

p2. Services or supplies for treatment or diagnosis of Temporomandibular Joint (TMJ) disorders or other conditions involving joints or muscles related to TMJ.

q2. Services or supplies not specifically described as covered in this Plan description. (Example: Subscriber's grandchild for which no Court Ordered legal guardianship exists).

r2. Services and supplies provided to a Dependent of a non-Spouse Dependent. Dependents of non-Spouse Dependents are not eligible for coverage. When a Dependent, other than a Spouse of the insured, has a Child, that Child is a Dependent of a non-Spouse Dependent and is not eligible to become covered under this Plan.

s2. Services for sexual dysfunction or inadequacies.

t2. Substance Abuse Services. Any Service related to alcohol, Drug or intoxicating substance abuse, dependence or addiction. Hospital, treatment facility, Medication, counseling and other related charges for these Services are also excluded.

u2. Telephone calls to or from a Doctor or a Doctor's office even if a Doctor charges for such calls.

v2. Training for custodial care or self-care such as for personal hygiene.

w2. Transportation, except as otherwise specifically provided herein. No benefits will be paid in connection with airfare and transportation from the Commonwealth to Off-island facility, nor for any other non-medical expenses such as taxes, taxis, hotel rooms, etc. (travel expenses and/or subsistence).

x2. Transportation of the remains of any deceased person will in no way be paid by the Government Health Insurance.

y2. Transsexual Services, to include sex transformations or sex change operations and any and all prosthetic devices related to sexual transformations or sex change operations, or treatment of sexual dysfunction regardless of cause.

z2. Treatment of baldness, including hair transplants and topical ointments, concoctions, shampoos or other remedies.

a3. Tuberculosis.

b3. Excluded Prescription Services:

i. Non-FDA-approved prescriptive contraceptive Drugs or devices.

ii. Drugs and medicines for which a Prescription from a Doctor is not required under U.S. federal law, or those excluded from coverage in any Formulary selected, adopted, or implemented by the Plan.

iii. Drugs or medicines which may be lawfully obtained without a Prescription order of a Physician or Doctor or dentist, except insulin.

iv. Therapeutic devices or appliances, including hypodermic needles or syringes, support garments, and other non-medical substances or items, regardless of their intended use, except for insulin syringes and insulin needles.

v. Administration of Prescription Drugs or injections.

vi. Drugs labeled: "Caution: Limited by Federal Law to Investigational Use," or, Experimental Drugs, even though a charge may be made to the Enrollee.

vii. Medication which is to be taken or administered to the Enrollee in whole or in part, while a patient (inpatient or outpatient) in a licensed Hospital, rest home, sanitarium, extended care facility, convalescent Hospital, nursing home or similar institution which operates on it premises a facility for Dispensing pharmaceuticals. (Medication administered while an inpatient is submitted as a Hospital expense and will be covered under the inpatient Hospital benefit).

viii. Filling or refilling a Prescription in excess of the amount, number or quantity of Medication prescribed or specified by the Doctor or Physician, or any refill Dispensed without the Doctor of Physician's authorization, or any refill Dispensed after one year from the date of the written order of the Doctor or Physician.

ix. Prescription charges incurred after termination of coverage of the Enrollee.

x. Appliances, devices, bandages, heat lamps, braces or splints, except as otherwise specifically covered under this Plan.

xi. Vitamins, cosmetics, dietary supplements, health and beauty aids, or smoking cessation aids.

xii. Drugs or Medications Dispensed by a Doctor or Dentist who is not a registered Pharmacist, or otherwise permitted by law to legally Dispense Medications.

xiii. Weight control Medications, supplements or concoctions.

xiv. Retin A for Subscribers or Dependents over the age of 24 years.

xv. Drugs, Medications, solutions or concoctions for treatment of hair loss.

xvi. Viagra, or other impotency Drugs, Medications, solutions or concoctions.

xvii. Injectable Medications, unless pre-authorized as an eligible benefit, except insulin.

xviii. Any and all Drugs or Medications related to the treatment of infertility and/or sexual dysfunction.

H. The Plan shall not be required to pay any claim until it determines that the Enrollee was provided Services covered by this Plan. Payment will not be made for Services not actually rendered.

I. The Plan will not pay benefits when confinement in a Hospital or in a Skilled Nursing Facility is primarily for custodial or domiciliary care. Custodial or domiciliary care includes that care which consists of training of personal hygiene, routine nursing Services, and other forms of self-care or supervisory Services by a Physician or nurse for a person who is not under specific medical, Surgical, or psychiatric treatment to reduce such person's disability and to enable such person to live outside an institution providing such care. However, benefits for confinement in a Hospital or Skilled Nursing Facility will be paid if such confinement is required because of a concurrent Injury or illness (whether related or not) which requires medical or Surgical Services otherwise provided as benefits under this Plan.

ARTICLE 9 – HEALTH CARE PROVIDERS

9.01. Any Provider world-wide is eligible to provide Covered Benefits to Enrollees, provided such Provider has not been eliminated as a Provider by the Administrator pursuant to Article 11, Section 11.11.A.

9.02. The Program does not maintain an employment or other relationship with any Provider.

9.03. The Program is not responsible for the negligence, intentional misconduct or any other action or inaction of any Provider.

9.04. The Program, as long as the Program has contracted with a Third Party Administrator, shall maintain a network of Preferred or Participating Providers. These providers will offer a variety of Services to Enrollees, including, but not necessarily limited to, routine medical care, specialty Services, in-patient and outpatient Services and pharmaceutical Services.

9.05. The Program, as long as the Program has contracted with a Third Party Administrator that maintains contracts for Services with Health Care Providers, will maintain and periodically update, a Provider directory that lists all Preferred or Participating Providers in the Plan's network, and On-island Providers that are qualified or approved to provide Services to Enrollees.

ARTICLE 10 – PREMIUMS

10.01. Premiums consist of Contributions from the Government and the Subscriber.

10.02. The amount of the Subscriber Contributions will be based on the Premium rates as determined by the Board.

10.03. The amount of the Government Contributions will be based on the Premium rates as determined by the Board.

10.04. Retroactive changes to the Premium rates are not permitted.

10.05. All Employee Contributions shall be made through deductions from the Employee's paycheck, except that Employees on leave without pay shall pay 100% of the Premium to the GHLI Trust Fund and deliver it to the Fund on a monthly basis in advance.

10.06. All Retiree and Survivor Contributions shall be paid through deductions from their pension annuity payments. Government Contributions for Retirees and Survivors shall be made by the Fund.

10.07. Within five (5) working days following the close of each pay period, each autonomous agency, public corporation and other Government entity that processes its own payroll shall remit to the Fund the total Premiums, including Contributions deducted from Employees' paychecks for all enrolled, active Employees under their supervision. Also within such five (5) working days, the Department of Finance shall remit to the Fund the total Premiums, including Contributions deducted from Employees' paychecks for all other enrolled, active Employees. Payment shall be made to the GHLI Trust Fund and delivered to the Administrator. If such Premiums are not received by the Fund by the 10th working day following each pay period, interest will be charged on the amount due at a rate determined by the Board.

10.08. With each Premium remittance, each autonomous agency, each public corporation, any other Government entity that processes its own payroll, and the Department of Finance shall submit to the Administrator a list of all enrolled Employees for whom Premium is being paid. This list will be the definitive identification of all active Employees enrolled in the Program.

10.09. With each Premium remittance, the Administrator shall prepare a list of enrolled Retirees, Survivors, and Employees on leave without pay, for whom Premiums were paid. This list will be the definitive identification of all those Retirees, Survivors and Employees on leave without pay enrolled in the Program.

10.10. The Administrator shall maintain a current list of all enrolled Dependents.

10.11. It is the responsibility of each applicable person or paying entity to make certain that Premiums are fully and timely paid.

10.12. The Administrator will issue a receipt of payment to each person or entity submitting Premiums to the GHLI Trust Fund.

10.13. The Administrator shall cause all Premiums received to be deposited into the GHLI Trust Fund.

10.14. The Board shall, at least annually, engage an experienced health insurance actuary or underwriter to review the financial status of the Program, to review this Plan Document, and to make such recommendations for changes as the Board deems necessary. Based on such recommendations, the Board may revise, as it deems necessary, (a) the Premium rates for the Program, (b) the Contributions required of Subscribers and the Government, and (c) this Plan Document.

10.15. The Chart below details the bi-weekly Contributions required from Subscribers and the Government, and the total Premium, beginning on the Effective Date of this Plan Document, which Effective Date is April 23.2003.

Beginning with the partial Plan Year that commences April 23, 2003, the Government Contribution and total Premium for each category and option of coverage shall be as follows (see next page).

Unless determined otherwise by actuarial study and recommendation, the Government Contribution to Premiums shall increase by five percent (5%) annually, each such increase to become effective at the beginning of the Plan Year, with the first such increase being effective in January 2003. The automatic increases shall continue annually until such time the Government's Contribution is equal to the Subscriber's Contribution.

Contribution Rates

Rates Effective April 23, 2003

Type of Enrollment	Enrollment Code Number	Contribution Distribution	Retiree Semi-monthly Cost	Active Bi-weekly Cost
Self Only High Option	201	Government Contribution Subscriber Contribution Total Premium	$12.67 $40.85 $53.52	$11.70 $37.71 $49.41
Self Plus One High Option	202	Government Contribution Subscriber Contribution Total Premium	$22.93 $73.93 $96.86	$21.17 $68.24 $89.41
Self Plus Four High Option	203	Government Contribution Subscriber Contribution Total Premium	$ 33.21 $ 107.00 $140.21	$ 30.66 $ 98.76 $129.42
Self Plus Five Plus High Option	204	Government Contribution Subscriber Contribution Total Premium	$ 43.62 $140.06 $183.68	$ 40.26 $129.28 $169.54
Self Only Low Option	205	Government Contribution Subscriber Contribution Total Premium	$ 7.96 $25.70 $33.66	$ 7.35 $23.72 $31.07
Self Plus One Low Option	206	Government Contribution Subscriber Contribution Total Premium	$13.54 $43.78 $57.32	$12.50 $40.41 $52.91
Self Plus Four Low Option	207	Government Contribution Subscriber Contribution Total Premium	$19.11 $61.86 $80.97	$17.64 $57.10 $74.74
Self Plus Five Plus Low Option	208	Government Contribution Subscriber Contribution Total Premium	$ 24.69 $ 79.94 $104.63	$22.79 $73.78 $96.57

ARTICLE 11 – CLAIMS AND PAYMENT FOR SERVICES

11.01. Only Services provided by clinical laboratories, home health agencies, Hospitals, Physicians (M.D., D.O., O.D., D.P.M., D.D.M., or D.D.S.), Skilled Nursing Facilities, Doctors of chiropractic, Physician Assistants, advanced practice registered nurses and physical or occupational therapists who qualify as such under the requirements of the Federal Medicare Program, or are certified or licensed by the proper government authority, and render Services within the lawful scope of the respective licenses, and are approved by the Plan will be covered. Benefits may be available for Services rendered by other Providers as shown in specific sections of this Plan.

11.02. **Filing of Claims (General Rules).**

A. All claims must be filed on Claim Forms as prescribed by the Administrator except as otherwise provided in this Article 11.

B. All claims must be accompanied by a Provider billing acceptable to the Administrator. Such billing must be itemized and must show at least the following:

1. Name of Enrollee.

2. Name, address, telephone number and professional license number of Provider.

3. Dates Services were received or rendered.

4. Nature of illness or Injury and specific diagnosis.

5. Services and/or treatment provided.

6. Prescriptions Filled, if applicable.

7. Physician's or authorized representative's signature.

11.03. **Payment of Claims (General Rules).**

A. All claims eligible for reimbursement of Eligible Charges and Allowable Expenses, less any required Co-payment or Coinsurance, will be paid by the Administrator or by the Program's Third Party Administrator, if any, from the GHLI Trust Fund, or other claims payment account as established by the Program and/or its Third Party Administrator, if any, to either the Provider or the Subscriber as specified in this Plan Document.

B. Should any claim overpayment to a Provider be discovered, the Administrator will attempt to recover it. However, regardless of whether

recovery is made, the amount of such overpayment will not be charged to the Enrollee's Annual Maximum or Lifetime Maximum.

C. Should any claim underpayment be discovered, the Administrator shall pay the shortfall when possible, and charge the amount of such payment against the Enrollee's Annual Maximum and Lifetime Maximum.

D. All claims and accompanying documentation will be retained by the Administrator.

E. The Trust Fund reserves the right to utilize the Services of a Third Party Administrator to handle and process payment of claims. In the event the Trust Fund employs such Service, any reference, herein in this Article 11, to the Administrator shall refer to that Third Party Administrator, to the extent permissible under this Plan Document and any contract or agreement for Services between the GHLI Trust Fund and the Third Party Administrator ("TPA").

11.04. **Filing of Claims by Providers.**

A. Claims incurred at Government health facilities, including the Commonwealth Health Center, the Rota Health Center, and the Tinian Health Center, shall be filed directly with the Administrator by such facility on the Enrollee's behalf, except, if the Program has contracted with a Third Party Administrator, all claims must be filed directly with that Third Party Administrator.

B. Private sector Providers and Providers outside the CNMI may file claims directly with the Administrator on the Enrollee's behalf, except, if the Program has contracted with a Third Party Administrator, all claims must be filed directly with that Third Party Administrator.

C. Providers filing claims may file Claim Forms on their own insurance forms, provided such other forms are acceptable to the Administrator, or Providers may file claims electronically in accordance with the requirements of the Administrator, or the requirements as established with the Program's Third Party Administrator, if any.

11.05. **Payment of Claims to Providers.**

A. Claims filed by Government health facilities will be paid to such facilities. Claims filed by other Providers will be paid to the applicable Subscriber unless payment has been assigned to the Provider as specified in Section 11.05.B below.

B. A Subscriber or the Subscriber's enrolled Spouse may assign payment of his or her benefits, or those of the Subscriber's enrolled Children, to a Provider by signing a written statement authorizing the Administrator, or

the Program's Third Party Administrator, to pay the Provider rather than the Subscriber.

C. If a claim is paid to a Provider, the Administrator, or the Program's Third Party Administrator, will notify the Subscriber in writing of such payment.

D. **Preferred and Participating Providers.** When covered Services are rendered by a Preferred or Participating Provider, the Plan will pay benefits directly to the said Provider. Preferred and Participating Providers have agreed to limit their charges to Enrollees to not more than a specified amount. In addition, Preferred and Participating Providers have agreed not to collect from any Enrollee an amount exceeding the Enrollee's Co-payment or Coinsurance in this Plan.

Non-Participating Providers. The Plan has no agreement with Non-Preferred or Non-Participating Providers and they may charge the Plan's Enrollees more than the Eligible Charge for any Service. The Plan's benefit payments for Services rendered by Non-Preferred or Non-Participating Providers will be a specified portion or percentage of the Eligible Charge for the Service. The Enrollee is responsible for paying the specified Co-payments or Coinsurance plus any amount by which the Provider's charge exceeds the Eligible Charge. Payment of claims for Services covered by this Plan and rendered by a Non-Preferred or Non-Participating Provider:

1. are not assignable;

2. shall be made by the Administrator, or the Program's Third Party Administrator, in its sole discretion, directly to the Provider or to the Subscriber or to the Dependent or, in the case of the Subscriber's death, to his or her executor, administrator, Provider, Spouse, or relative; and

3. shall in no event exceed the amount which the Plan would pay to a comparable Participating Provider for like Services rendered.

11.06. **Filing of Claims by Enrollees / Dependents.**

A. Claim Forms for reimbursement must be completed by the Subscriber or the Subscriber's enrolled Spouse and delivered to the Administrator.

B. Enrollees eighteen (18) years of age and over at the time of Service are required to sign each claim submitted unless they are incapable of doing, so rather than stamping a Claim Form with the phrase "SIGNATURE ON FILE".

C. Claims submitted for Dependents under eighteen (18) years of age at the time of Service must be signed by the Subscriber who is the parent or legal guardian.

11.07. **Payment of Claims to Subscribers.**

A. Claims will be paid to the Subscriber for all claims filed by the Subscriber, or on his or her behalf, or for any of the Subscriber's Dependents, unless payment to the Provider has been assigned pursuant to Section 11.05.B above.

B. In the case of a deceased Subscriber, payment of claims filed by the Subscriber will be made to the Subscriber's estate, or otherwise as ordered by a Court of competent jurisdiction.

C. Any claim for benefits with respect to a Child covered by a Qualified Medical Child Support Order ("QMCSO") may be made by the Child or by the Child's custodial parent or court-appointed guardian. Any benefits otherwise payable to the Subscriber with respect to any such claim shall be payable to the Child's custodial parent or court-appointed guardian.

11.08. **Timely Filing.** Claims must be filed promptly. The Administrator, or the Program's Third Party Administrator, will not accept claims filed more than one (1) year following the date on which the Service was rendered.

11.09. **Medical Necessity of Services.** This Plan covers only Medically Necessary Services; the Plan will not cover any unnecessary Services nor will the unnecessary portion of any charge be paid. The fact that a Physician may prescribe, order, recommend, or approve a Service does not in itself constitute medical necessity or make a charge as an Allowable Expense under this Plan. An Enrollee may ask a Physician to write to the Administrator for a determination regarding the medical necessity of a Service before it is performed. The Administrator will determine the medical necessity of the test or treatment based on the criteria and guidelines of the Federal agencies. To be considered Medically Necessary, a Service must meet all of the following criteria:

A. The Service or treatment must follow standard medical practice and be essential and appropriate for the diagnosis or treatment of an illness or Injury. Standard medical practice, with respect to a particular illness or Injury, means that the Service was given in accordance with generally accepted principles of medical practice in the United States at the time furnished.

B. The Service or treatment must not be "Experimental" (e.g., used in research or on animals), or "investigative" (e.g., used only on a limited number of people or where the long term effectiveness of the treatment has not been proven in scientific, controlled settings, and, where applicable, has not been approved by the appropriate government agency).

C. If there is more than one medically appropriate method of treating an Enrollee, the Plan's benefit will be based on the least expensive method,

even if the health care Provider elects to treat the Enrollee by a more expensive method. Similarly, if the Services could be provided in more than one type of facility or setting (e.g., Hospital or Physician's office), the Plan's benefits will be based on the least expensive facility or setting.

11.10. **Eligible Charges.** The Plan's benefit payments and the Enrollee's Co-payments for most Services are based on the Eligible Charges for the Services (i.e., the Enrollee pays a specified percentage or portion of the Eligible Charge for each Service). The Plan will not pay the portion of any charge that exceeds the Eligible Charge. General excise or other tax is not included in the Eligible Charge. An Enrollee is responsible for paying all taxes.

A. **Definition.** The Eligible Charge for a covered Service is, in most instances, the lower of the actual charge on the claim, the discounted charge negotiated by the Plan, the standard current reimbursement rate established by United States Medicare, or the charge listed for the Service in the Plans Schedule of Maximum Allowable Charges. For a covered Service which does not have a charge listed in the Schedule, the Plan will establish the Maximum Allowable Charge. The Plan also reserves the right to annually adjust the charges listed in the Schedule of Allowable Charges. In adjusting charges, the Plan will consider increases in the cost of medical and non-medical Services over the previous year, the relative difficulty of the Service compared to similar Services, changes in technology which may have affected the difficulty of the Service, payment for the Service under federal, state and other private insurance programs and the impact of changes in the charge on the Plan's health Plan rates.

B. **Claims for Routine Services Provided by Off-island Providers.**

1. **Non-Preferred or Non-Participating Providers.** Benefit payments for covered Services rendered outside the CNMI by Providers who are not Participating Providers under a third party administration contract are based on the Eligible Charges for the same or comparable Services rendered by Providers in the CNMI, or the geographic location where the Service is provided if the Service is not offered in the CNMI.

2. **Preferred or Participating Providers.** Benefits payments for covered Services rendered outside the CNMI by Providers who are Participating Providers under a third party administration contract are based on the Eligible Charges and paid in accordance with the agreement between the Third Party Administrator and the Provider.

C. **Claims for Routine Services Provided by On-island Providers.**

1. **Non-Preferred or Non-Participating Providers.** Benefits payments for covered Services that are routinely provided by the

Commonwealth Health Center will be reimbursed to independent Non-Preferred or Non-Participating Providers in the CNMI based upon the current U.S. Medicare rate.

2. **Preferred or Participating Providers.** Benefits payments for covered Services that are routinely provided by the Commonwealth Health Center will be reimbursed to independent Preferred or Participating Providers in the CNMI based upon the current U.S. Medicare rate.

D. **Claims for Specialty Services Provided by Off-island Providers.**

1. **Non-Preferred or Non-Participating Providers.** Benefits payments for covered Services that are considered to be specialty or sub-specialty Services and not routinely provided by the Commonwealth Health Center will be reimbursed to independent practicing Physicians outside the CNMI based on an Eligible Charge as established by the Plan and based upon the reimbursement rate for the same or similar procedure in a location where the procedure is performed on a more routine basis.

2. **Preferred or Participating Providers.** Benefits payments for covered Services that are considered to be specialty or sub-specialty Services, and are not routinely provided by the Commonwealth Health Center, by Providers who are Participating Providers under a third party administration contract are based on the Eligible Charges and paid in accordance with the agreement between the Third Party Administrator and the Provider.

E. **Claims for Specialty Services Provided by On-island Providers.**

1. **Non-Preferred or Non-Participating Providers.** Benefits payments for covered Services that are considered to be specialty or sub-specialty Services and not routinely provided by the Commonwealth Health Center will be reimbursed to independent practicing Physicians outside the CNMI based on an Eligible Charge as established by the Plan and based upon the reimbursement rate for the same or similar procedure in a location where the procedure is performed on a more routine basis.

2. **Preferred or Participating Providers.** Benefits payments for covered Services that are considered to be specialty or sub-specialty Services, and are not routinely provided by the Commonwealth Health Center, by Providers who are Participating Providers under a third party administration contract are based on the Eligible Charges and paid in accordance with the agreement between the Third Party Administrator and the Provider.

11.14. **Provider Signature.**

A. Claims submitted by Providers must include the signature of the Physician or authorized representative in the correct block on the Health Insurance Claim Forms. (HCFA 1500, UB92, HFCA 1450).

B. Statements of account must be accompanied by a Claim Form signed by the Physician or authorized representative in the correct block on the Claim Form, otherwise it will be rejected or sent back for proper documents, and substantiation.

ARTICLE 12 – MANAGED CARE

12.01. **Managed Care Program Reviews.** A prior review must be obtained from the Administrator for certain types of medical Services. The Administrator's prior review, often referred to as pre-certification or pre-authorization, is required before admission to a Hospital, or before receiving certain Surgical or diagnostic Services. The Plan may pay reduced benefits in cases where its prior review of otherwise covered Services is required, but is not obtained.

12.02. **Benefits Reductions.** Any benefits that would have been paid in connection with a Hospital admission, Surgical procedure, or diagnostic Services may be reduced by $300 if a required review is not requested and obtained. This $300 benefit reduction will also be applied if the Plan is not notified of an Emergency or maternity admission within forty-eight (48) hours of the event or by the next working day, whichever is later.

Additional expenses incurred by an Enrollee because of any reduction of benefits made by the Plan pursuant to this Article 12 shall not count toward the Annual or Lifetime Maximum.

A. **Preferred and Participating Providers.** When the Services are recommended or provided by a Preferred or Participating Provider, that Provider is responsible for obtaining any required Managed Care Reviews on the Enrollee's behalf. The Preferred or Participating Provider is responsible for obtaining pre-admission certification for the Enrollee, and failure to do so will not impose a penalty on the beneficiary.

B. **Non-Preferred and Non-Participating Providers.** When the Services are recommended or provided by a Non-Preferred or Non-Participating Provider, the Enrollee must assume responsibility for requesting any required review and for any reduction in benefits resulting from failure to do so.

12.03. **Preadmission Review.**

A. Before admission to a Hospital, for any treatment that can be scheduled in advance, the Enrollee or the Enrollee's Physician shall notify the Administrator and request a preadmission review (pre-certification or pre-authorization). If a preadmission review is not obtained, the Enrollee will have additional expenses as indicated in this Article 12.

Where the admission cannot be scheduled in advance, e.g. in cases of Emergency or maternity, the Enrollee or the Enrollee's Physician shall notify the Administrator as soon as practical after admission but in no event later than forty-eighty (48) hours or one (1) working day after the admission, whichever is later.

B. Approval of benefits for a Hospital admission will be based on whether the Hospital admission recommended by the Physician is Medically Necessary and whether the care can be provided safely and effectively out of the Hospital.

C. The Administrator will notify the Enrollee and the Enrollee's Physician in writing if the Plan approves payment of benefits for the admission. The Enrollee shall present the written notification to the Hospital upon admission. The Enrollee and the Enrollee's Physician will also be notified if payment of benefits for the admission is not approved. The Subscriber shall be responsible for all charges related to any Hospital admission for which the Plan has indicated it will not pay benefits.

12.04. **Surgical Review.**

A. The Plan has identified certain kinds of Surgical Services, which are sometimes performed even though non-Surgical treatment may be equally effective. Before scheduling any Surgical Services, the Enrollee or the Enrollee's Physician shall notify the Administrator and request a Surgical review. Where the admission cannot be scheduled in advance, e.g. in cases of Emergency or maternity, the Enrollee shall notify the Administrator as soon as practical after the surgery, but in no event later than forty-eighty (48) hours or one (1) working day after the surgery, whichever is later.

B. The Administrator will notify the Enrollee and the Enrollee's Physician of the results of its Surgical review. The Administrator may approve or deny payment of benefits for the surgery, or may condition the payment of such benefits on the Enrollee's receiving a second opinion on the necessity of surgery. An Enrollee may receive a second opinion at no cost to the Enrollee if the second opinion is arranged by the Administrator. After receiving a second opinion, the Enrollee and the Enrollee's Physician may decide whether to proceed with the surgery. The second opinion does not need to confirm the recommended surgery, however, the Enrollee shall be responsible for all charges related to Surgical Services for which the Plan has indicated it will not pay benefits. If a Surgical review is not obtained, the Enrollee will have additional expenses as indicated in Article 12, Section 12.02 above.

12.05. **Inpatient Review.**

A. The Administrator will periodically review each Enrollee's Hospital medical records for the appropriateness of the inpatient care provided to the Enrollee and the appropriateness of continuing hospitalization. This review will occur within forty-eighty (48) hours after admission and at set intervals, until the Enrollee is discharged from the Hospital. The Administrator will also review discharge plans for the appropriateness of after-Hospital care.

B. The review of the appropriateness of inpatient care and after-Hospital care is for benefit payment purposes. If the Administrator has a question regarding the appropriateness of the continuing hospitalization or after-Hospital care, or if the Administrator determines that benefits are not payable, the Enrollee and the Enrollee's Physician will be notified. If the Administrator decides that the continuation of any Service or care is not Medically Necessary or appropriate, the Enrollee and the Enrollee's Physician may still decide to continue with the Service or care, but benefits under this Plan will not be payable for that continued Service or care.

12.06. **Benefits Management Program.** The Administrator may assist an Enrollee by providing benefits for alternative Services that are medically appropriate but may not otherwise be covered under this Plan. Benefits for any alternative Services for an Enrollee's illness or Injury will be paid in lieu of benefits for regularly covered Services and will not exceed the total benefits otherwise payable for regularly covered Services.

These alternative Services will be paid at the Administrator's discretion as long as the Enrollee and the Enrollee's Physician agree that the recommended alternative Services are medically appropriate for the illness or Injury. Payment for alternative Services in one instance does not obligate the Plan to provide the same or similar benefits for the same or any other Enrollee in any other instance. Payment of these alternative benefits is made as an exception and in no way changes or voids the Plan benefits, terms and conditions, or the Plan Document.

12.07. If an Enrollee does not agree with a benefit determination made under the Preadmission Review, Surgical Review, Benefit Management Review, or Inpatient Review provisions above, the Enrollee may ask for a second review by the Plan's Administrator or Medical Director. The Administrator will notify the Enrollee of the results of such second review.

ARTICLE 13 – COORDINATION OF BENEFITS AND DOUBLE COVERAGE

13.01. When an Enrollee is covered by another group health insurance plan, including Medicare, the Coordination of Benefits Guidelines established by the National Association of Insurance Commissioners (NAIC) will be used to determine whether the Program will be the primary or secondary payor. These guidelines have included the following provisions:

A. The plan covering the Enrollee as an active Employee will be the primary payor.

B. If a Child is covered under two plans, the plan of the parent whose birthday occurs first in the calendar year will be the primary payor.

C. If other guidelines fail to establish which plan is the primary payor, the plan covering the Enrollee for the longer time will be the primary payor.

13.02. If the Program is the primary payor, it will pay for Covered Benefits in accordance with this Plan Document. If the Program is the secondary payor, it will pay a reduced amount, so that, when added to the amount payable by the other plan, the total amount paid by both plans will not exceed the Provider's charges for Covered Benefits. In no event will the amount paid by the Program exceed the Allowable Expenses it would have paid had it been the primary payor. Also, in no event will the Program pay for non-Covered Benefits.

13.03. The double coverage provision applies whether or not a claim is filed under the other plan. As a condition of enrollment, a Subscriber authorizes the Administrator to obtain information as to benefits available from the other plan, and to recover overpayment, should they occur, from the other plan, on behalf of the Subscriber and any of his or her enrolled Dependents.

For purposes of enforcing or determining the applicability of this Article, the Subscriber, on his or her own behalf or on behalf of his or her Dependents:

A. will disclose all coverage under any other plan;

B. consents to the Plan's releasing to any party or obtaining from any party any information which the Plan deems necessary for such purposes;

C. authorizes direct reimbursement to or from any other plan when such direct payment is appropriate and necessary to facilitate the coordination and adjustments of the Plan's and other plan's payments under this section; and

D. will, upon request, execute and deliver such instruments or documents as may be required to satisfy the intent of this section.

13.04. **Special Provisions Regarding Medicare and No-Fault Motor Vehicle Insurance Coverage.**

A. The Federal Medicare Program will be considered the primary plan unless the Enrollee is an active Employee covered under this Plan. Where an Employee or Dependent is covered by both Medicare and this Plan, applicable Federal statutes will determine which plan is primary. If the Enrollee reaches the eligible age or has a condition which makes him or her eligible for coverage under the Medicare Act, as amended (Title XVII of the Social Security Act of 1965), or is receiving Social Security income benefits, the Enrollee must enroll in all portions of the Medicare Program open to the Enrollee and sign and maintain in effect the necessary releases.

B. Any no-fault motor vehicle insurance coverage will be considered the primary plan and its benefits will be applied first. Before the Plan pays benefits under this Plan for any Injury covered by no-fault insurance, the Plan will list the medical expenses that no-fault covers according to the date on which the expenses were incurred. The Plan will add up the no-fault expenses for each successive day until the day when the no-fault benefit maximum is exhausted. From that day on, covered Services received by the Enrollee will be eligible for payment under this Plan. The Plan will follow this procedure even when the no-fault insurer pays all of its benefits for non-medical expenses or when the actual order of payment differs.

C. If another person caused the motor vehicle accident and the Enrollee may recover damages from that person, any benefits for which the Enrollee may be eligible shall be subject to the provisions of Article 13. The Plan is not liable to pay any benefits for injuries caused by another person, but may assist the Enrollee by providing coverage he or she would have received as a benefit after the no-fault benefits have been exhausted as described in subparagraph B above, subject to the right of subrogation.

13.05. An Enrollee may not seek double coverage by being a Subscriber, and also being the Dependent of another Subscriber under this Plan. Only one category of enrollment and coverage will be permitted.

ARTICLE 14 – SUBROGATION

14.01. If an Injury or illness of an Enrollee is or may have been caused by another person or party and the Enrollee has or may have a right to recover damages therefore against that person or party, the Plan shall not be liable to pay any benefits provided under this Plan. However, upon the execution and delivery to the Plan of all papers it requires to secure its rights of reimbursement, the Plan may pay benefits in connection with such Injury or illness. If an Enrollee is Injured or infected through the act or omission of another person or entity and recovers damages from the other person or entity, the Enrollee shall reimburse the Plan for the cost of the benefits provided by the Program in treating such condition. The amount of such reimbursement must equal the amount of the recovery or the Program's cost for such benefits, whichever is less. If the Plan pays any benefits because of such Injury or illness, the Plan shall have a lien against any recovery to the extent of such payments. Such lien may be filed with such other person or party, his or her agent or insurance company, or the court; and such lien shall be satisfied from any recovery received by the Enrollee.

14.02. If there is no recovery of damages, the Plan shall be subrogated to the Enrollee's rights against the wrongdoer to the extent of the cost of the benefits provided by the Plan, including the right to sue in the Enrollee's name and to compromise the claim in order to indemnify the Plan for amounts paid.

14.03. It is a condition of enrollment in the Plan that each Enrollee agrees that he or she, his or her guardian, his or her Survivor, and his or her estate will execute and deliver an assignment of claim payment form, and any other necessary forms prescribed by the Administrator, to the Administrator upon request, and shall render all necessary assistance, other than pecuniary, to enable the Plan to secure the rights provided by this Article.

ARTICLE 15 – CHANGING BENEFITS AND ENROLLMENT

15.01. The benefit options under the Program are the "High Option Plan" or the "Low Option Plan". The enrollment options under the Program are "self only", "self plus one", "family plus four" or "family plus five plus". The following table summarizes some basic rules for changing benefit or enrollment options:

(SEE CHART ON NEXT PAGE)

CHART ON CHANGING ENROLLMENT / BENEFITS

Events which permit enrollment or change in enrollment	Changes permitted by Subscriber or prospective Subscriber							Time during which an application form must be filed with the Administrator	
	From not enrolled to ENROLLED	From SELF only to Self Plus One	From SELF only to Plus Four	From SELF only to Plus Five Plus	From Plus Four OR Plus Five Plus to SELF only	From Plus Four or Plus Five Plus to Self Plus One	From Plus Four to Plus Five Plus	From one OPTION to another	
Open Season	YES	YES	YES	YES	YES	YES	YES	YES	November of each year or as otherwise specified by the Administrator.
Acquisition of Spouse or Child	NO (unless special enrollment permitted)	YES	YES	YES	NO	NO	NO	NO	Within 30 days of acquisition (or according to HIPAA rules for special enrollment)
Loss of other coverage	NO (Unless special enrollment permitted)	YES	YES	YES	N/A	N/A	N/A	N/A	According to HIPAA rules of special enrollment.
Divorce, legal separation, annulment, death of a Spouse or Child, a Child's loss of Dependent Status	NO (Unless special enrollment permitted)	NO (Unless special enrollment permitted)	NO (Unless special enrollment permitted)	NO (Unless special enrollment permitted)	YES	YES	YES	NO	Within 30 days of event (or according to HIPAA rules for special enrollment)
Change in status from Spouse to Survivor of former Retiree	YES	YES	YES	YES	YES	YES	YES	NO	Within 30 days of (a) the date the Administrator approves the Survivor's application for survivor annuity benefits, or (b) the original effective date of this Plan Document.

The chart in 15.01 above is a summary of some basic rules for changing benefit or enrollment options and is not an all inclusive listing of all possible situations. Subscribers should not rely only on this chart, but must also review this entire Plan Document, including Article 3 on eligibility and Article 4 on enrollment to fully understand these rules.

15.02. In addition to the rules outlined in Article 15, Section 15.01, the following rules also apply to changing benefit options:

A. If the Subscriber changes from one benefit option to another, such change is also applicable to all of the Subscriber's enrolled Dependents.

B. The new benefit option will apply only to Services received after the change is effective.

C. Plan Year limitations and maximums for each Enrollee under the new benefit option will be reduced by the amount paid by the Program for the Enrollee for that Plan Year under the former benefit option.

D. Any amount remaining under the Lifetime Maximum under the former benefit option will be transferred to the new benefit option, however in no event will a transfer result in a Lifetime Maximum which exceeds the limits as specified in this Plan Document.

E. The Effective Date of the change will be the first day of the Government's next pay period or, for Retirees and Survivors, the date of the next annuity installment payment, unless the change is made during an Open Season, in which case the change will be effective as the date specified by the Administrator.

15.03. In addition to the rules outlined in Article 15, Section 15.01, the following rules also apply to changing enrollment options:

A. A Subscriber may cancel his or her enrollment and that of any of his or her enrolled Dependents at any time.

B. Enrollment changes made pursuant to a change in family status must be consistent with such change in status, and the Enrollee must provide any documentation required by the Administrator to substantiate such change in status.

15.04. To change benefit or enrollment options, the Subscriber must file an Enrollment Change Form with the Administrator.

15.05. No change in benefit or enrollment options will be effective without the approval of the Administrator. If the Administrator has not acted upon an application for change in benefit or enrollment option within thirty (30) days of its receipt, the application shall be deemed denied.

ARTICLE 16 – ADMINISTRATION

16.01. The Board has ultimate and fiduciary responsibility for the administration and management of the Program and the GHLI Trust Fund. The Board will administer and manage the Program in accordance with this Plan Document and the Act. The Board may promulgate administrative or interpretive rules and/or regulations governing the Program, provided that such rules must be consistent with this Plan Document, the Act and other applicable law. Any such rules shall be applied as if they were part of the Plan Document.

16.02. The Administrator has the authority to make decisions, as necessary for the optimal functioning of the Program, within the authority granted him by the Act, this Plan Document and Board directives.

16.03. The Administrator is responsible for the daily functions of the Program including, but not limited to, receiving and depositing Premiums, receiving and processing claims, communicating and explaining the Program to current and prospective Enrollees, responding to inquiries, and guarding against Enrollee and Provider fraud.

16.04. The Administrator will create and maintain all necessary Program records including Premiums received, enrollment, claims processed, claims paid, and amounts accumulated toward each Enrollee's Coinsurance maximum, family Out-Of-Pocket Maximum, Annual Maximum, Lifetime Maximum, and any other maximums.

16.05. The Board, through the Administrator, has the authority to contract with private sector third party administrators to administer medical care within and outside the CNMI.

16.06. The Board, through the Administrator, has the authority to contract with private sector third party insurers and/or administrators to insure and/or administer the Program.

16.07. Subject to the review and oversight of the Board, the Administrator shall have all discretionary powers necessary to administer the Program and control its operation in accordance with the terms of this Plan Document and applicable law, including but not limited to the power to (a) interpret the provisions of this Plan Document, (b) to determine any question relating to the administration or operation of the Program subject to Article 19, and (c) make and enforce decisions regarding who is eligible for benefits and the amount of benefits payable in any particular case. All decisions of the Administrator, any actions taken or omitted by the Administrator in respect of the Program and within the powers granted by the Act or under this Plan Document, and any interpretation of this Plan Document by the Administrator shall be conclusive and binding on all persons other than the Board, and shall be given the maximum possible consideration allowed by law, subject to Article 20.

16.08. **Annual Budget.**

A. By September 30 each year, unless otherwise directed by the Board, the Administrator will prepare an annual budget for the operation of the Program to include the expected Premiums, claims, administrative costs, and other Allowable Expenses for approval by the Board. Such budget shall be for the next Fiscal Year.

B. The annual operating budget shall be approved, or revised and approved, by the Board on or before the beginning of each Fiscal Year. The approved budget will be transmitted by the Board to the Office of Management and Budget and to the Office of the Governor for informational purposes only.

C. In the event of a shortfall occurring during any Fiscal Year, the Administrator will prepare a revised budget to cover the shortfall. However, the total budget shall not exceed the estimated Premiums to be received during that Fiscal Year.

16.09. **GHLI Trust Fund.**

A. The GHLI Trust Fund was established in accordance with Section 5 of the Act for holding Premiums and any investment earnings thereon.

B. Moneys in the GHLI Trust Fund are to be expended for the payment of claims, Premiums to third party health insurance companies (if any), reasonable costs of administration, and other Allowable Expenses related to the Program.

C. The Administrator shall maintain the GHLI Trust Fund at any recognized financial institution whose deposits are insured by an agency of the U.S. Federal government. However, the full amount of money held in the GHLI Trust Fund need not be so insured.

D. The Administrator, under the direction of the Board, shall have sole and exclusive expenditure authority over the GHLI Trust Fund.

E. The Administrator shall establish an accounting system for the GHLI Trust Fund in accordance with Generally Accepted Governmental Accounting Standards and issue accounting reports to the Board as required but at least semiannually.

F. The Administrator shall report to the CNMI Legislature and Governor on the financial status of the GHLI Trust Fund within sixty (60) days after the end of each Fiscal Year.

G. When the GHLI Trust Fund reaches $3 million dollars in excess of the amount estimated to cover obligations for one (1) full year, the Board may invest such excess funds in other appropriate investment programs

consistent with the fiduciary standards and procedural rules for investment of the NMI Retirement Fund assets.

ARTICLE 17 – AMENDMENTS

17.01. The CNMI Legislature has the power to abolish the Program or amend the law creating and governing the Program at any time. The Board has the authority to change or modify the Program or amend any and all provisions of the Program at any time by rule and/or regulation pursuant to Public Law 10-19, and the Administrative Procedure Act at 1 CMC 9101, *et. seq.* However, no action by the Board in making such change, modification or amendment shall adversely affect any claim for any Covered Benefit, which was incurred before the Effective Date of such amendment.

17.02. Significant amendments by the Legislature or by the Board, through rule making or regulation, will be communicated by the Administrator in accordance with Article 18, Section 18.02.

ARTICLE 18 – COMMUNICATIONS

18.01. Communications from Enrollees and any other interested persons regarding the Program should be addressed to the Administrator, CNMI Group Health Insurance Program, NMI Retirement Fund, 1st Floor, Retirement Fund Building, Capitol Hill, P.O. Box 501247, Saipan, MP 96950-1247, telephone (670) 664-8026, fax (670) 664-8074.

18.02. Any significant amendments to the Act or this Plan Document and any other pertinent information regarding the Program shall be communicated to Enrollees in accordance with the Administrative Procedure Act. In addition, they shall be posted in the Fund/GHLI offices, as well as, directly provided to Enrollees through Employees' pay checks and Retirees' annuity checks. The Administrator will make reasonable best efforts to notify Survivors, Employees on leave without pay and other interested parties.

18.03. Workshops explaining the Program will be conducted periodically, usually during "new Employees orientations", which are usually held at least once every quarter. Similar workshops will also be held upon request by any Government department, agency or other entity.

18.04. Employee meetings will be held during Open Seasons during working hours through coordination between the Administrators and department and agency heads to explain the Program. All Employees may attend such meetings and ask any questions about the Program.

ARTICLE 19 – TERMINATION

19.01. Enrollment in the Program will terminate, subject to reconsideration and appeal as provided in Article 20:

A. for an Enrollee if he/she no longer meets the definition of "Enrollee";

B. for an Enrollee if such individual files a "false claim" pursuant to Article 11, Section 11.11.B;

C. for an Enrollee if the Enrollee dies;

D. for all Enrollees if the Government terminates the Program;

E. for a Subscriber if the Subscriber terminates his or her enrollment;

F. for a Dependent if the Subscriber's enrollment terminates;

G. for a Dependent if the Subscriber terminates the enrollment of the Dependent;

H. for a Survivor and all Dependents of the former Subscriber if the Survivor remarries;

I. for an Employee 30 days after the Employee ceases to be employed by the Government, unless the former Employee qualifies as a Retiree;

J. for a Spouse on the first day of the month following termination of the marriage, other than through death of the Subscriber;

K. for a Child if he/she no longer meets the definition of "Child";

L. for an Enrollee if the Enrollee reaches the eligible age or has a condition which makes him or her eligible for coverage under the Medicare Act, as amended (Title XVII of the Social Security Act of 1965), or is receiving Social Security income benefits, but fails to enroll in all portions of the Medicare Program open to the Enrollee and refuses to sign and maintain in effect the necessary releases.

19.02. Except as specified in Section 19.01.I above, all terminations of enrollment will be effective as of the first day of the pay period or semi-monthly annuity period following the event causing the termination.

19.03. If a Subscriber's enrollment terminates, coverage for all of such Subscriber's enrolled Dependents also terminates as of the Subscriber's date of termination except as specifically provided for Survivors in Article 4. A Subscriber whose enrollment has terminated will not be eligible to re-enroll until an Open Season is declared or unless the Subscriber otherwise becomes eligible.

Notwithstanding the previous sentence, if the Subscriber's enrollment terminates because of non-payment or untimely payment of Subscriber Contributions while the Subscriber is on leave without pay pursuant to the Family and Medical Leave Act of 1993, or if the Subscriber qualifies under the Uniformed Services Employment and Reemployment Rights Act of 1993, the provisions of those acts will govern.

19.04. If an enrolled Dependent no longer meets the definition of "Dependent", the Subscriber must ensure that the Administrator is notified within thirty (30) days of the date the change occurred. If the Administrator is not so notified, payment of benefits for such Dependent will be denied retroactively to the date the change occurred, even though Premiums were paid, and Premiums will not be refunded. Also, any claim filed on behalf of such Dependent may be considered a "false claim" pursuant to Article 11, Section 11.11.B.

19.05. Except as specifically provided in Section 19.04 above, the Administrator will refund any pre-paid Subscriber Contributions within sixty (60) days following termination of enrollment. Pre-paid Government Contributions will not be refunded.

19.06. The CNMI Legislature has the power to abolish the Program or amend the law creating and governing the Program at any time.

ARTICLE 20 – RECONSIDERATION AND APPEALS

20.01. If a claim for benefits, application for enrollment, enrollment change or continued enrollment is denied in whole or in part for reasons other than for failing to meet a stated time deadline, or if adverse action is otherwise taken against the claimant, the claimant or the claimant's representative may submit a written request for reconsideration to the Administrator within twenty (20) days after the notice of denial is issued or other adverse action is taken. The claimant or claimant's representative must state the reason he or she believes the denial was inappropriate and may submit any supporting data. An Enrollee has the right to be represented by an attorney of his or her choosing or by any person, including the Enrollee's Service Provider or a representative of the Enrollee's Service Provider.

20.02. The Administrator will discuss the request for reconsideration with the claimant or claimant's representative at an informal conference either by telephone or in person at the option of the claimant or the claimant's representative. Such informal conference will be held within thirty (30) days following the Administrator's receipt of the written request for reconsideration if at all possible. The Administrator shall require the written consent of the claimant or his or her authorized representative before discussing privileged or confidential medical information to any non-privileged third party.

20.03. The Administrator's decision on reconsideration shall be in writing and sent to the claimant or claimant's representative, within twenty (20) days of the informal conference. The Administrator shall state the specific reasons for his or her decision and refer to the provisions in the Act, the Plan Document or other rules or regulations on which the decision is based.

20.04. If the claimant is adversely affected by the Administrator's decision on reconsideration, the claimant or claimant's representative may appeal to the Board within twenty (20) days of the Administrator's decision on reconsideration, pursuant to the Administrative Procedures Act and other applicable law or rules and regulations. Such appeal must be in writing and sent to the Chairman, Board of Trustees, NMI Retirement Fund, P.O. Box 501247, Saipan, MP 96950-1247. The claimant shall also serve a copy of the appeal on the Administrator within the same time period.

20.05. Upon receipt of a notice of appeal, the Board may appoint a hearing officer to hold a hearing on the record or, in an appropriate case, the Board may itself conduct a hearing on the record. The hearing shall be conducted according to the procedures set forth in the Administrative Procedures Act and the claimant shall have all rights guaranteed thereunder.

20.06. Any further appeal or review of the Board's decision shall be made to the Commonwealth Superior Court in accordance with 1 CMC Section 9112(b) and 9113. If the Court finds in favor of the Plan, the claimant shall be liable for attorney's fees and other costs incurred by the Plan in its defense. If the Court

finds in favor of the Claimant, the Plan shall pay its own attorney's fees and other costs and those of the claimant.

ARTICLE 21 – GOVERNING LAWS

21.01. Notwithstanding any other provision of this Plan Document, the Program will be administered in accordance with applicable CNMI and U.S. Federal government laws, except in cases in which the CNMI has the authority to and has chosen to opt-out of such laws. Such laws include the Retirement Fund Act, the Public Health Service Act, the Health Insurance Portability and Accountability Act of 1996, the Mental Health Parity Act of 1996, the Family and Medical Leave Act of 1993, the Uniformed Services Employment and Re-employment Rights Act of 1993, the Americans with Disabilities Act of 1990, and the Pregnancy Discrimination Act of 1979.

21.02 In case of conflict between this Plan Document and any CNMI or U.S. Federal law, the law will govern.

21.03 Pursuant to Section 146.180 of the Public Health Service Act (PHSA), the Program will not participate in the Mental Health Parity Act (MHPA). Under the MHPA, mental health coverage, if provided as a Covered Benefit, is required to be provided on the same basis as medical and Surgical coverage. Certain provisions of the PHSA permit self-funded government plans to opt-out of this requirement. In order to provide mental health benefits to members, in a manner the Plan can reasonably afford, the Plan has opted-out of the MHPA, and is therefore, if it meets all continuing requirements, exempt from providing mental health coverage on the same basis as medical coverage. Under such exemption, the Plan may limit the amount of coverage provided for mental health benefits to members.

To meet the requirements to maintain this exemption, the Plan must:

A. Elect the exemption in writing;

B. Attach a copy of the Notice to Plan Participants;

C. Identify the portions of the Plan that will not be funded through insurance;

D. State the name and address of the Plan Administrator;

E. Re-elect the exemption on an annual basis; and

F. Provide notice to all Enrollees at the time of enrollment, and on an annual basis, after the initial notice. Said notice is deemed properly given if printed prominently in the Summary Plan Description.

The Plan's election for exemption must be sent to:

Health Care Financing Administration
Department of Health & Human Services
Insurance Reform Implementation Task Force
Attn: David Holstein, Room SLL-17
7500 Security Blvd.
Baltimore, MD 21244-1850
Phone: (410) 786-1564
Fax: (410) 786-8001

ARTICLE 22 – AMENDMENTS AND EFFECTIVE DATE

22.01. These rules and regulations may be amended from time to time by the Board of Trustees in compliance with 1 CMC §§ 9101-9115, the Administrative Procedure Act.

22.02. These rules and regulations shall be effective ten (10) days following final publication in the Commonwealth Register pursuant to the Administrative Procedure Act at 1 CMC 9101, et. seq.

Group Health and Life Insurance Trust Fund

DRUG FORMULARY

Effective April 23, 2003

This list is designed to serve as a reference guide and assist in the selection of cost effective pharmaceutical products. The formulary is not intended to be a substitute for your clinical knowledge and judgment. In all cases, the prescriber is expected to select appropriate drug therapy for the individual patient and provide high quality healthcare. Preferred Brand Medications are listed below. All covered generic medications are preferred and covered at 20% coinsurance for participating providers, 30% for non-participating providers. Brand medications that have a generic equivalent are covered at 20% coinsurance for participating providers, 30% for non-participating providers with the member also absorbing the cost difference between the brand and generic alternative. Non-formulary Brand medications require a 50% member coinsurance amount.

ANTI-INFECTIVES

Cephalosporins
- OMNICEF

Erythromycins
- ZITHROMAX
- BIAXIN, -XL

Quinolones
- CIPRO
- LEVAQUIN

Antituberculosis
- MYAMBUTOL

Antifungal
- FULVICIN UF, FULVICIN /G

Antiviral
- VALTREX

Presently all drugs specifically indicated for the treatment of HIV and its opportunistic infections are on formulary.

Antimalarial
- DARAPRIM
- PRIMAQUINE
- FANSIDAR
- ARALEN
- LARIAM

Amebicides
- YODOXIN

Anthelmintics
- MINTEZOL

Miscellaneous Antiinfectives
- TRIMPEX
- DAPSONE
- THALOMID
- RIFAMATE
- FLAGYL 750mg

ANTINEOPLASTICS AND IMMUNOSUPRESSANTS

All oral FDA-approved antineoplastic and immunosuppresive agents are eligible for coverage under the prescription drug benefit.

ENDOCRINE MEDICATIONS

Glucocorticosteroids
- PEDIAPRED

Mineralocorticoids
- FLORINEF

Androgens
- TESTODERM PATCH
- ANDRODERM PATCH
- ANDROGEL

Estrogens
- PREMARIN
- ESTRATAB
- VIVELLE, -Dot
- ESTRADERM
- FEMHRT
- PREMARIN
- PREMPHASE,
- PREMPRO
- ESTRATEST, -HS

Antithyroid Drugs
- TAPAZOLE

Thyroid Hormones
- ARMOUR THYROID
- SYNTHROID
- LEVOXYL
- LEVOTHROID
- CYTOMEL

Other Endocrine Drugs
- PARLODEL
- ACTONEL
- EVISTA

ORAL CONTRACEPTIVES

Mono-Phasic Oral Contraceptives
- MIRCETTE
- OVCON-35, OVCON-50
- OVRAL
- ORTHO-CEPT,
- YASMIN
- NUVARING
- ORTHO-EVRA

Tri-Phasic Oral Contraceptives
- ORTHOTRICYCLEN
- ESTROSTEP 21
- ESTROSTEP Fe
- TRI-NORINYL
- TRI-NORINYL

Progestin Only Oral Contraceptives
- MICRONOR, NOR-Q-D
- OVRETTE

Progestins
- PROMETRIUM

DIABETIC MEDICATIONS

Oral Hypoglycemics
- GLUCOTROL XL
- GLUCOVANCE
- AMARYL
- PRANDIN
- PRECOSE

Thiazolidinediones
- AVANDIA
- ACTOS

Insulins
- HUMULIN
- NOVOLIN
- HUMALOG
- NOVOLOG

ALL INSULIN SYRINGES COVERED

Glucose Test Strips
- ACCU-CHECK, ONE TOUCH

Glucagon
- GLUCAGON KIT

CARDIOVASCULAR MEDICATIONS

Cardiac Glycosides
- LANOXIN

Nitrates
- NITROSTAT
- NITROLINGUAL SPRAY
- IMDUR
- MONOKET
- ISMO SR
- DILATRATE SR

Beta-1 Specific
- TOPROL XL

Non-Selective
- ZEBETA
- LEVATOL
- COREG

Calcium Antagonists
- DILACOR XR,
- TIAZAC
- CARDIZEM CD SR
- DYNACIRC CR
- NORVASC
- NIMOTOP
- PLENDIL

Antidysrhythmic Drugs
- PROCANBID
- TONOCARD
- ETHMOZINE
- TAMBOCOR
- MEXITIL

Angiotensin Converting Enzyme Inhibitor
- LOTENSIN
- ACCUPRIL
- ALTACE

Angiotensin Converting Enzyme Inhibitors Combination
- LOTENSIN/HCT
- CAPOZIDE

Angiotensin II Antagonists (ARB)
- DIOVAN
- AVAPRO
- BENICAR

Angiotensin II Antagonist Combination
- DIOVAN HCT
- AVALIDE
- LOTREL

Antiadrenergic Agents-Peripheral Acting
- FLOMAX

Loop Diuretics
- DEMADEX

Thiazide & Related Diuretics
- ENDURONYL & ENDURONYL FORTE

Cholesterol Lowering Agents

HMG CoA Reductase
- LIPITOR

Other Cholesterol Lowering Agents
- LORELCO
- TRICOR
- COLESTID
- COLESTID FLAVORED (can only)
- COLESTID TABLETS
- WELCHOL

Miscellaneous Cardiovascular Drugs
- ST. JOSEPHS,BAYER, etc. -OTC

RESPIRATORY MEDICATIONS

Antihistamines

Consider OTC PRODUCTS as first line therapy

Single-Entity Products
- ALLEGRA
- ZYRTEC

Combination Products
- BREXIN LA
- TRINALIN

Lower Sedating Combination Antihistamines
- SEMPREX-D
- ALLEGRA D
- ZYRTEC D

Nasal Antihistamines
- ASTELIN NASAL SPRAY

Antitussives & Expectorants
- HUMIBID DM
- CODICLEAR DH
- CODIMAL DH
- HISTUSSIN HC

Adrenergic Stimulants-Inhalers
- ALUPENT INHALER
- MAXAIR AUTOHALER
- COMBIVENT
- PROVENTIL HFA
- SEREVENT

Adrenergic Stimulants-Oral Tabs
- BRETHINE
- VOLMAX

Xanthine Derivatives
- UNIPHYL, SLO-PHYLLIN

Corticosteroids for Inhalation
- PULMICORT
- AZMACORT
- FLOVENT

Leukotriene Inhibitor
- ACCOLATE

Other Drugs for Asthma
- ATROVENT INHALER
- ADVAIR

Respiratory Specialty Drugs
- PULMOZYME (PA Required)
- TRACLEER (PA Required)

GASTROINTESTINAL MEDICATIONS

Antidiarrheal Preparations

Consider OTC Imodium as first line therapy

Antiulcer Drugs

H2 Antagonists
- PEPCID AC-OTC

Proton Pump Inhibitors
- PREVACID
- PROTONIX

H.pylori treatments
- PREVPAC

Other GI products.....
CYTOTEC
Antiemetic.....
TORECAN
TRANS-DERM SCOP
ZOFRAN,ZOFRAN ODT
Digestants.....
COTAZYM
PANCREASE
VIOKASE
CREON

GENITOURINARY

Vaginal Antiinfectives.....

Consider OTC PRODUCTS as first line therapy

DIFLUCAN 150 TAB
TERAZOL
CLEOCIN VAG CREAM
METROGEL-VAGINAL
Anticholinergic-Antispasmodics.....
DETROL
Miscellaneous Genitourinary.....
CARDURA
FLOMAX
PROSCAR

CENTRAL NERVOUS SYSTEM

Antidepressants.....
ANAFRANIL
CELEXA
PAXIL
EFFEXOR, -XR
WELLBUTRIN SR
ZOLOFT
Monoamine Oxidase Inhibitors.....
PARNATE
Sedatives & Hypnotics.....
PROSOM
SONATA
AMBIEN
CNS Stimulants.....
DEXEDRINE
ADDERALL
CYLERT
METADATE CD
PROVIGIL
Other CNS Drugs.....
ARICEPT
EXELON

Smoking Deterrents: Coverage based on plan design.
Nicotine- Transdermal,
NICOTROL
HABITROL
Inhaler & Nasal Spray

ANALGESICS

Non-Narcotic Analgesics.....
ESGIC-PLUS
AXOCET
Narcotic Analgesics.....
FIORICET/CODEINE
KADIAN
OXYCONTIN
DURAGESIC
ACTIQ

Non-Steroidal Anti-Inflammatory Drugs.....
VOLTAREN
Cox-2 Inhibiting.....
CELEBREX
Antirheumatics.....
CUPRIMINE
PLAQUENIL
RIDAURA
Migraine Agents.....
AXERT
ERGOMAR
AMERGE
IMITREX

NEUROMUSCULAR

Anticonvulsants.....
MYSOLINE
ZONEGRAN
Antiparkinson Drugs
PERMAX
REQUIP
MIRAPEX
TASMAR
COMTAN
Skeletal Muscle Relaxants.....
DANTRIUM
Anticholinesterase Muscle Stimulants.....
MESTINON

NUTRITIONAL PRODUCTS

Prenatal Vitamins.....
NIFEREX PN
PNFORTE
PRECARE
Vitamins.....
MEPHYTON
ROCALTROL
CHROMAGEN
Minerals.....
LURIDE (tablets & drops)
Misc. Nutritional.....
CARNITOR

HEMATOLOGICAL AGENTS

Hematopoetic.....
AQUASOL A
NIFEREX-150 FORTE
Anticoagulant Drugs.....
COUMADIN
LOVENOX (7 day supply maximum for first Rx, PA required after first Rx)
Antiplatelet Drugs.....
PLAVIX
ASA/ER
Miscellaneous Antiplatelet Agents.....
PLETAL

OPHTHALMIC MEDICATIONS

Alpha-adrenoceptor Agonists.....
ALPHAGAN
Non-steroidal Anti-Inflammatory Drugs.....
ACULAR
VOLTAREN
Anti-allergic Agents.....
ZADITOR
LIVOSTIN
ALOMIDE
PATANOL

Ophthalmic Mast Cell Stabilizers.....
ALOCRIL
Antibiotics and Antibiotic Combinations.....
OCUFLOX
Antivirals.....
VIROPTIC
VIRA-A
Artificial Tear Products/Lubricants.....
Note: Although OTC products are listed, they are not a covered benefit for all plan designs
REFRESH TEARS -OTC
LACRI-LUBE S.O.P
REFRESH P.M.
Beta-adrenoreceptor Antagonists.....
BETOPTIC S SUSPENSION
BETOPTIC SOLUTION
Carbonic Anhydrase Inhibitors.....
AZOPT
Prostaglandin's.....
XALATAN
Prostamides.....
LUMIGAN

EAR, NOSE AND THROAT MEDICATIONS

OTIC Anti-Infectives.....
FLOXIN OTIC
OTIC Steroid-Anti-Infective Combinations.....
CERUMENEX
VOSOL
Corticosteroids, Inhaled Nasal.....
RHINOCORT AQ
VANCENASE AQ -DS
BECONASE -AQ
FLONASE
NASONEX
TRI-NASAL
Miscellaneous Nasal.....
NASALCROM
ATROVENT
0.03% NASAL SPRAY

DERMATOLOGICALS

All topical dosage forms of listed items are formulary
Anti-Acne.....
ACCUTANE **PA REQ.**
BENZAMYCIN **PA REQ. OVER 25**
DIFFERIN **PA REQ. OVER 25**
METROCREAM **PA REQ. OVER 25**
METROGEL **PA REQ. OVER 25**
METROLOTION **PA REQ. OVER 25**
Topical Antifungals.....
LOPROX **PA REQ.**
OXISTAT **PA REQ.**

Topical Antivirals.....
ZOVIRAX
Topical Corticosteroids.....
GROUP I (VERY HIGH POTENCY)
DIPROLENE, -AF
ULTRAVATE **PA REQ.**
GROUP II (HIGH POTENCY)
ACLOVATE
DIPROSONE
LIDEX -E
VALISONE
GROUP III (MEDIUM POTENCY)
DERMA-SMOOTHE
ELOCON
SYNALAR HP

GROUP IV (LOW POTENCY)
Topical Corticosteroids in Combination.....
MYCOLOG II
Scabicides/Pediculocides.....
Treatment of choice is OTC Nix
Anorectal.....
ANUSOL HC SUPP
CORTENEMA
CORTIFOAM
PROCTO-CREAM HC
PROCTO-CREAM HC 2.5%
PROCTOFOAM HC
Anti-Psoriatics.....
DRITHO-CRÈME
DOVONEX
TAZORAC
Miscellaneous Topicals.....
ACTINEX
ALDARA
CONDYLOX GEL
EFUDEX
ELIDEL **PA REQ.**
LAC-HYDRIN
REGRANEX GEL

Commonwealth of the Northern Mariana Islands

Department of Public Health

Office of the Secretary

NOTICE AND CERTIFICATION OF ADOPTION OF RULES AND REGULATIONS GOVERNING ENVIRONMENTAL HEALTH AND SANITATION STANDRDS (GENERAL PROVISIONS AND CHILD CARE PROVISIONS)

I, James Hofschneider, the Secretary of the Department of Pubic Health of the Commonwealth of the Northern Mariana Islands, which is promulgating Rules and Regulations Governing Environmental Health and Sanitation Standards (General Provisions And Child Care Provisions) as originally published in the Commonwealth Register, Volume 25, Number 6, July 15, 2003, by signing below hereby certify that as published such Rules and Regulations are a true, complete, and correct copy of the Rules and Regulations previously proposed which, after the expiration of appropriate time for public comment, have been adopted without modification. I further request and direct this Notice and Certification to be published in the CNMI Commonwealth Register.

Certified by:

James U Hofschneider Date 8/22/03

JAMES U. HOFSCHNEIDER, MD
Secretary of Public Health
Department of Public Health

Commonwealth of the Northern Mariana Islands

Department of Public Health

Office of the Secretary

NOTICE AND CERTIFICATION OF ADOPTION OF RULES AND REGULATIONS FOR A MEDICAID DRUG FORMULARY

I, James Hofschneider, the Secretary of the Department of Pubic Health of the Commonwealth of the Northern Mariana Islands, which is promulgating Rules and Regulations for a Medicaid Drug Formulary, as originally published in the Commonwealth Register, Volume 25, Number 6, July 15, 2003, by signing below hereby certify that as published such Rules and Regulations are a true, complete, and correct copy of the Rules and Regulations previously proposed which, after the expiration of appropriate time for public comment, have been adopted with the modifications stated below. I further request and direct this Notice and Certification to be published in the CNMI Commonwealth Register.

The following language is added to the previously published proposed rules and regulations based on comments received:

> Additions/Deletions to Drug Formulary: Drugs added or deleted by the CHC Pharmacy and Therapeutic Committee shall be automatically added or deleted to the Medicaid Drug Formulary. Additional items not listed in the formulary may be authorized for Medicaid reimbursement by the Medicaid Administrator only if medically necessary or for other good cause. The following drugs are now added to the formulary, though not included in the CHC hospital formulary: gengraft, oxycodone, mycophenylate, and medications for the treatment of HIV as recommended by the patient's physician and approved by the Medicaid Administrator.
>
> Generic substitutions: Generic drugs must be dispensed unless the name brand is determined by the physician to be medically necessary and is so stated on the prescription.

Certified by:

JAMES U. HOFSCHNEIDER, MD
Secretary of Public Health

Date 8/22/03

Commonwealth of the Northern Mariana Islands

Department of Public Health

Office of the Secretary

NOTICE AND CERTIFICATION OF ADOPTION OF RULES AND REGULATIONS FOR PERSONS WHO RECEIVE SERVICES FROM THE TRANSITIONAL LIVING CENTER

I, James Hofschneider, the Secretary of the Department of Pubic Health of the Commonwealth of the Northern Mariana Islands, which is promulgating Rules and Regulations for Persons Who Receive Services from the Transitional Living Center, as originally published in the Commonwealth Register, Volume 25, Number 6, July 15, 2003, by signing below hereby certify that as published such Rules and Regulations are a true, complete, and correct copy of the Rules and Regulations previously proposed which, after the expiration of appropriate time for public comment, have been adopted without modification. I further request and direct this Notice and Certification to be published in the CNMI Commonwealth Register.

Certified by:

James U. Hofschneider

JAMES U. HOFSCHNEIDER, MD
Secretary of Public Health
Department of Public Health

Date 8/22/03

TINIAN CASINO GAMING CONTROL COMMISSION

Municipality of Tinian and Aguiguan
Commonwealth of the Northern Mariana Islands

NOTICE AND CERTIFICATION OF ADOPTION OF AMENDMENTS TO THE TINIAN CASINO GAMING CONTROL COMMISSION PERSONNEL RULES AND REGULATIONS

I, William M. Cing, Chairman of the Tinian Casino Gaming Control Commission which is promulgating the "Amendments to the Tinian Casino Gaming Control Commission Personnel Rules and Regulations" published in the Commonwealth Register Volume 25, No. 05 on the 29th day of May 2003 at pages 20314 through 20318 inclusive, by signature below hereby certify that, as published, such Rules and Regulations are a true, complete and correct copy of the "Amendments to the Tinian Casino Gaming Control Commission Personnel Rules and Regulations" previously proposed by the Tinian Casino Gaming Control Commission which, after the expiration of the legally required time for public comment, have 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 the 9th day of July 2003 at Tinian, Commonwealth of the Northern Mariana Islands.

William M. Cing
Chairman

P.O. Box 143 San Jose Village Tinian, MP 96952 * Tel: (670) 433-9288/9292 * Fax:(670) 433-9290 * Email: tcgcc@gtepacifica.net